

Report to: **Strategic Planning Committee**



Date of Meeting Tuesday 20 October 2020

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

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## **Review of the East Devon Local Plan 2013 to 2031**

### **Report summary:**

Local plans must be reviewed at least once every five years, to assess whether they need to be updated. The review of the East Devon Local Plan 2013 to 2031 (adopted January 2016) must therefore be completed by January 2021. The Planning Advisory Service has produced guidance and a 'toolkit' to assist the review and update of local plan policies, and this toolkit has been completed to assess the Local Plan against a series of key criteria. The findings of the review show that there are several matters which mean that an update to the Local Plan is required, through preparation of a revised Local Plan.

### **Recommendation:**

Members are asked:

1. To consider and agree the findings of the Toolkit Part 1 – East Devon Local Plan 2013 to 2031 review assessment, which concludes that a full policies update to the Local Plan is required.
2. To agree that Officers will discuss the findings of the Local Plan review assessment with the prescribed duty to co-operate bodies, and then make any consequential amendments before finalising the review (any significant comments that could potentially change the conclusion of the review will be brought back to Strategic Planning Committee).
3. To note the next steps detailed in the report and the consequences of the Local Plan turning 5 years old.

### **Reason for recommendation:**

To ensure that the council meets its legal obligation to review the East Devon Local Plan 2013 to 2031 no later than five years after it was adopted, and ensure Members are aware that an update to the Local Plan is required.

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Portfolio(s) (check which apply):

- Climate Action
- Corporate Services and COVID-19 Response and Recovery
- Democracy and Transparency
- Economy and Assets

- Coast, Country and Environment
- Finance
- Strategic Planning
- Sustainable Homes and Communities

### **Financial implications:**

There are no specific financial implications requiring additional comment.

### **Legal implications:**

The five year local plan review is a legal requirement, it is also the first stage in consideration and appraising the East Devon Local Plan 2013 – 2031. The findings of the review will inform future Local Plan policy development ensuring the policies are as up to date as possible.

**Equalities impact** Low Impact

**Climate change** Low Impact

**Risk:** Low Risk; the council is obliged to review the Local Plan and then conclude as to whether it should be updated, so there is a low risk arising from this report.

**Links to background information** [East Devon Local Plan 2013 to 2031](#); [Toolkit Part 1 – East Devon Local Plan 2013 to 2031 review assessment](#); [Toolkit Part 2 – East Devon Local Plan 2013 to 2031 form and content checklist](#); [National Planning Policy Framework](#); [Planning Practice Guidance on plan-making](#); [PAS Local Plan Route Mapper & Toolkit](#)

### **Link to [Council Plan](#):**

Priorities (check which apply)

- Outstanding Place and Environment
- Outstanding Homes and Communities
- Outstanding Economic Growth, Productivity, and Prosperity
- Outstanding Council and Council Services

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## **Report in full**

### **Introduction**

1. Local plans must be reviewed to assess whether they need updating at least once every five years<sup>1</sup>. Once the review is complete, plans should then be updated as necessary. The East Devon Local Plan 2013 to 2031 was adopted on 28 January 2016, so the review must be completed by 28 January 2021.
2. The review process ensures that a plan and its policies remain relevant and effectively address the needs of the local community. National guidance recognises that policies age at different rates according to local circumstances and a plan does not automatically become out-of-date after five years.<sup>2</sup> Therefore, even if the review process finds that the Local Plan does need to be updated, planning applications must still be determined in accordance with the Local Plan (and the Villages Plan and any relevant 'made' neighbourhood plans) unless material considerations indicate otherwise.
3. The Planning Advisory Service (PAS) are a national, Government funded, organisation who support councils to help get local plans up-to-date and improve planning decision-making. PAS has produced a Local Plan Route Mapper & Toolkit to assist local planning authorities

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<sup>1</sup> The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended), Regulation 10A; NPPF paragraph 33.

<sup>2</sup> Planning practice guidance reference ID: 61-064-20190315.

in undertaking a review and update of local plan policies. This is intended to supplement the National Planning Policy Framework (NPPF) and associated planning practice guidance (PPG) on the review of policies within a local plan.

4. Officers have completed Part 1 of the Toolkit, which assesses the East Devon Local Plan 2013 to 2031 against a series of matters (including compliance with national policy, housing delivery, changes to economic conditions) and then concludes on whether or not to update plan policies. Part 2 of the Toolkit has also been completed, assessing the Local Plan against the requirements of the NPPF, and stating whether the Local Plan meets, partially meets, or does not meet each requirement.
5. It is important to note that the review of the Local Plan must comply with the 'duty to co-operate' with Devon County Council and other prescribed bodies on strategic matters that cross administrative boundaries. Therefore, following approval at this Committee, Officers will discuss the findings of the Local Plan review with the prescribed duty to co-operate bodies.

## Review findings

6. The review of the East Devon Local Plan comprises the completed Parts 1 and 2 of the PAS Toolkit, available as "links to background information." Part 1 contains 14 "matters to consider" – for each one it is stated whether the Local Plan meets the requirement ("agree") or does not meet the requirement ("disagree"), with explanatory text to justify the answer. The Toolkit indicates that where "disagree" is stated for one or more of the matters, an update of local plan policies is required. As shown in the attached Part 1, there are seven matters where the outcome of the review is "disagree". In summary, these relate to:
  - Matter A1: the Local Plan does not fully reflect the requirements of the NPPF.
  - Matter A6: there have been significant changes to economic conditions that could challenge delivery of the Local Plan.
  - Matter A8: some key site allocations are not delivering or on course to deliver.
  - Matter A10: new sites have become available through evidence gathered on the Greater Exeter Strategic Plan.
  - Matter A11: key planned infrastructure projects critical to delivery of the Local Plan have stalled.
  - Matter A12: not all policies are achievable and effective for the purpose of decision-making.
  - Matter A14: there have been local political changes that would require a change to the approach set out in the current plan.
7. Part 2 of the Toolkit concludes that whilst much of the Local Plan meets NPPF requirements, there are many aspects which are not fully reflected. This is not surprising since the Local Plan was adopted three years prior the latest version of the NPPF. The findings indicate that the Local Plan meets 35 NPPF requirements, particularly in the sections relating to General requirements, Plan content, Healthy and safe communities, and Transport. The chapters where the Local Plan only partially meets NPPF requirements generally fall within Housing, Economy, Communications, Natural environment, Effective use of land, and Design. The Local Plan does not meet 15 requirements, mainly for the NPPF chapters on Town centres and Climate change. This conclusion informed the first matter in Part 1 on whether the plan policies still reflect current national planning policy requirements
8. As the Local Plan does not meet several of the matters (identified above), including in relation to consistency with national policy, an update of Local Plan policies is recommended. Given the range of issues identified, the scope and extent will be a full policies update to the Local Plan, rather than a partial update of selected policies.

9. Members are asked to consider the points set out in Parts 1 and 2, and are invited to identify aspects of the current Local Plan that they like or do not like for inclusion in Parts 1 and 2 as appropriate.

### Next steps

10. As noted above, we must comply with the duty to co-operate when reviewing the Local Plan so, following approval at this Committee, Officers will discuss the findings with Devon County Council and other prescribed bodies. We will make any necessary amendments before finalising the review ahead of the five-year deadline (28 January 2021) – any significant comments that could potentially change the conclusion of the review will be brought back to Committee.
11. An outline of tasks and the timetable for preparing a revised Local Plan is being brought to this Committee in a separate report.
12. Finally, it is important to reiterate that, despite finding that a revision of the Local Plan is required, planning applications must still be determined in accordance with the Local Plan (and the Villages Plan and any relevant ‘made’ neighbourhood plans) unless material considerations indicate otherwise. Decision makers must however carefully consider the weight to be attributed to policies that are out of date.
13. The other consequence of the Local Plan turning 5 years old is in terms of housing monitoring as the 5 year housing land supply position must be assessed against the governments standard methodology for calculating housing need rather than the housing needs figure in the Local Plan. At present this means measuring against an annual figure of 918 homes per year as opposed to 950 homes per year. This would be the appropriate measure from January 2021 however clearly if the new standard method is adopted then this figure would potentially rise to 1,614 homes per year. The consequence of this would likely be the loss of a 5 year housing land supply position and the presumption in favour of sustainable development would apply.
14. In terms of the presumption in favour of sustainable development the NPPF is clear that in the case of decision taking this means:
  - “(c) approving development proposals that accord with an up-to-date development plan without delay; or
  - (d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date <sup>7</sup>, granting permission unless:
    - (i) the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed <sup>6</sup>; or
    - (ii) any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.”

This simply means that where policies are out of date permission should be granted unless either (i) or (ii) apply. Inappropriate development in protected areas such as AONB’s can still be resisted as can developments where the adverse impacts would significantly and demonstrably outweigh the benefits when assessed under the NPPF. This can however mean that proposals with significant benefits to housing land supply may be difficult to resist where they are not in a protected area and do not cause significant harm.