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Due to the size of the Appendices, and in an effort to save paper, we have not printed a hard copy of the Appendices. A hard copy is available for inspection in the Members Room. Any Member will be sent a hard copy on request to the report author/Governance Team.

**North East Derbyshire District Council**

**Cabinet**

**14 February 2018**

**North East Derbyshire Local Plan: Publication Draft and Proposals for Public Consultation followed by Submission to the Secretary of State**

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

This report is public

**Purpose of the Report**

- To update Cabinet on progress in preparing the Local Plan.
- To seek approval of the content of the Publication Draft Local Plan and to undertake statutory public consultation on it and associated documents;
- To seek approval to submit the Plan to the Secretary of State following public consultation.

**1 Report Details**

**Background – Consultation Draft Plan**

- 1.1 At its meeting on 15 February 2017 Cabinet approved the publication of the Consultation Draft Local Plan for a six week period of public consultation, which took place between 24 February and 7 April 2017 and involved a series of public events.
- 1.2 Overall the Council received responses from 1041 individuals and organisations. raising a total of 2157 separate representations. Of these 1233 raised objections to the plan, 626 were comments and 298 (14%) raised support. The following statistics are also worthy of note:
  - 95% of all respondents were local residents.

- 76% of all respondents raised comments in relation to Dronfield, either in regard to Green Belt Release, Housing Allocations or the Callywhite Lane Extension Employment Area.
  - 46% of all representations related to the Green Belt.
- 1.3 The issues raised during consultation have been considered in detail by officers and Members of the Local Plan Steering Group (LPSG), alongside additional evidence to inform the Publication Draft Local Plan. A summary of all representations received can be viewed in the schedule attached at **Appendix 1**. The full representations are available online: <https://bolsover.jdi-consult.net/localplan/readdoc.php?docid=9> A summary of the issues raised by representations, alongside an officer response and an outline of whether the issue has resulted in a change to the Plan is set out at **Appendix 2**.
- 1.4 Cabinet is requested to note the issues raised in representations to the Consultation Draft Plan and approve the proposed officer responses as a formal Council response.
- 1.5 The LPSG has continued to meet regularly to oversee and contribute to the preparation of the Plan, considering representations received during the public consultation period, updated evidence base reports and potential alternative sites for inclusion in the Local Plan. Since Minutes of these meetings were last reported to Cabinet in February 2017 seven meetings have taken place covering the following issues:
- a) 15 June, 2017 – A report was given on the outcome of public consultation on the Draft Local Plan, the key issues raised in consultation responses and the next steps. The Group were reminded of the duty to co-operate issue with Sheffield City Council arising from their request for neighbouring authorities to help accommodate unmet need within the City.
  - b) 17 July, 2017 - An update was given on the exceptional circumstances to justify release of land from the Green Belt, including an outline on the tests for releasing land from the Green Belt. The Group were updated on the District’s housing need and supply restrictions and were presented with the case law tests and key points from the Government’s Housing White Paper. The Group discussed reasons for having to consider use of Green Belt land.
  - c) 19 September, 2017 - The group were advised that the Government had published a consultation document earlier in the week that had implications for the 5 Year Land Supply issue. The group noted the initial findings of the SHMA and Employment Land Review updates. It was accepted to set a Housing Target of 330 dwellings per year to allow for economic regeneration of the district. An update on the evidence base was provided in relation to the Infrastructure Study, Whole Plan Viability Assessment and Transport Study and their implications for the Plan. The group was given an update on the proposed changes to Local Plan chapters and policies arising from representations.
  - d) 9 October, 2017 – A presentation was given on the detailed findings of key evidence base documents including the Strategic Housing Market Assessment Update (SHMA), the Local Settlement Gaps update and the Recreation Survey. The Group were advised of the issues associated with the proposed strategic site ‘Land South of Markham Vale’ and concerns raised over its potential impact upon

the historic setting of Bolsover Castle. The group was advised on recent changes to the Local Plan's chapters.

- e) 9 November, 2017 – The group were informed that the Local Plan's timetable had slipped. An update was given on the evidence base in terms of the key studies currently being undertaken or about to be finalised. The group were given an update on changes to a number of Policies within the Local Plan.
- f) 19 December, 2017 – The group were advised that following the visit from the Planning Inspector (PINS) it was not possible to outline a new timetable at this meeting due to the need to first address the issues raised. The group were informed about the threat of intervention notice the Council received from the Secretary of State; and that a robust Project Plan will support the delivery of the Local Plan. An outline on the status of the outstanding evidence critical to delivery of the Local Plan was given. Updates were provided to the group regarding changes to Chapters and Policies within the Local Plan. The group were advised that in addition to the requirements under the Duty to Co-operate, a Statement of Common Ground is being produced by the two County Councils and four District Councils within the Housing Market Area.
- g) 17 January, 2018 – The group were advised that Cabinet had approved the new timetable on 3 January 2018, subject to consultation. The outstanding evidence critical to the Local Plan delivery was outlined and the Group were asked to endorse the recommendations arising from it. The group were advised that another legal requirement was to carry out a Habitat Regulations Assessment, this was ongoing at present. The group were provided with a summary of the issues raised during the Feb 2017 Consultation and the Council's comments. The group was informed about the arrangements for the publication consultation and that work was still ongoing on the Duty to Co-operate statement.

1.6 Since the role of the LPSG is to act in an advisory capacity, without the authority to make plan-making decisions, it is now necessary to seek Cabinet approval of the Publication Draft Local Plan and associated documentation along with authorisation to undertake public consultation.

1.7 The following sections of this report outline the key features of the Publication Local Plan and the main changes since the Consultation Draft Plan; along with an outline of the proposed arrangements for public consultation. All of the changes and proposals set out in this report have been made in agreement with the LPSG.

#### **Publication Draft Local Plan**

1.8 A copy of the Publication Draft Local Plan text is attached at **Appendix 3**. Members are advised that it may be necessary to make minor changes to the plan text as the Planning Policy Team continues to check and format the document for public consultation.

1.9 The Policies Maps provide full coverage of the District and identify the location of land designations and allocations. These maps will be available to view at the meeting.

1.10 The Local Plan is not produced in isolation, and has to be in accordance with the legislation regulating plan-making and in the context of the government's planning policies. The plan must also have regard to the relevant plans and strategies of other

public bodies and organisations insofar as they raise strategic planning matters of cross boundary significance for North East Derbyshire. More locally the Local Plan takes account of corporate strategies and initiatives such as the Corporate Plan, Growth Strategy, Housing & Economic Development Strategy and Regeneration Frameworks for the four main towns along with the strategies and objectives set by the two Local Enterprise Partnerships.

- 1.11 The Publication Draft Plan has been prepared positively taking account of comments received during previous consultations and in the light of the most up to date evidence available. It contains a vision and objectives along with strategic policies on the scale and distribution of development to meet the district's objectively assessed needs. The Plan designates important areas to be protected and enhanced and sets out criteria based policies on a range of planning issues to be used in the determination of planning applications. **Appendix 4** provides an overview of the Plan's structure and content.
- 1.12 The Publication Draft Plan retains much of the previous Consultation Draft Plan's strategic context which seeks to focus the majority of development (i.e. over 50%) on the District's four main towns and strategic sites. However in the light of representations received and updated evidence, the Publication Draft Plan contains a number of changes. These are listed below and followed by a more detailed explanation of the most significant amendments:
- i. The **time period** covered by the Local Plan has been updated to run from 2014 to 2034 - to align with the updated evidence base and to ensure a fifteen year time horizon beyond the point of adoption of the Plan.
  - ii. A reduction in the amount of land proposed to be released from the **Green Belt** for housing, including the deletion of all **Safeguarded Land**.
  - iii. The **Housing Target** is unchanged at 6,600 for the Plan period, however the **sites** identified to meet the target have changed, affecting the overall **distribution of development**.
  - iv. A new **Employment Land Target** is set at 41 hectares (Net) for the Plan period – based upon updated evidence and economic forecasts. The sites protected and identified to meet this target have changed.
  - v. Removal of the **Strategic Site Allocation** for employment at Land to the South of Markham Vale due to a reduction in the employment land requirements and the site's impact upon protected historic assets, namely the setting of Bolsover Castle.
  - vi. A new **Retail Target** for up to **2900 m<sup>2</sup> convenience floorspace** towards the end of the Plan period and changes to **Town Centre Boundaries**.
  - vii. **Affordable Housing Policy** amended to require 30% affordable housing in higher value areas and 20% in the remaining parts of the District. This is based on the findings of the Whole Plan Viability Assessment which clearly indicate that higher percentages would be unrealistic and could undermine the soundness of the Plan.

- viii. **Policy on Open Space, Sports and Recreation Facilities** updated to strictly protect and enhance all existing facilities and if necessary provide for new provision in line with the amended **Infrastructure Delivery and Developer Contributions Policy**
- ix. Numerous **minor wording changes to Policies** throughout the Local Plan to address representations, updated evidence and national guidance.
- x. A District wide **Policies Map** has been prepared to illustrate land use designations and proposed allocations.
- xi. Key elements of the **updated evidence base** include:
  - Strategic Housing Market Assessment OAN Update (Sep 2017)
  - Employment Land Update (Aug, 2017)
  - Employment Sites Review (Dec, 2017)
  - Playing Pitch Strategy (May 2017)
  - Indoor Sports Facilities Strategy (April 2017)
  - Recreation Research Report (September 2017)
  - Retail Study (Draft Dec 2017)
  - Transport Evidence Base, (Dec 2017)
  - Infrastructure Study and Delivery Plan, (Dec 2017)
  - Whole Plan Viability Assessment, (Jan 2018)
  - Sustainability Appraisal of Publication Plan (Draft Jan 2017)
  - Habitats Regulation Assessment (Draft June 2017)

### **Scale & Distribution of Development – Housing & Employment**

- 1.13 Over the period 2014 - 2034 the Publication Draft Local Plan aims through Policy SS2 to allocate sufficient land to accommodate a minimum of 6,600 dwellings and 41ha of employment land in order to meet objectively assessed needs. The evidence base underpinning these targets has been updated in an iterative way to ensure that each has taken account of the other.

#### **Housing**

- 1.14 Of the 6,600 dwellings required 975 have been built since 2014 and a further 3,882 have planning permission (i.e. they are committed). Of these commitments, 3,268 are included as allocations in the Plan, with the remaining 614 still contributing to the target, but not shown as allocations due to their small size, or location in less sustainable areas. The balance of 1,743 dwellings is to be met by proposed allocations in the Plan, with flexibility provided by anticipated windfall development of approximately 900 dwellings (13%).
- 1.15 The approach differs from that taken to the Consultation Draft Plan, which sought to focus on sites that aligned with the Strategy of the plan and relied on the remaining permitted sites to provide flexibility. The change in approach was triggered by advice received from the Planning Inspectorate during an advisory visit in December 2017. The impact of this alongside an increase in the number of dwellings securing planning permission has reduced the number of new dwellings, without planning permission, to be allocated in the Plan from 3,342 to 1,743.
- 1.16 Figure 1 below provides an overview of how the housing requirement will be distributed at a strategic level. The distribution maintains the strategic aim of the Local Plan that is 'to focus the majority of development (over 50%) within Level 1

Settlements & Strategic Sites', with almost 54% of the housing requirement located within these areas.

- 1.17 Table 4.2 in the Publication Draft Local Plan sets out the housing provision for each settlement and Chapter 5, Policy LC1: 'Housing Allocations' lists the sites allocated for housing development in the Publication Draft Plan, in turn these are shown on the Policies Maps.

**Figure 1: Housing Distribution (Strategic Level)**

Location	No. Of Dwellings Publication Draft Plan*	Percentage of Total
Level 1 Settlements (Towns)	2024	30.57%
Strategic Sites	1541	23.27%
Level 2 Settlements	2517	38.01%
Remaining Area	539	8.14%
<b>Total</b>	<b>6621**</b>	<b>100%</b>

\* Figure includes completions since 2014, proposed allocations and permissions.

\*\* exceeds requirement by 21 dwellings due to capacity of allocated sites.

### Employment Land

- 1.18 The strategy continues to be based on ‘quality and location’ of employment land rather than simply ‘quantity’ and therefore aims to identify and protect the most important sites as ‘Principal Protected Employment Areas’ (Policy WC2), where development will be restricted to standard business class uses (B1, B2 & B8). In other ‘General Employment Areas’ (Policy WC3) a broader range of employment generating uses may be acceptable provided such uses do not restrict the wider employment operations of the site. Figure 2 identifies the location and level of available employment land that will contribute to the strategic growth requirement of 41ha. The total available employment land of 46.44ha exceeds this target, providing for a degree of flexibility and to allow for losses of employment land elsewhere in the District.

**Figure 2: Employment Land Availability**

Site	<u>Hectares</u>
<b>Existing Employment Sites and allocations with development land remaining</b>	
Coney Green, Clay Cross	9.03
Derby Rd, Upper Mantle Close, Clay Cross	0.89
Westthorpe Business Centre, Killamarsh	0.35
Land adj Norwood Industrial Estate	5.40
Markham Vale (West of M1), Long Duckmanton	4.70
Markham Vale (Part former Coalite land) Long Duckmanton	1.25
Ravenshorn Commercial Park, Renishaw	2.50

Hepthorne Lane, Tupton	3.32
<i>Sub-Total</i>	<i>27.44</i>
<b>Strategic Sites and Regeneration Opportunity Area</b>	
The Avenue, Wingerworth	5.00
Former Biwaters Site, Clay Cross	8.00
Dronfield Regeneration Area (Callywhite Lane), Dronfield	6.00
<i>Sub-Total</i>	<i>19.00</i>
<b>Total Provision</b>	<b>46.44</b>

### Green Belt & Safeguarded Land

- 1.19 One consequence of the change in approach to housing allocations (outlined at paragraph 1.13) has been the reduction of land needed to be taken out of the Green Belt. The overall level of allocated dwellings in the Green Belt has reduced from 2,125 in the Consultation Draft Plan to 1,275 dwellings in the Publication Plan. This reduces the overall percentage of dwellings in the Green Belt in relation to the overall housing target (6,600) from 32% to 19%. Figure 3 sets out the differences at Green Belt settlement level.

**Figure 3: Dwelling on Land to be Removed from the Green Belt**

Proposed no. of dwellings on Green Belt Land		
Settlement	Consultation Draft Plan	Publication Draft Plan
<b>Dronfield</b>	860	475
<b>Eckington</b>	435	400
<b>Killamarsh</b>	560	400
<b>Renishaw</b>	270	0
<b>Total</b>	2125	1275

- 1.20 Furthermore, in light of advice received from the Planning Inspectorate during the advisory visit it is no longer proposed to remove land from the Green Belt at Eckington to meet future potential housing needs and identify it as safeguarded land. This is because it is difficult to predict with any certainty the likely housing need beyond the plan period and whether the level, (for up to 800 dwellings) or location of the land identified would be sufficient and suitable. Without this clear evidence and certainty



it is considered unlikely that the exceptional circumstance necessary to release land from the Green Belt could be demonstrated.

### **Sustainability Appraisal (SA)**

- 1.21 In drawing up a Local Plan, the local planning authority must carry out an appraisal of the sustainability of the Plan's proposals. A process called Sustainability Appraisal (SA) has to be carried out alongside the preparation of a Local Plan. The process helps the local authority to check and consider how its emerging local plan policies may affect the achievement of sustainable development. SA is an iterative process that is undertaken throughout the development of the Local Plan as options are explored and refined and policies produced. The first stage is to prepare a Scoping Report, which was first published in 2007, and updated in 2012.
- 1.22 Through this process a set of SA objectives has been established which have been used to assess and improve the sustainability credentials of the emerging plan policies and proposals. This has included an appraisal of reasonable alternatives to the development quantum, development distribution, development sites and Plan policies identified during the plan making process to date. Several SA reports have been published in previous years, and the most recent appraisal, which has identified, described and evaluated the likely significant effects of the Local Plan will be published for consultation alongside the Publication Draft Local Plan.

### **Habitats Regulation Assessment (HRA)**

- 1.23 Alongside work on the Sustainability Appraisal, consultants have also undertaken a Habitats Regulation Assessment (HRA) Screening. This is a requirement of Regulation 102 of the Conservation of Habitats and Species Regulations 2010, the purpose of which is to identify whether the proposals of the Plan are likely to have an impact upon the conservation objectives of six protected European sites that lie within 15km of the boundary of North East Derbyshire. The Screening Report has shown potential for impact on air quality near 3 of these European sites located to the West of the District within Derbyshire Dales. The potential impact is due to traffic increases arising from the cumulative impact of several Local Plans, rather than just North East Derbyshire.
- 1.24 It has therefore been necessary to undertake further work termed 'Appropriate Assessment' involving traffic and air quality modelling to better understand the likely impacts. This work is currently underway and is expected to be delivered by the end of March 2018.
- 1.25 The Council has taken legal advice on whether the receipt of this information post-publication stage of the Local Plan is likely to undermine the Plan in any way. The advice clarifies that there is nothing in statute to dictate the timing of the work, however it will be necessary to have it in place, to have undertaken consultation on it, and to have a strategy for addressing any issues raised prior to submission to the Secretary of State. The current Local Plan Timetable is based upon the assumption that the Appropriate Assessment will not identify significant issues that require addressing pre-submission. However, there is a low risk that the process will reveal issues that require further work or liaison with Partners, which may result in a delay to the Submission of the Local Plan. The matter will be kept under review and further legal advice taken as necessary. In order to mitigate the risk of potential delay to the Plan, the Council is liaising with Natural England and neighbouring authorities over a

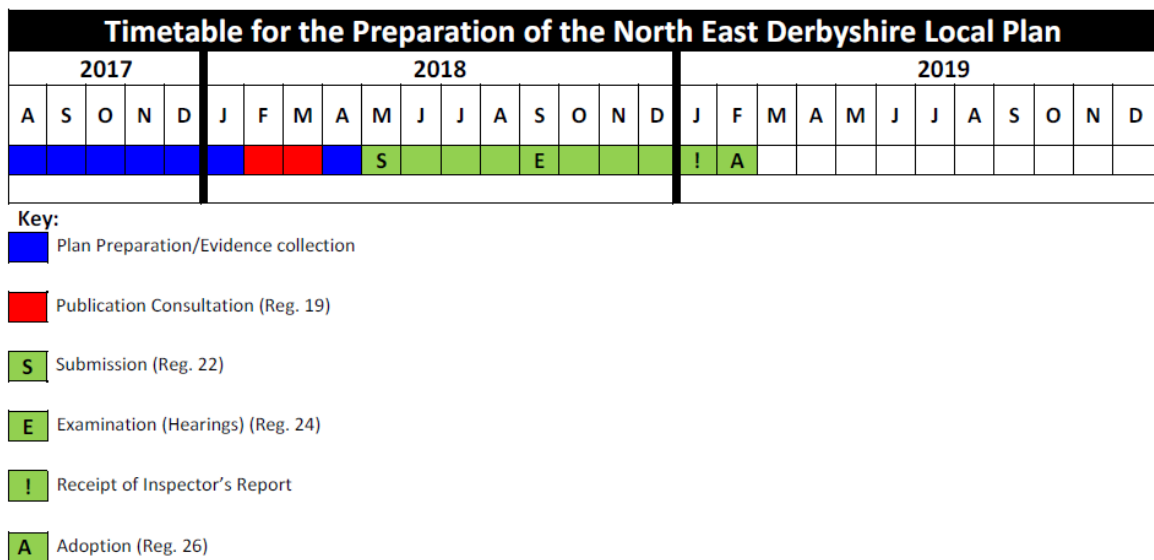
combined response to any issues that may be raised, as part of the Duty to Cooperate.

- 1.26 Cabinet is requested to approve the content of the Publication Draft Plan noting that this also endorses the Officer responses to the issues raised during public consultation on the Consultation Draft Local Plan as set out in the schedule at **Appendix 2**.

**Proposed Arrangements for Publication & Public Consultation**

- 1.27 The revised timetable (Local Development Scheme) for the production of the Local Plan was adopted in January 2018 and forms the basis of the Council’s formal response to the Government in relation to the current threat of intervention. The timetable schedules ‘formal’ consultation on the Publication Draft Plan for February/March 2018 and Submission to the Secretary of State in May 2018 and is supported by a detailed project plan.

**Figure 4: Timetable for the Preparation of the Local Plan**



- 1.28 It is proposed that public consultation on the Publication Draft Local Plan and associated supporting documents will commence on 21 February 2018 and will run for a period of 6 weeks, closing on 3 April 2018. Consultation will take place in line with the Council’s Statement of Community Involvement. This is a ‘formal’ stage in the process and is the final consultation before we submit the Local Plan to the Secretary of State for Communities and Local Government for examination.

- 1.29 The purpose of this consultation is unlike the previous stages which were focussed on getting interested parties’ views on the Plan, with the intention that the Council could reflect on the issues raised and make changes in response. This stage is where the Council publishes a plan that it intends to submit to the government. Comments are invited on the Plan, but these are for consideration by the Inspector appointed to examine the Plan. The Council will not be expecting to make changes to the Plan at this stage.

- 1.30 Unlike previous consultations, at this stage we are required to ask specific questions giving respondents the opportunity to comment on how the Local Plan has been prepared, that its aims are achievable and that the plan is based on a robust evidence base. These questions are more commonly known as the ‘**Tests of Soundness**’ and are the same questions the independent Planning Inspector will be asking as part of the examination.
- 1.31 The approach to this consultation stage should therefore reflect the change in emphasis and be focussed on helping interested parties to understand the Plan’s proposals and the evidence base; and providing advice on how to navigate the process. It is proposed that the consultation will be focussed on providing information and assistance and will include four drop-in sessions located in the District’s four towns (see Figure 5). Copies of the Plan and Policies maps will be made available alongside a range of evidence base documents and instructions on how to make representations. Officers will be available to provide explanation and assistance to small groups of people, which will be time limited depending on the number of people attending and requiring support.

**Figure 5: Proposed Consultation Arrangements**

Venue	Date	Time
<b>Clay Cross Social Centre</b> Market Street, Clay Cross, S45 9JE	Friday 9th March	4.30pm – 7.30pm
<b>Dronfield Civic Hall, (Main Hall)</b> Civic Centre, Dronfield, S18 1PD	Tuesday 13th March	4.30pm – 7.30pm
<b>Eckington Civic Centre, (Main Hall)</b> Market Street, Eckington S21 4JG	Thursday 15th March	4.45pm – 7.45pm
<b>Killamarsh Sports Centre, (Parish Function Suite)</b> Community Campus, Stanley Street, Killamarsh, S21 1EL.	Thursday 22 <sup>nd</sup> March	4.45pm – 7.45pm

**Next Steps**

- 1.32 Following consultation of the Publication Local Plan, the Council has a five week turn-around period before submission. Within this time all representations must be carefully logged and a summary prepared of the issues raised. All submission documents must be assembled and all legal and technical requirements finalised. Given the Local Plan timetable set out at Figure 4 and in order to achieve submission of the Plan by mid-May it is proposed that authority to submit the Plan to the Secretary of State is delegated to the Chief Executive in consultation with the Leader and Portfolio Holder for Environment. Whilst it is not proposed to make any significant changes to the Plan between Publication and Submission Stages, it may be

necessary to make minor factual changes, it is proposed authority for this is similarly delegated.

### **Special Urgency**

- 1.33 The timescales set out at paragraphs 1.25 and 1.26 above are necessary to enable the Council to achieve Submission of the Local Plan to the Government by mid-May 2018. This is a crucial part of the Council's evidence for accelerated Plan production to avoid the threat of Government intervention in the plan-making process. In order to give sufficient time between the close of public consultation and submission, for officers to input and analyse responses and assemble the necessary documentation, it is necessary to commence consultation on the Publication Draft Plan on 21 February 2018. This does not allow sufficient time for 'Call In' of the key decisions set out in this report. The Chair of Growth Scrutiny Committee has agreed that the matter is urgent and it is reasonable in the circumstances for 'Call In' not to apply to the decisions as recommended in this report. In light of this it is recommended that Cabinet consider the matter urgent and agree that the requirement for 'Call In' be waived.

### **Case for Implementing the Community Infrastructure Levy**

- 1.34 In order to inform the Local Plan including the potential for implementing the Community Infrastructure Levy (CIL) an expert viability consultancy on behalf of the council has carried out an assessment of the overall viability of the Local Plan in line with the NPPF, the NPPG and other relevant guidance on viability in plan-making.
- 1.35 In summary, the WPVA found that the combination of relatively low values and current high build costs creates a challenging picture for development viability in North East Derbyshire. In particular for commercial development, the WPVA found that development costs exceed gross development values such that the viability results for all commercial development types except for discount convenience retail, shows negative residual land values. On this basis, the WPVA therefore recommends that no CIL should be imposed on most commercial developments and care should be taken to impose any further infrastructure or other requirements beyond those required to mitigate the impact of development.
- 1.36 For residential development, the WPVA found that the maximum CIL charge that would be consistent with the achievement of other policy requirements imposed by the Local Plan including affordable housing would be limited, and even then would be achievable only in the high value area of the district. Given that only a minority of the proposed housing allocations would be located in settlements in this high value area the WPVA questioned whether the introduction of such a CIL charge would contribute meaningfully to the delivery of necessary infrastructure. In addition, because of uncertainty in respect of build costs the WPVA did not consider the adoption of a CIL to be appropriate at this point in time, but rather the council should continue with the use of the s106 process to help fund necessary infrastructure.
- 1.37 It is recommended that the Council accept the findings of this independent study and resolve not to implement a Community Infrastructure Levy for the District and continue to rely upon s106 Agreements to deliver necessary infrastructure outlined in the Infrastructure Delivery Plan that accompanies the Local Plan; and in line with the policies in the emerging Local Plan

## **2 Conclusions and Reasons for Recommendation**

- 2.1 This report identifies the contents of the Publication Local Plan outlining its key defining features including the spatial strategy, policy objectives and land use proposals. The report provides details of the outcome of consultation on the Consultation Draft Local Plan in 2017, which generated over 2000 responses, outlining how the representations received, alongside updated evidence, has resulted in change to the Plan. The Plan and associated documentation has been developed to a stage where it can now be 'Published' for public consultation subject to Cabinet approval. This is an important and formal stage in the process, this is the version of the Plan that the Council intends to submit to the Secretary of State for examination and the Council should satisfy itself that the Plan is sound and justified by the evidence.
- 2.2 In order to ensure the Local Plan is developed in line with the adopted timetable it is recommended that Cabinet notes the issues raised during consultation on the Consultation Draft Plan and approves the Officer responses; approves the Publication Draft Local Plan and associated documents for public consultation; approves the consultation arrangements; and provides for the necessary delegated authority to make minor amendments to the Plan and the associated documentation.

## **3 Consultation and Equality Impact**

- 3.1 The contents of this report have been considered by members of the Local Plan Steering Group, as summarised in paragraphs 1.3 and 1.5 of this report.
- 3.2 There are likely to be equalities issues arising out of the preparation of Development Plan Documents, in terms of both the content of the document and the way consultation and participation is arranged. These issues will be addressed when preparing publicity material and arranging public events in accordance with the Council's most up to date procedures.
- 3.3 An Equality Impact Assessment (EQIA) of the Local Plan's policies has been undertaken to inform the Publication Draft Local Plan, interim findings suggest that the Local Plan has an overall positive impact on the different equality groups in the District. The EQIA has so far found that the Local Plan is inclusive of all residents in the District regardless of age, gender, race, religion, disability or sexual orientation. The EQIA will be reviewed in light of responses made to consultation on the Publication Draft and changes made accordingly.
- 3.4 A Health Impact Assessment (HIA) of the emerging Local Plan has also been undertaken. This has found that the impact from the Local Plan's policies are primarily positive or have an overall neutral impact on health within the District. Policy LC3: Exception Sites for Affordable Housing scores negatively in one of the HIA's categories, but overall has a positive impact on health. Policy SS2: Spatial Strategy and the Distribution of Development scored negatively in the Local Plan's 2017 Sustainability Appraisal, however due to the de-allocation of some assessed housing sites the Council's HIA has now scored this Policy positively. Overall there are no specific health issues arising from the Publication Draft Local Plan.

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

- 4.1 A series of alternative options for the strategic direction of the Local Plan, its detailed policies and proposed allocations has been considered as part of the preparation of the document. The consideration of reasonable alternatives is an integral part of Local Plan preparation and will form part of the criteria the Plan is tested upon when it is examined by an independent inspector. The Sustainability Appraisal accompanying the Publication Plan includes a summary of the reasonable alternative and the reasoning behind the selected approach, see also para 1.19 and 1.20 above.

## **5 Implications**

### **5.1 Finance and Risk Implications**

- 5.1.1 The preparation of the Local Plan has financial implications. The Planning Policy budget as currently set is considered to be sufficient to support the delivery of the Local Plan at this stage.
- 5.1.2 The timely adoption of the Local Plan will facilitate housing and business growth in the District, which is in line with the Council's Growth Strategy and in turn will enable the Council to benefit from revenue associated with the New Homes Bonus and Business Rate retention.
- 5.1.3 The failure of the District Council to prepare the Local Plan in line with the adopted timetable could significantly increase the risk of government intervention. This would result in Local Plan preparation being taken out of the Council's control and impacting upon the District Council's reputation. The outcome of the Habitats Regulation Assessment (HRA) – Appropriate Assessment (explained more fully at Paragraphs 1.21 – 1.23) is currently unknown and is an area of potential risk for the Council. The situation is being monitored and actions underway to minimise possible delays.
- 5.1.4 There is a risk that the Local Plan will be found wanting at examination if it is demonstrated that the Plan is not sound or justified. Whilst officers are of the view that the Plan is sound and based upon a full and robust evidence base (subject to the HRA issue identified above) actions are underway to mitigate against this risk by securing Legal advice and peer Review of the Plan prior to Publication. An update on this advice will be reported to Member at the meeting.

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

- 5.2.1 The Council has a statutory duty to prepare and keep up to date a Local Plan. The Planning and Compulsory Purchase Act (2004) and the Town and Country Planning (Local Planning) (England) Regulations 2012, set out the statutory procedures for preparing these planning policy documents.
- 5.2.2 The purpose of the Examination in Public is to assess the extent to which the District Council, in preparing the Publication Draft Local Plan, has discharged their duties in respect of the Duty to Cooperate, whether the plan has been prepared in accordance with the requirements of the relevant legislation, and whether it can be considered to be a "sound" plan.

- 5.2.3 To be legally compliant the District Council, as Local Planning Authority has to demonstrate that:-
- The Local Plan is identified in the current Local Development Scheme (LDS) and that the key stages have been followed.
  - Community Consultation has been carried out in accordance with the Council's Statement of Community Involvement (SCI).
  - it has consulted the appropriate Statutory Consultees.
  - it has fulfilled its Duty to Cooperate with other Local Planning Authorities, County Councils and other bodies with Statutory Functions.
  - the Local Plan complies with the relevant legislation<sup>1</sup>
  - an adequate Sustainability Appraisal Report (SA) is published to accompany the Local Plan.
- 5.2.4 These procedures are all understood to have been followed correctly. Furthermore legal support has been engaged to verify this is the case, in order to minimise the risk of the Plan being found unsound on the basis of a legal technicality.
- 5.2.5 There are no specific data protection issues arising from this report. Consultation processes result in the Council handling customer's personal data. This information is stored securely in line with the Council's procedures and provisions of the Data Protection Act.

### **5.3 Human Resources Implications**

- 5.3.1 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. The position will continue to be monitored as part of the detailed project management of the plan. If additional resources are found to be necessary a case made in line with the Council's usual procedures.

## **6 Recommendations**

- 6.1 It is recommended that Cabinet:
- i) Notes the issues raised in representations to the Consultation Draft Local Plan and approves the officer responses to the issues (**Appendix 2**) as the Council's formal response;
  - ii) Approves the content of the Publication Draft Local Plan (**Appendix 3**) and authorises public consultation on it and associated documents;
  - iii) Approves the timetable and arrangements for public consultation; and
  - iv) Delegates responsibility to the Chief Executive in consultation with the Leader and Portfolio Holder with responsibility for Environment for approving:
    - a. any additional changes to the Local Plan text prior to and post-consultation (including the insertion of maps and illustrations within the document);
    - b. details concerning the final arrangements and associated supporting documents for public consultation; and

- c. submission of the Local Plan and associated supporting documents to the Secretary of State following consultation on the Publication Draft Local Plan.
- v) That Members note the findings of the Whole Plan Viability Study and agree not to implement a Community Infrastructure Levy for the District alongside the emerging Local Plan.
- vi) That Cabinet consider the matter urgent as set out in the report, and notes that the Chair of Growth Scrutiny Committee has also agreed that the matter is urgent and it is reasonable in the circumstances for 'Call In' not to apply to the decisions as recommended at 6.1 i) – v).

## 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:</p> <p><i>BDC:</i>     <i>Revenue - £75,000</i>     <input type="checkbox"/>                    <i>Capital - £150,000</i>     <input type="checkbox"/></p> <p><i>NEDDC:</i> <i>Revenue - £100,000</i>     <input type="checkbox"/>                    <i>Capital - £250,000</i>     <input type="checkbox"/></p> <p><input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i></p>	<p>Yes  It is recommended that Call-In be waived - the Chair of Growth Scrutiny Committee has agreed that the matter is urgent and it is reasonable in the circumstances for Call In not to apply.</p>
<p><b>Is the decision subject to Call-In?</b>  (Only Key Decisions are subject to Call-In)</p>	
<p><b>District Wards Affected</b></p>	All
<p><b>Links to Corporate Plan priorities or Policy Framework</b></p>	All



**8 Document Information**

Appendix No	Title
Appendix 1	Schedule of Representations (Summaries)
Appendix 2	Schedule of Issues Raised during consultation and Recommended Response
Appendix 3	North East Derbyshire Draft Local Plan
Appendix 4	Publication Plan Summary
<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)</p>	
Report Author	Contact Number
Planning Policy Manager	217168

AGIN 4 (CAB 0214) Local Plan Prop Publication/AJD