

Date of Meeting 7 September 2021

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

Working towards a draft local plan for approval for consultation in March 2022

Report summary:

This report seeks to give greater clarity to the recommended approach for local plan production that would see a Working Draft local plan coming to Strategic Planning Committee in December 2021. This Working Draft plan will identify a range of strategic themes with options and an officer recommendation on suggested preferred policy approaches. The intent is that choices made in December 2021 will feed through into a refined draft plan that will come back to Committee in March 2022 with a recommendation for public consultation. This consultation document, under officer proposals, will see preferred strategy choices and policies set out, with justification for their inclusion alongside alternative options that have been rejected, with reason for rejection.

Larger scale proposed, and rejected, development site allocations will also feature in the Working Draft plan to committee in December 2021 and the full range of proposed land allocations, including large and small sites, and rejected options, will feature in the March 2022 plan.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

- 1) That Strategic Planning Committee endorse the approach of receiving, in December 2021, a Working Draft local plan.
- 2) That Committee endorse the aim of preparing a draft plan setting out the favoured strategy and policy approach for consultation to be considered by Committee in March 2022.

Reason for recommendation: To ensure that Members are aware of the future proposed stages in plan making and to provide clarity for officers in their work ahead.

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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

Equalities impact Low Impact

Climate change Low Impact

Risk: Low Risk;

Links to background information – See links in the attached the report.

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

1 Introduction

- 1.1 Strategic Planning Committee has, over recent months, received a series of papers that have highlighted potential matters to be addressed in a new local plan. Further similar papers are proposed to be produced during the rest of this year. After that we have a timetable for bringing a plan to Strategic Planning Committee in December 2021, the intention is, as referenced in this report, that this plan will be referred to as a Working Draft local plan. This Working Draft will then be amended in early 2022 with a revised version, a draft plan, coming to committee in March 2022.
- 1.2 Approval would be sought at the March 2022 meeting for public consultation on the draft plan. The Local Development Scheme (LDS) has previously been approved and it forms a project plan for plan production. The dates in this report conform to the LDS timetable and consultation undertaken will fall in/after Regulation 18 of the plan making regulations and before Regulation 19 – see: [The Town and Country Planning \(Local Planning\) \(England\) Regulations 2012 \(legislation.gov.uk\)](#)
- 1.3 Given work undertaken to date, and the timetable ahead, now is a timely stage to provide more detailed officer recommendation on the suggested approach to the December 2021 and the March 2022 documents. It is stressed at the outset that drafts of the plan for December 2021 and March 2022 will not, and simply cannot given time and other constraints, contain all of the detail, supported by complete evidence, which the final publication draft of the plan (at Regulation 19), scheduled to go to Strategic Planning Committee in October 2022, will contain. Indeed, the preparation of a Local Plan is an

iterative process to be informed by public consultation and technical evidence gathering over time, so it would be 'wrong' to have all of the answers at this relatively early stage in preparing the Plan.

- 1.4 Consequently, preparation for a Working Draft plan will be informed by evidence available in time for the December 2021 Committee. The plan will then be further informed as more evidence becomes available prior to the March 2022 Committee. A clear audit trail of what evidence the Council relied on at each stage to identify and select the emerging strategy and policy options is part of transparent decision making. It will also help the Council to show how the plan has been justified, consistent with the test of soundness.
- 1.5 The LDS shows that consultation on the Publication draft plan (Regulation 19) starts in October 2022. The Publication plan is the version that is made available for public comment with the comments, the plan and other documents being submitted to the Planning Inspectorate for Examination. Members are advised that the Planning Inspector will test legal compliance including whether the plan has been prepared in accordance with the latest LDS, this includes the scope of the plan and the plan-making timetable.
- 1.6 It is stressed at this stage (i.e. at September 2021) that members are not being asked to make explicit strategy and policy choices, for example whether to endorse higher or lower development levels in one part of the District in comparison to another or at one town as opposed to another. To do so would be premature in the absence of further evidence and assessment work, most specifically (and this has relevance to meeting legal tests) in the absence of consideration of Sustainability Appraisal (SA) work. The plan could fail at examination in the absence of alternative options being assessed through the SA and without this assessment work subsequently informing strategy and policy choices.
- 1.7 What is legitimate, appropriate and desirable at this stage, however, is to provide more information on how and at what times we envisage committee making decisions regarding some of the strategy and policy matters to feature in future documents and to advise on the suggested structure and format of a draft plan.

2 The proposed scope of the local plan

- 2.1 As noted in earlier committee reports the intention is to produce a single local plan that aims to cover all policy matters that are typically expected to arise and be needed in respect of determination of planning applications that fall to East Devon District Council for decision. The one big caveat to this is that the Cranbrook Plan (which is assumed to be adopted in 2021 or 2022) will be expected to be the primary policy document for use in determining planning applications at Cranbrook for the foreseeable future. Over the longer term it remains to be determined how, when and in what way the new local plan or other plans may supersede parts or all of the Cranbrook Plan.
- 2.2 The Council will, however, need to update the LDS before Publication regarding the scope of the new local plan. The LDS will need to make clear whether the new local plan will supersede the Cranbrook Plan in whole or in part and the Examination Inspector will undertake a further legal test to check that the new local plan has been prepared in accordance with the latest version of the LDS. This includes the scope of the new plan and its plan-making timetable.

- 2.3 Members are reminded that if there is any conflict between the local plan and other Development Plan Documents (DPD's) then it is the latest plan to be adopted that takes precedent.
- 2.4 Production of a new local plan that covers all key policy matters does not preclude the production of Supplementary Planning Documents or other guidance documents that provide more detail on the application of policy. But such supplementary documents, unlike the local plan and Neighbourhood Plans will not be part of the Development Plan and as such will carry less weight and cannot include planning policy.
- 2.5 The current intention is that the new local plan will cover the period up to the 31 March 2040, in line with the NPPF (paragraph 22) which states that local plans should look ahead over a minimum 15 year period from adoption. Though should plan making timetables slip we may need to review the plan end date. Should the local plan include longer term development proposals, for example large scale development sites, perhaps one or more additional new towns, then policy references and planned development may well extend beyond 2040. The latest National Planning Policy Framework (July 2021) states that *'where larger scale developments such as new settlements or significant extensions to existing villages and towns form part of the strategy for the area, policies should be set within a vision that looks further ahead (at least 30 years), to take into account the likely timescale for delivery'*. Under such circumstances it would be relevant for the plan to provide a clear steer on the approach for any post 2040 development to occur.

3 Potential changes by Government to the plan making system

- 3.1 It is important to reiterate comment in earlier committee reports that the Government have proposed potentially significant changes to the planning system. We are producing the local plan, at this stage, to the requirements, procedures and policy expectations that exist at present. However, should changes be made by Government that impact on plan content, format or policy expectations then it will be appropriate to review the approach we are taking and if needed adapt accordingly.

4 The Council Plan and other emerging Council strategy documents

- 4.1 A new Council Plan is in production and when completed and approved the content will be scrutinised to identify matters that may have planning policy implications or relevance. Assuming that the Council plan is finalised before the end of this year the key themes and messages within will be used to inform local plan content and preparation.
- 4.2 There may also be additional Council strategies that will be available in time to inform the development of local plan policy with these potentially including a leisure strategy and tourism strategy.

5 The vision, aims and objectives for the plan

- 5.1 NPPF paragraph 15 makes clear that a succinct and up-to-date Plan should provide a positive vision for the future of the area. The plan *'provides a framework for addressing housing needs and other economic, social and environmental priorities and a platform for local people to shape their surroundings'*.

- 5.2 The January 2021 Issues and Options consultation document did not set out a plan vision, although it did set out potential broad objectives for the plan to achieve. The Council consulted on ten objectives at the Issues and Options stage in January 2021 and invited further or amended objectives to be submitted.
- 5.3 At their meeting on 27 April 2021, Strategic Planning Committee considered objectives and a vision. They resolved that the objectives consulted on at the Issues and Options (January 2021) stage remain the objectives that they wish the plan to focus. Committee also resolved that the Council Plan as a vision for the future of the district which identifies initial key priorities and outcomes for the future of Local Plan production be considered. Strategic Planning Committee in December 2021 will therefore consider the first articulation of the plan's vision. There will be an opportunity to refine that vision when committee considers the draft plan in March 2022. The vision will need to be informed by the Council's strategies and Corporate Plan and other relevant 'wider than local' strategies which the Council has signed up to or expressed support for. It will also need to be informed by consideration of the responses to the 2021 consultation on local plan Issues and Options report.
- 5.4 To help achieve this vision and inform the local plan's policies, a series of plan objectives are developed in parallel with the Sustainability Appraisal process. Further commentary on this matter is set out later in this report.

6 An interactive new local plan and encouraging public engagement

- 6.1 We are still considering alternative ways to present the local plan, when consulted on, in an interactive manner in order to make the plan more accessible and making comment easier. Nevertheless, the Council will need to consider what printed documents will be available and when, noting that regulations still advise of the need for copies to be made available, this is implied to mean paper copies. The inspector examining the plan may also request that a paper copy is supplied.
- 6.2 Looking forward we would wish to more fully explore potential for an interactive web site that can be used or created that incorporates all Development Plan polices, to include the local plan, Cranbrook Plan and Neighbourhood Plans, into a single place so that all relevant polices in respect of any planning application or proposal are grouped together in an easily accessible format and manner. We are not aware of whether anyone has done this to date and are investigating ways in which this could be achieved.

7 Format and chapter structure of the new local plan

- 7.1 At this stage we would not envisage producing a new local plan that deviates from relatively standard and commonly used chapter structuring as found in many local plans. It is envisaged that summary introduction text will set out the reasons for producing the plan and some of the factors informing key issues and approach taken in the plan. At this early stage we would envisage setting out material on vision, goals and objectives and this will lead on to separate chapters that cover key subject matters.
- 7.2 It is likely that there would be a chapter on the Spatial Strategy with a focus on policies towards the settlement hierarchy and the network of centres, and on place-making. This could provide the essential link from the vision and objectives to the subject policy matters.

7.3 The subject matters of the local plan are likely to cover such areas and policy matters as:

- Housing;
- Employment;
- Design;
- Transport;
- Landscape,
- Biodiversity;
- Heritage;
- Climate change;
- Community uses

7.4 Mindful of the test of soundness and effectiveness, the Plan might include a generic policy towards implementation and delivery. For example this might include the approaches to: governance; implementation strategies; CIL; S106; and a monitoring framework.

7.5 The above list is not, however, intended to be definitive or in any specific order as the final structure remains to be determined.

7.6 For the new plan one big difference from the current local plan is, however, that we do not envisage having strategic policies in one distinct section of the plan and then separated from these in another distinct section the Development Management (non-strategic) policies. Separation of the strategic policies from the non-strategic policies as it exists in the current local plan, has been identified as leading to some degree of confusion. So, for example, a plan user interested in housing would need to look in the strategic section of the plan for some housing policy references and at the non-strategic section for other housing policy references. In the new plan we envisage grouping all (strategic and non-strategic) policies together under subject based headings, though we will make a clear distinction between what is strategic and what is non-strategic. It should be noted that Neighbourhood Plan cannot override strategic policies but they can do this for non-strategic policies.

7.7 In the new plan we will also look to have fewer policies and less text around them. We envisage most policies being prefaced by a succinct introduction, followed by the policy itself and then 'to the point' information about the policy and its application (the reasoned justification). It should be noted that whilst draft versions of the plan can contain information about how policy choices have developed and evolved, and alternatives considered, such background information should not appear in the final version of the plan and at Examination planning inspectors may look unfavourably on such background text.

8 Suggested approach for the December 2021 Working Draft and the March 2022 draft plan

8.1 Our plan making timetable sets out that in December 2021 Strategic Planning Committee will receive a draft version of a proposed consultation document, though in reality it will be more an overview of proposed plan content and strategy and policy choices rather than a specific draft plan. Producing a document of this nature will provide scope for Committee to reach decisions and provide a clear steer on future plan content. We are referring to this December 2021 version as a Working Draft local plan.

- 8.2 We envisage that this Working Draft plan will follow the format and structure set out earlier in this report but will major on strategic policy options rather than necessarily getting into matters of policy detail. In presenting a Working Draft plan to Committee in December 2021 we wish to get instruction and clarity from members on whether they consider that the approach recommended is in line with what they envisage and therefore wish to see coming back to them in revised and fuller format in March 2022, with a recommendation at that stage for public consultation. If committee do not wish to see such an approach followed then there will need to be rapid reworking to meet plan making timetables.
- 8.3 For the December 2021 Working Draft plan we propose to produce a document that sets out the preferred strategy and key policies that we think should be included in the plan. We will also set out alternative options or approaches in this working Draft that have been considered setting out evidence based reasons for supporting or rejecting alternative options. In this Working Draft plan we envisage showing recommended land allocations for strategic and/or larger scale development sites and details of rejected sites. Where information and assessment is available we would also look to include smaller scale proposed allocations sites (and rejected options) in this Working Draft plan.
- 8.4 It does, however, need to be stressed that any recommendations made will be based on the evidence available at the time of plan writing and as such the plan will need to include appropriate caveats to include the fact that as plan making progresses new evidence may come to light that justifies refinement of approach or which sees alternative options becoming more favourable.
- 8.5 Of course in advising now of the shape that we envisage the December 2021 draft of the plan taking we give an early opportunity (i.e. now) for members to provide their steer and instruction.
- 8.6 For the March 2022 version of the plan (the document we propose to consult on) we envisage that a refined and fuller version of the December 2021 document will come back to committee. The proposal is that it will also include the favoured approach and rejected alternatives.
- 8.7 Taking such an approach at consultation would give people the opportunity to see what is favoured and what is rejected and why and for this to inform their overall thinking and response. It is reasonable to say that there may sometimes be very clear reasons to favour one option over another but in other cases there could be a more closely balanced set of considerations and public consultation can be a good way to test and refine the overall balance.

9 The role and importance of a plan strategy

- 9.1 In this report we refer to plan strategy and also plan policy. A strategy can be looked upon as the overarching approach to any given subject matter whereas plan policies may be looked upon as the more detailed considerations that arise from and aim to implement that strategy. For local plans, NPPF states that 'policies need to be clearly written and unambiguous, so it is evident how a decision maker should react to development proposals'.

- 9.2 If time were no object the Council could choose to develop a strategy first and then test and consult on it before turning attention to more detailed policy concerns. A defining a strategy first approach has the advantage that it can help provide a focus for future work and can start to rule-out, or potentially rule-in, detailed policy or site allocation options. For example if the plan strategy was to very much concentrate development at East Devon towns and selected villages it may rule out the appropriateness of considering, at least in any detail, potential options for very large scale development close to Exeter such as another new town. However, given plan making timetables, and where we are now, there will inevitably have to be some compressing together of the strategic considerations and more detailed policy considerations.
- 9.3 It is suggested that the practical approach to plan making will be for the report to Committee in December to specifically highlight and major on strategic considerations and following the decision of committee for officers to then translate the agreed strategic approach into more detailed policy choices for the March 2022 plan which members will then consider. Notwithstanding this over-arching approach there are going to be some more detailed policy matters and policy choices that might be relevant to make almost irrespective of strategy and could therefore be reasonable to include and reference in the December 2021 draft of the plan.

10 The importance of Sustainability Appraisal (SA) and other evidence

- 10.1 One of the legal tests for any plan relates to the development and use of the SA (references in this report to SA also include legal requirements for a parallel aspect of work called Strategic Environmental Assessment). The SA should be ongoing as the plan develops and to meet legal requirements the appraisal work needs to identify and compare reasonable alternative options. Unreasonable alternatives, for example because they are contrary to the NPPF with inadequate evidence to justify a departure, or that are clearly not viable, can be dismissed. Nevertheless, they still need to be identified in the SA work, with a list of succinct reasons why the Council considers that the alternatives are not 'reasonable'. Reasonable alternatives must be tested by the SA process, and the results available in time to inform decision making about selecting and rejecting alternatives, and for subsequent consultation.
- 10.2 Members are reminded that the SA also tests the local plan's objectives. In preparing the plan objectives, the Council will be mindful of NPPF paragraph 9. This makes clear that the three interdependent, overarching objectives relating to achieving sustainable development, should be delivered through the preparation and implementation of plans and the application of the policies in NPPF. Plan making will also need to take into account other relevant objectives set out in NPPF and other statements of national planning policy.
- 10.3 It is necessary for the Council to test the local plan's plan objectives against a suite of sustainability objectives which are set out in the SA. The SA also has to demonstrate how the plan, including policies and proposals, addressed relevant economic, social and environmental objectives (NPPF paragraph 32).
- 10.4 The intention is that the December 2021 version of the plan will be accompanied by SA work and members will be encouraged to draw on this and other evidence in reaching their conclusions.

- 10.5 The draft plan being considered by members in March 2022, including the vision and objectives as well as policy options, will also need to have been informed by the conclusions and recommendations of the SA. That SA will test the 'reasonable alternatives' as well as the favoured strategy and policy options. We will, for the March 2022 version of the plan, have an updated SA report available in time to inform the Committee decision on the draft plan. This SA report will be consulted on in its own right, as required by legislation, and sit alongside the draft plan document at consultation.
- 10.6 Other evidence will also need to inform policy choices and where available this should be published alongside or in support of consultation on the draft plan. It should be noted, however, that not all evidence documents will be available and completed by and to inform the March 2022 plan and much less so the December 2021 document. In some cases there just will not be time to complete all evidence reports and in other cases certain evidence production is not realistically possible, or at least can only be somewhat hypothetical, in the absence of proposed policy detail.
- 10.7 An example of evidence work that typically best follows on from some policy development is detailed viability testing, specifically noting that whole plan viability testing is an essential part of plan making and there needs to be some detail of policy development in order to test viability considerations. It should be noted that viability testing can be even more critical in respect of assessing development site allocations and whilst some over-arching comments can start to inform early site options and choices there will ultimately be the need for more detailed assessment work, in line with guidance on viability and plan-making.

11 Policy matters proposed for inclusion in the December 2021 plan

- 11.1 More details on some of the key subject matters that are likely to come forward for the December 2021 Working Draft plan are set out below.
- a) **Settlement hierarchy and networks of centres** – at the core of place making and the plan's spatial strategy is the focus on settlements and centres. The places where people live and work, and where town centre uses are concentrated, supporting local communities.
 - b) **Levels of housing provision** – a key part of the plan strategy will be determining a relevant amount of new housing provision for the plan period. A lower level option is likely to match Government minimum expectations. Though this provision may need to be increased to ensure there are sufficient new homes to accommodate enough workers to match possible job growth expectations or aspirations to support greater levels of affordable housing development.
 - c) **Strategy for jobs and economic activity** – the plan will need to be informed by and set out an overall strategy for accommodating economic growth and jobs. Consideration will need to be given to the types and levels of jobs that are seen as appropriate (and which are achievable) for the District.
 - d) **Distribution of development** – the current local plan accommodates much of the new development in the West End close to Exeter. In the new plan we will need to define an overall strategic approach on where to accommodate future development, at what sorts of levels and why. Decisions on distribution of development will need to

address and be taken within the context of overall housing growth levels as well as economic objectives.

- e) **Type of sites to allocate for development** – the local plan will need to identify and allocate sites for development and there are choices to be made around the types of sites, including site sizes and other characteristics that may feature as allocations.
- f) **Promoting carbon neutrality and adapting to climate change** – with commitments to reduce greenhouse gas emissions and respond to a changing climate it is assumed the new local plan will make this subject matter a key consideration and plan strategy will need to establish standards and respond to challenges and opportunities that exist.

11.2 The above list is **not** intended to be exhaustive of all strategic matters that may be presented to committee in December 2021 and nor does it seek to address non-strategic policy matters that may nonetheless be reasonable for inclusion in the committee papers. It should be noted that many of the above matters are intrinsically inter-linked with and have implications for one-another.

12 Implications for neighbourhood planning

- 12.1 The local plan will, in due course, have fundamental impacts on future neighbourhood plan making in East Devon. Neighbourhood Plans will need to accord with (and cannot contradict) strategic policies in a local plan. They can though add more detail to local plan policies.
- 12.2 Where there are possible conflicts or contradictions between a local plan and the neighbourhood plan it is the most recently adopted plan that takes precedence, this means that some policies in a newly adopted local plan could supersede policies in existing Neighbourhood Plans. Neighbourhood plan groups will no doubt wish to keep an eye on the local plan as it develops, make representations and consider whether and at what point it may be timely for them to review their plans.
- 12.3 In producing the new local plan we are, however, mindful of the work that has gone into Neighbourhood Plan production and the local support they have received. We are, therefore, considering the potential for incorporation of the thinking and policy approaches in Neighbourhood Plans into the local plan. If there is the need for Neighbourhood Plan reviews we are also mindful of the fact that we have a statutory duty as an authority to assist groups in preparing plans.

Financial Implications

There are no financial implications requiring comment at this stage.

Legal Implications

There are no legal implications other than as set out in this consultative report.