

Report to: **Strategic Planning Committee**



Date of Meeting: Tuesday 9 June 2023

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

East Devon local plan update report

Report summary:

This report seeks to give a gentle introduction to the past, ongoing and future work on producing the new local plan. No recommendations on specific decisions are sought through or from this report though we trust it will 'warm committee up' for future work. The report is intended to highlight some of the key work undertaken to date and some of the process steps and challenges the Council need to go through in progressing the local plan.

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

1. Strategic Planning Committee note the ongoing and future work on preparation of the East Devon Local Plan.
2. Strategic Planning Committee note that the housing need figure in East Devon, generated from the Government standard methodology, now stands at 910 new homes a years and that this figure is lower than the 946 homes per year that was reported on in 2022.

Reason for recommendation:

To highlight to members the work on local plan preparation and some of stages and steps ahead.

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Portfolio(s) (check which apply):

- Climate Action and Emergency Response
- Coast, Country and Environment
- Council and Corporate Co-ordination
- Democracy, Transparency and Communications
- Economy and Assets
- Finance
- Strategic Planning
- Sustainable Homes and Communities

Tourism, Sports, Leisure and Culture

Equalities impact Low Impact

Climate change Low Impact

Risk: Low Risk; .

Links to background information

The consultation draft local plan from November 2022 and other local plan papers can be viewed at:

[Draft Local Plan Consultation - East Devon](#)

Links to other background documents are contained in the body of this report.

Link to Council Plan

Priorities (check which apply)

- Better homes and communities for all
 - A greener East Devon
 - A resilient economy
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1. Introductions

- 1.1 Strategic Planning Committee will (we trust) be aware that one of the key jobs of the Council is to produce a local plan and it is this committee that is charged with decision making before full Council approval at key work stages.
- 1.2 We have an existing local plan that was formerly adopted in 2016 and it sets out (amongst other matters) planning policy that will guide and inform where development will be encouraged and permitted and the form and nature that the development should take.
- 1.3 The existing local plan is now, however, becoming dated and replacement is needed. In 2020 the Council started work on production of a new local plan and in November 2022 consultation started on a draft plan, the consultation concluded on 15 January 2023. This draft plan that we consulted on had the shape, form and much of the content that could feature in a final local plan, stressing however that:
 - It was a consultation draft so all or anything might change in response to comments received; and
 - It was acknowledged in the plan that there was further work to be undertaken and some clear gaps in the draft plan that would need filling.
- 1.4 Members of committee will be aware that there were (will be) member training sessions for Strategic Planning Committee on the 1 June and the 6 June 2023 and this committee paper is designed to work alongside these sessions.

- 1.5 Members of this committee will also be aware that there is a considerable body of work that has led up to this point in time. At Strategic Planning Committee, item 58 on 1 November 2022 [Local Plan Reminder - key stages of the Local Plan.pdf \(eastdevon.gov.uk\)](#) a paper was tabled called “East Devon Local Plan – Where are we and how did we get here?”. This paper provides links to and a succinct summary of past papers to committee.

2. The local plan. the Development Plan and some other key references

- 2.1 It is important for committee to understand the definitions of local plan and the Development Plan. In planning legislation the term Development Plan is clearly defined and the Development Plan is made up of any plan that has the status of a Development Plan Document (frequently this is abbreviated to DPD).
- 2.2 There will typically be a number of plans that have the status of being a DPD, and they collectively make up the Development Plan. ‘Local plan’ is a term that is frequently used (and for example is used in Government guidance) to refer to a DPD, typically one that covers a broad range of policy subject matters that apply over a wide geographic area (such as a District Council area) and which will allocate or identify land (specific sites) for development. There is no obligation or requirement for a council to call any of their DPDs a ‘local plan’, and indeed some planning authorities do not. But we use the term ‘local plan’, as in the East Devon Local Plan, as it is widely used and understood.
- 2.3 It is the Development Plan that is, first and foremost, turned to in respect of policy for determining planning applications (though national planning policy and also other factors are applied in consideration). For a complete record the current Development Plan for East Devon comprises of:
- The East Devon Local Plan – 2013 to 2031;
 - The Cranbrook Plan – 2013 to 2031;
 - The Villages Plan – 2013 to 2031;
 - The Devon Minerals Plan – 2011 to 2033;
 - The Devon Waste Plan – 2011 to 2033; and
 - Any Made Neighbourhood Plan
- 2.4 The Cranbrook Plan has a suite of policy measures that are applicable to the new town and its immediate surrounding countryside and the Villages Plan is specifically concerned with a select number of villages in East Devon. With respect to planning matters relating to Minerals and Waste it is Devon County Council that are the planning authority with responsibility that covers East Devon and all of the rest of Devon (excluding Plymouth and Torbay). Devon County Council produce the minerals plan and the waste plan to the same procedures that we follow for our DPDs.
- 2.5 The intent is that on adoption the new local plan will supersede all of the existing local plan as well as all of the Villages Plan. But our current approach is that the Cranbrook Plan will remain in place as a DPD though there is the potential option for some new

local plan policies to also address some development matters at Cranbrook and as such they would work and be applied alongside the Cranbrook Plan.

- 2.6 It is also highlighted that Made Neighbourhood Plans form part of the Development Plan. These local area plans are typically produced at a 'grass-root's' local community level and have proven to be very popular with local communities. If we exclude the large unitary councils (such as Cornwall, Shropshire and Herefordshire) East Devon has close to the highest number of Made Neighbourhood Plans of any planning authority in England and the District Council has a proud record of supporting and encouraging their production.
- 2.7 It is important to remember however that the requirements of the legislation are that Neighbourhood Plans are in general conformity with the Local Plan (not the other way round). It is therefore entirely possible (if not likely) that any new East Devon Local Plan will contradict, to some extent, some of the made Neighbourhood Plans within the district. Under the legislation this is allowed but it highlights the need for Neighbourhood Plans to be reviewed and updated regularly or the weight that can be attributed to them will decrease. However even where they are out of date with the strategy, policies or allocations within the Local Plan they will still provide an important source of guidance and policy on local level issues and the views of the community.
- 2.8 Over the months ahead Committee will be advised of various pieces of legislation and associated regulations that we are required to comply with when producing the local plan (or specifically any DPD). But as a starter we highlight [The Town and Country Planning \(Local Planning\) \(England\) Regulations 2012 \(legislation.gov.uk\)](https://www.legislation.gov.uk/uksi/2012/2700/contents/made)
- 2.9 These regulations are fundamental to the work that we need to do in producing a new local plan and they set out stages that we need to follow. At present we are at Regulation 18 stage of plan making, and although it sounds quite technical to use this term it does ensure precision around where we are at and what we are doing
- 2.10 **Regulation 18 – Preparation of a local plan** – is primarily concerned with engagement and consultation on proposals and policies that then become more formalised as plan making progresses. There is no set format or rules on what we must produce and consult on at the Regulation 18 stage of plan making. So there is flexibility for any council to produce as many or as few documents, or other items of consultation material, as they choose, and to do so at whatever points in time they deem desirable or appropriate. The key legal tests are about ensuring that we do highlight all policy matters, options or choices that could potentially end up in the final plan and provide opportunity for anyone to comment on these.
- 2.11 The draft local plan we produced neatly falls within and makes up part of the Regulation 18 stage of plan making but we would envisage more engagement before we move onto more formalised stages of plan making work. The more formal future stages (Regulation 19 and beyond) involve preparing a final plan, making it available for comment and sending the plan, the comments and supporting evidence to the Planning Inspectorate for plan examination. After examination, dependent upon the planning inspector's conclusions, the plan can be legally adopted.

3. The National Planning Policy Framework and housing numbers

- 3.1 The National Planning Policy Framework (abbreviated to NPPF) is the key Government policy document that guides local plan making and the work of the Council more generally in its planning activity. We have to have regard to the content of the NPPF in our work but it does not set out slavish precise rules that we must follow, as such it is not part of the legislation. However, members should be aware that it can be difficult to justify deviating from the NPPF and if we wish to do so the more we may want to deviate the stronger and more robust our case would need to be. Ideally the more we may want to move away from the NPPF the more we would need to show the uniqueness or unusualness of our circumstances.
- 3.2 Sitting alongside the NPPF and providing more detail is national Planning Practice Guidance (PPG). The PPG is subject based and both informs and provides more detail on national policy and provides details of a number of technical tasks and work streams that should inform local plan making.
- 3.3 **Future housing numbers for East Devon** - The current draft of the NPPF references a national (England wide) approach for determining the number of new homes that should be planned for at a local planning authority level. Numbers are generated from a standard methodology (an algorithm) that has been defined by Government and which takes into account projected changes in population levels and also the relative affordability of housing. Though in the 20 largest cities and urban areas in England there is also an additional (20%) uplift component applied.
- 3.4 At present the standard methodology housing number for East Devon is the building of 910 homes per year. This figure is actually a slightly lower figure than that for 2022, which was 946 and which featured in the consultation draft local plan. However to provide flexibility, noting that not all houses planned for may be built, we do need to provide a flexibility uplift into numbers (as we did in the consultation draft plan).
- 3.5 The reason for the change in housing numbers from 2022 to 2023 is that the Office for National Statistics (ONS) have revised and refined the comparative relationship between median house prices and median gross annual workplace-based earnings. In effect what has happened is that the ONS have revisited previous data on the strength of new and more precise information becoming available. This is not unusual as data is frequently released on a provisional (or best as known at the moment) basis subject to potential for future refinement. In the last year, in practice and on remodelling, earnings in East Devon rose proportionately more than house prices and as a consequence the affordability ratio (an additional multiplying factor that feeds into the standard methodology for housing) generated a lower end output figure (the housing number) than had previously been generated. But caution needs to be applied as new releases and more precise ONS outputs could impact on levels in the future as could any annual reviews or future year's data. A new housing monitoring report is currently being prepared and will be reported to this committee later this year. This will consider the implications for 5 year housing land supply but it is not anticipated that

what is a reasonably modest change to requirements, in its own right, will have statistically significant impacts on overall outputs.

- 3.6 The numbers generated for East Devon, and indeed for much of England, have proven to be contentious. Many respondents to our draft local plan expressed the view that they regard them as being too high and a consequence of applying them being that inappropriate sites have to be identified and allocated for development. Most sites that were proposed as allocations for development in the plan came in for objection in public feedback, though site owners and prospective developers (and their agents) in many cases expressed qualified support.
- 3.7 It is relevant to note that in their work on defining the standard methodology the Government will have taken into account a long standing national policy objective of seeking to see/secure an annual average of 300,000 new homes being built across England each year. It is many decades, however, since the country has seen such high house building levels with this scale of house building only being achieved in the past in years when newly built Council Housing formed a major source of housing supply.
- 3.8 It should be noted that under current national planning guidance it is possible to seek to plan for less housing but to justify a case is very challenging, the two options open are:
- To present a case that there is a technical flaw or error in the data that feeds into the standard methodology; and/or
 - To present a case that there are such fundamental constraints in a local planning authority area that the required numbers cannot be acceptably accommodated.
- 3.9 The first bullet point item is very much a technical one and we had consultants (ORS) investigate this matter as part of wider housing work for the council and they concluded there is no evidence to show there could be any errors. For the second bullet point the tests to meet are extremely challenging and should we want to try to plan for less housing any case we tried to pursue would be examined very closely at a local plan examination by a planning inspector. There would be a very clear expectation that every opportunity to accommodate the housing levels had been thoroughly examined and found unreasonable to sustain this position
- 3.10 Where a planning authority do not believe that they can acceptably accommodate their numbers they should also enter into discussions with other (neighbouring) authorities seeking agreement from these others to take some of their housing. This is done through a process called the Duty to Cooperate and Torbay Council have indicated that they do not believe that it will be acceptable for them to accommodate their numbers in their area. Torbay have approached other Devon authorities, including East Devon District Council, seeking agreement over accommodating some of their Torbay needs in our areas. Though this Council has, to date, advised that they see insufficient robust evidence from Torbay Council to justify their conclusions over ability to accommodate their levels.

- 3.11 Consultation on changes to the NPPF** – However, much of the above may change because in early 2023 there was consultation on potential changes to the NPPF and before Christmas (part way through our draft local plan consultation) there was a Government minister statement setting out that housing targets will no longer be mandatory and that the numbers should be a starting point in work on determining levels of new housing to plan for.
- 3.12 East Devon District Council provided lengthy and detailed feedback commentary on the Government consultation (noting that it covered far more than just housing numbers). The Government had advised that a revised NPPF would be issued in Spring 2023. However, more recently, at a select committee, it was advised that there is no fixed date for a new NPPF to be published and that consultation responses were still being worked through.
- 3.13 We are, therefore, in something of a limbo position; that is assuming the council wishes to explore options and potential for planning for less than the standard methodology housing levels, whilst we await NPPF changes. Though it should be noted that the Government has not advised that it is intent to abolish the standard methodology for calculating housing numbers but it has, through consultation, indicated that there will be more flexibility to establish exceptional circumstances for why they should not apply in specific locations (i.e. for specific planning authorities or their local plans). A reasonable reading of a test of exceptional circumstances could be that the norm would be that they should typically apply.
- 3.14 The approach of waiting for the new NPPF has impacts on plan making timetables and work that can be done. Of course, if the council were to determine that the standard methodology generated appropriate, desirable and needed levels of housing for East Devon (and we do have the option to exceed standard method levels) then we could use these levels and proceed without the delays on plan making.
- 3.15 However, at Strategic Planning Committee on 14 February 2023 committee resolved under item 65 - [Agenda item - Proposed response to Government consultation - Levelling-up and Regeneration Bill: reforms to national planning policy - East Devon:](#)
- “2. That Officers continue with the background technical work with regard to the Local Plan including discussions with consultees and other stakeholders and infrastructure providers in particular concerning water, sewerage and other environmental matters to enable those discussions with infrastructure providers and stakeholders to continue but that no further discussions or decisions will be made with regard to the sites or their allocation until the Government has delivered the finalised NPPF.”*
- 3.16 **The Levelling-up and Regeneration Bill** – The Spring (or later) changes to the NPPF will need to be seen, and are being produced, in the context of the [Levelling-up and Regeneration Bill - Parliamentary Bills - UK Parliament](#). This new legislation, currently in Parliament stages (at the time of drafting this report at the Committee stage in the House of Lords), proposes what could be quite substantial changes to the planning system in England. The Government have indicated that later this year, following on from this new legislation, there will also be an additional revision of the NPPF (i.e.

additional to the Spring 2023 changes). So looking forward there could be two new NPPFs in the coming months to take into account in local plan making and wider planning work as well as legislative changes with potential for significant impacts.

- 3.17 Amongst other matters the new legislation could have potential impacts in respect of the local plan making timetable, these are commented on in further detail later in this committee report. There are also potential changes that could result in slimmer local plans on account of proposals for a set of standardised national development management policies that would apply across the whole of England. These national policies could negate the need for individual local planning authorities to produce many of their own policies in their own plans.

4. Draft local plan consultation feedback

- 4.1 Strategic Planning Committee received an initial feedback report on local plan consultation on 7 March 2023 - [Agenda item - Initial feedback report on consultation on the draft East Devon Local Plan - consultation undertaken from 7 November 2022 to 15 January 2023 - East Devon](#)
- 4.2 The intention is that a full detailed feedback report will come to this Strategic Planning Committee at the 11 July 2023 meeting and this feedback report is currently in production. It is not intended that this report will provide feedback on every comment received. It will provide a summary only of key matters, though non-the-less it will still be a lengthy report. All written comments on the local plan will be available to view on-line prior to this meeting.

5. Future evidence gathering and studies

- 5.1 As part of ongoing work on production of the local plan there is and will be the need for further evidence gathering and some of the policies in the draft local plan, we acknowledged, were not fully or appropriately supported by complete and robust evidence.
- 5.2 At a future committee meeting we intend to table a report setting out details on further evidence gathering that we would envisage is needed to support plan preparation. Allied to this will be the potential need for extra consultation which we will also highlight.

6. Local plan making timetables

- 6.1 At this stage we have not sought to propose an amended timetable for production of the local plan. This will, however, be required and it will be set out in a document called a Local Development Scheme (LDS). The current LDS was adopted in April 2022 and it sets out the following timetable for work:
- Issues Consultation – completed in January 2021.
 - Draft plan – consultation starting Autumn 2022.
 - Publication – consultation starts Autumn 2023.
 - Submission – early 2024.

- Inspector's Hearings – 2024.
- Adoption – early 2025.

- 6.2 The LDS will need reviewing but it is highlighted that the existing timetable is not now reasonable and realistic and a new timetable will need to be defined. The new timetable will be necessary because of:
- Uncertainty around publication of a new NPPF and contents within (especially in respect of housing numbers);
 - Impacts that may arise from the Levelling-up and Regeneration Bill;
 - Matters arising from committee decision on 14 February 2023 to stop work on specific sites and allocations; and
 - The need for further evidence gathering and consultation.
- 6.3 A factor to highlight is that the NPPF advises that local plans should have a lifespan that runs for at least 15 years from the point of adoption. Under the existing timetable the local plan had a proposed end date of 2040 (strictly speaking the 31 March 2040) and as such the projected adoption would be just at (just before) a point where there would be a 15 year forward looking timespan.
- 6.4 Under a revised timetable there will be the relevance to look at a possible new end date for the local plan, potentially 31 March 2041 or 31 March 2042.
- 6.5 In consultation around the levelling-up bill (see a committee report at [1. Response to Govt planning Consultation.pdf \(eastdevon.gov.uk\)](#)) the Government set out that Council's will have until 30 June 2025 to submit their local plans for examination for them to be considered under the current plan making system. If the plan making timetable were to slip by one year it would see local plan submission in early 2025 and therefore the local plan would be examined under the current plan making regime.
- 6.6 However, if plan making was delayed by over a year it could result in a submission date that would be after the 20 June 2025 and as such it would mean (subject to final levelling-up bill legislation) that we move into a different plan making regime. Should we be in this position the form, content and nature of the local plan may need to change, perhaps by a significant extent.

7. Conclusions

- 7.1 This report highlights a series of challenges looking forward in respect of production of the next East Devon Local Plan. Whilst we have a very solid body of past work to draw on, and a draft plan that was subject to consultation, it is important to advise that there was public challenge in feedback to consultation. Many respondents considered that we are planning for too much housing and most of the sites shown as allocation for development in the plan came in for objection.
- 7.2 We face timetabling challenges in that through new legislation there are proposed changes to the planning system and regime that will require relatively speedy movement if we are to produce a plan under the current system and we will also need

to consider whether we will need to extend the overall life, the end date, of the local plan.

- 7.3 We are also planning in respect of some uncertainty for the coming weeks or months given that we are waiting on a new draft of the NPPF which may introduce changes, specifically in respect of the number of houses we should be planning for.

Financial implications:

The requirements of the production of the local plan is considered at each budget preparation stage and any underspends are reserved for expenditure in future years

Legal implications:

There are no legal implications other than as set out within this report.”