

North East Derbyshire District Council

Cabinet

28 March 2024

Local Plan Review – Local Plan Evidence Base & Position Statement

Report of Councillor S Pickering, Portfolio Holder for Environment and Place

Classification: This report is public

Report By: Planning Policy & Environment Manager

Contact Officer: Helen Fairfax

PURPOSE / SUMMARY

- To advise Cabinet of the issues and alternatives relating to a Review of the Local Plan taking account of the provisions of both the current plan-making system and the changes proposed through the Levelling Up and Regeneration Act (LURA);
- To seek approval to issue a Position Statement to clarify the Council's intentions for Reviewing the Local Plan

RECOMMENDATIONS

- That Cabinet agree the decision not to formally progress with a full Review of the Local Plan at this stage;
- That Cabinet approve the evidence base Action Plan at Appendix 2;
- That Cabinet approve the 'Position Statement' for publication on the Council's website and
- That the notes from the first Local Plan Working Group meeting on 01 November 2023 (Appendix 3) are noted.

Approved by the Portfolio Holder – Cllr Pickering

IMPLICATIONS

Finance and Risk: Yes No

Details:

The course of action set out in this report is based upon a balanced assessment of the risk of delaying a formal start on the preparation of a new Local Plan against the

risk of doing abortive work (and potentially associated delays) pending the introduction of the Government's planning reforms. These risks will be mitigated by commencing evidence base work on key strategic matters that will enable the Council to pick up plan-making under the new system and deliver against truncated timescales for Plan preparation.

On Behalf of the Section 151 Officer

Legal (including Data Protection):

Yes

No

Details:

The Council has a statutory duty to keep under review the matters which may be expected to affect the development of their area. There are no specific data protection issues arising from the content of this report.

On Behalf of the Solicitor to the Council

Staffing:

Yes

No

Details:

The preparation of a Local Plan and supporting evidence has a significant impact upon staff resources. Staff resources are in place to effectively undertake the work outlined in this report. It will be important to maintain these resource levels.

On behalf of the Head of Paid Service

DECISION INFORMATION

Decision Information	
Is the decision a Key Decision? 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: NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input checked="" type="checkbox"/> <i>Please indicate which threshold applies</i>	No
Is the decision subject to Call-In? (Only Key Decisions are subject to Call-In)	No
District Wards Significantly Affected	None
Consultation: Leader / Deputy Leader <input checked="" type="checkbox"/> Cabinet / Executive <input type="checkbox"/> SAMT <input type="checkbox"/> Relevant Service Manager <input checked="" type="checkbox"/> Members <input checked="" type="checkbox"/> Public <input type="checkbox"/> Other <input type="checkbox"/>	Yes Details: The matters addressed by this report have been agreed with members of the Local Plan Review Working Group.
Links to Council Plan priorities or Policy Framework including Climate Change, Equalities, and Economics and Health implications.	
All	

REPORT DETAILS

1 **Background** *(reasons for bringing the report)*

- 1.1 The Council's Local Plan was adopted in November 2021 and sets out policies and proposals for the use and development of land for the period up to 2034. Under the current planning system, Regulation 10A of The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) requires local planning authorities to review Local Plans at least once every five years from their adoption date, to ensure that policies remain relevant and effectively address the needs of the local community. If the review identifies a need for updating, they should then be updated as necessary. A review of the North East Derbyshire Local Plan must therefore be completed by November 2026.
- 1.2 There is also an ongoing annual requirement to monitor the implementation of policies to ensure they are being effective. This process can help to identify if an early review of the Plan is necessary.
- 1.3 When considering a Local Plan Review, changes in local and national policy, the efficacy of the Local Plan and any significant changes to local housing need

should be taken into account. The Planning Practice Guidance (PPG)¹ sets out the following types of information local authorities may wish to consider when determining whether a Plan or the policies within a plan should be updated:

- conformity with national planning policy;
- changes to local circumstances, such as a change in Local Housing Need;
- their performance against the Housing Delivery Test;
- whether the authority can demonstrate a 5 year supply of deliverable sites for housing;
- whether issues have arisen that may impact on the deliverability of key site allocations;
- their appeals performance;
- success of policies against indicators in the Development Plan as set out in their Authority Monitoring Report;
- the impact of changes to higher tier plans;
- plan-making activity by other authorities, such as whether they have identified that they are unable to meet all their housing need;
- significant economic changes that may impact on viability; and
- whether any new social, environmental or economic priorities may have arisen.

- 1.4 The Planning Advisory Service (PAS) has developed an assessment tool to support Councils with the Review process. The tool has been designed to help users understand which policies may be out of date for the purposes of decision making or where circumstances may have changed and whether policies in the Plan continue to be effective in addressing the specific local issues that are identified the Plan. This in turn can help the Council focus on whether and to what extent, an update of Local Plan policies is required, providing the evidence to support any formal decision of the council.
- 1.5 It should be noted that any decision not to update any policies in the Local Plan should also be clearly evidenced and justified. This process accords with national guidance and supports the principle of openness and transparency of decision making by public bodies.
- 1.6 Local Plan Reviews can take one of two forms, consisting of either a Partial Review looking at only a few strategic policies in the Plan, with the majority of the Plan untouched; or a Full Review that considers the Plan in its entirety and allows for much greater scope of change.

Planning Reforms

- 1.7 The Government is proposing several changes to the form and content of Local Plans and methods to speed up the plan-making system, including the introduction of National Development Management Policies, and a 30-month timeframe for Local Plan preparation and examination.

¹ Paragraph: 065 Reference ID: 61-065-20190723

- 1.8 In July 2023 when the Government published its consultation on the plan-making reforms, it also set out its long-term plan for housing. This was followed up with a letter to Leaders & Chief Planning Officers highlighting the principal elements of their long-term plan and setting out their expectations for Local Planning Authorities.
- 1.9 In this letter the Government states that it remains committed to building more homes in the right places with a focus on development and regeneration in and around existing town and city centres; explaining that this will be facilitated by their proposed reforms to the plan making system, which will make plans simpler, shorter and faster to prepare.
- 1.10 The [Levelling Up and Regeneration Act](#) received royal ascent on 23 October 2023. We are however still awaiting draft regulations to provide the detail and timeframes for changes to Plan making as provided for in the Act. It is at this point we will know the full and detailed nature of changes to the planning regime.
- 1.11 A revised National Planning Policy Framework (NPPF) was published on 19th December 2023, this introduces various reforms including:
- changes to the five-year housing land supply and delivery requirements;
 - changes to the assessment of housing supply and greater flexibility for local authorities in assessing local housing need;
 - new drafting on protection from “out of character” residential development;
 - Green Belt alterations suggesting local authorities may choose to (but are not required to) review and alter Green Belt boundaries to meet housing need; and
 - requiring local authorities to consider the availability of agricultural land used for food production when allocating sites for development.

2. Details of Proposal or Information

Progress with updating the Local Plan evidence base:

- 2.1 Although the Council’s Local Plan was adopted just two and a half years ago, it was submitted for Examination several years prior in May 2018, having been prepared in line with the provisions of the 2012 NPPF. Since that time there has been a number of changes to the NPPF, including the introduction of the national design guide and local design codes, the standard method for calculating local housing need, changes to the definition of affordable housing and biodiversity net gain. There has also been increased emphasis on climate change, with the Council declaring a climate emergency in July 2019
- 2.2 These factors prompted officers to undertake a desk top review of the Local Plan utilising the PAS assessment tool to identify if an early update of the Local Plan is likely to be necessary. This was informed by the Council’s most up to date monitoring data, the latest Housing Delivery Test results, the 5-year

housing land supply position, and the latest standard methodology housing needs information.

- 2.3 The draft results of this process were also shared with POS Enterprises, appointed in a Critical Friend capacity, who provided an independent sense check of the review process. The Critical Friend advised some limited amendments to the assessment, which are included in the latest draft appended to this report (Appendix 1).
- 2.4 In summary the answers given to the Plan Review factors suggest that the Local Plan is working quite well overall, with the exception of a couple of areas of concern that align with the findings of the annual monitoring, i.e.
 - Maintaining a 5-year housing land supply in the medium term;
 - Meeting affordable & specialist housing targets (including Custom & self build); and
 - Ensuring the effective delivery against Climate Change and Biodiversity priorities within the Council's Climate Change Strategy (Dec. 2022), the new Council Plan (2023) and the Biodiversity Action Plan approved in January 2024.
- 2.5 If the Local Plan were already 5 years old the findings of the assessment would clearly signal a need to Review the Local Plan. It is, however, a matter of judgement whether these considerations necessitate an early update and roll forward of the Plan at this point in time. The Critical Friend concurs with this finding.
- 2.6 In deciding whether to Review the Plan, it is important to consider the current uncertainty around the procedures for plan making and likely timescales for the implementation of the new system and associated transitional arrangements. The Government's letter to the Council (referred to at paragraph 1.8 above) states that the regulations, policy and guidance necessary for the preparation of the first new-style local plans will be in place by Autumn 2024; and that '*in the interim, local authorities should continue adopting ambitious local plans, under proposed transitional arrangements.*'
- 2.7 Under current proposals such plans would need to be submitted for Examination by 30 June 2025. That would give the Council just 15 months to secure the relevant evidence, prepare documentation and undertake the necessary consultation. Officers advise that a Plan review in this timeframe is not realistic based upon the current requirements of the system.
- 2.8 At its meetings in November 2023 and February 2024, the Local Plan Review Working Group discussed the results of the desktop review, the merits of progressing to a formal Local Plan Review under the current system and the implications of the Government's Planning Reforms.
- 2.9 The Working Group concludes that given the need to update strategic policies, including those relating to housing land supply and climate change, that there is insufficient time before summer 2025 to undertake a full Review and update of the current Local Plan under the current system; and recommends that the

Council should not formally progress with a full Review of the Local Plan at this stage.

- 2.10 However, this does not mean that the Council should adopt a 'do nothing' approach. It is important that preparatory work continues in the background, so that we are in a position to press ahead once there is certainty on the 'new style' plan making process. The gathering of evidence would be a key component of the first phase of a formal Review and Update and would help ensure that we are well placed to either pick up plan making under the current system if there is a change in Government direction; or slot into the new planning making system with its challenging 30-month timeframe for plan preparation and examination.
- 2.11 Officers have undertaken an initial review of the current evidence base to identify those documents that require updating, along with a review of national policy to identify any new areas of evidence that may be required. Evidence that is required at the outset, either to inform other subsequent evidence or strategy, or because we are working with others who require the information more urgently, will be undertaken in the first phase. The Action Plan at Appendix 2 provides details of the Phase 1 evidence, setting out the steps that are required along with an indicative timetable.
- 2.12 Where appropriate the Planning Team will work with other departments within the Council and with neighbouring authorities to commission evidence jointly. More precise timings will be provided as we start to make progress on the various studies. For example, we have already commissioned the Housing Needs Study jointly with the Housing Strategy team and we have a detailed timetable for the various stages of the work.
- 2.13 It is important to note that the table of evidence and associated steps and timings are subject to change as we will need to respond to any new requirements and opportunities as they arise. Officers will provide the Local Plan Working Group with regular updates on progress.

Position Statement to Update Members of the Public & Stakeholders.

- 2.14 The Working Group recommends that the Council may wish to consider publishing a statement of its decision and reasoning in the interests of openness and transparency. Cabinet is asked to approve the following wording for the position statement:
- i. "North East Derbyshire District Council adopted its current Local Plan in November 2021. The National Planning Policy Framework (NPPF) requires Local Plans to be reviewed every five years in order to be considered 'up to date' and for its policies to be given full weight in the assessment of planning applications.*
 - ii. The government has recently consulted on changes to the plan making process that are referred to in the Levelling Up and Regeneration Act, but will require secondary legislation to be implemented. The transition arrangements require Plans that are to*

be considered under the existing arrangements to be submitted to the Planning Inspectorate for examination by the summer of 2025.

- iii. Officers have undertaken a scoping exercise to consider the areas of the current Local Plan that are likely to require updating, utilising a 'toolkit' produced by the Planning Advisory Service – which is a nationally advised approach.*
- iv. The result of that scoping exercise was discussed at the first meeting of the Council's Local Plan Working Group in November 2023. This is a cross party group to which officers provide advice and elected Members provide a steer, following a debate of the issues.*
- v. Officers reported to that meeting that the results of the scoping exercise (verified by an external consultant with significant experience in the Plan making process) indicated that a number of strategic policies would need to be reviewed, including the supply of housing and employment land and the implications of the Environment Act 2021 and biodiversity net gain.*
- vi. Given the need to update these strategic policies, officers advised the Working Group that there is insufficient time before summer 2025 to undertake a full review and update of the current Local Plan under the current system.*
- vii. The agreed outcome of the November meeting of the Working Group was therefore that officers would provide a timetable for the gathering of evidence that would underpin the review of the strategic policies of the current Local Plan, in advance of the changes that are currently expected in late 2024.*
- viii. This is considered to be a prudent approach that will avoid potentially abortive work and will allow for public consultation in accordance with the awaited 'new style' Local Plan making process. We consider that this approach is supported by the revision to the National Planning Policy Framework meaning that the policies relating to housing supply in our current Local Plan will remain up to date until November 2026. We also believe it likely (although not confirmed to date) that the transitional arrangements to the 'new style' system will extend the period for which our Plan will be considered 'up to date,' whilst we develop our next iteration of the Local Plan.*
- ix. We are committed to keeping local communities up to date. Parish and Town Councils will be informed in advance of external evidence gathering exercises and will be asked to contribute to specific areas, including flood risk and land for delivering biodiversity net gain”.*

Notes of the meeting of the Local Plan Working Group held on 01 November 2023

- 2.15 In accordance with the Terms of Reference that were approved at Full Council in September 2023, where the decision was taken to establish the Local Plan Working Group, the notes of the meeting of the Working Group held on 01 November 2023 have been circulated to each of the Scrutiny Committees (held in February 2024) and the Assistant Director for Planning

has attended and answered questions at each of those meetings. The notes of the November meeting are attached to this report at Appendix 3.

- 2.17 The notes from the meeting of the Working Group held on 22 February 2024 will need to be approved at the next meeting of the Working Group, the date of which is yet to be arranged. Once approved, those notes will be circulated to the Cabinet and Scrutiny Committees, in accordance with the approved Terms of Reference for the Group.

3 Reasons for Recommendation

- 3.1 To enable the Council to progress with evidence base work so that it is in the best position to adopt the new plan making processes that are expected to come into force later this year.
- 3.2 To agree a statement in this regard that sets out the Council's position and updates members of the public on the approach being taken and the reasons for that approach.

4 Alternative Options and Reasons for Rejection

- 4.1 The main body of this report summarises why officers and the Local Plan Working Group consider that progressing evidence gathering now is the most effective use of time, in advance of the anticipated changes to the Local Plan making process later this year. This approach recognises the challenges of achieving the work required within the timeframe for submission of an updated Local Plan under the current national arrangements.
- 4.2 One alternative is to announce a formal Review of the Local Plan now. This option is not recommended by officers or the Working Group due to the likely duplication/delays that would be caused by the anticipated changes to the plan making process. It is also the case that announcing a formal Review would not change the focus of the initial phase from an officer perspective i.e. updating the evidence base.
- 4.3 The main difference with a formal Review would be the need to produce an updated timetable for the various stages of the process, including public consultation. The ability to commit to that at this stage is difficult given the anticipated changes outlined above, hence why this option has been rejected.
- 4.4 The other main alternative would be to 'do nothing' i.e. neither progress the tasks outlined in the Action Plan appended to this report, nor announce a formal Review. For the reasons identified in this report, officers are of the view that the evidence base behind a number of the strategic policies within the Local Plan needs to be updated.
- 4.5 As evidenced by the Action Plan, updating the information that underpins the policies of the Plan is not a short process. Delaying commencement will reduce our ability to act quickly once there is clarity on the plan making process at national level and thereby increase the risk that our Plan becomes 'out of date.'

That scenario makes the District more vulnerable to speculative development.

- 4.6 Regarding the publication of a Position Statement, officers consider that this would demonstrate openness and transparency around the matter of plan making. It is considered that this transparency would not be achieved if such a Statement was not produced, hence why officers and the Working Group discounted that option.

DOCUMENT INFORMATION

Appendix No	Title
1	PAS Toolkit Pt. 1 – Local Plan Assessment - DRAFT
2	Action Plan Table: Phase 1 Evidence
3	Notes of the meeting of the Local Plan Working Group held on 01 November 2023
Background Papers (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)	
Adopted NEDDC Local Plan National Planning Policy Framework National Planning Practice Guidance	