

Report to: **Strategic Planning Committee**



Date of Meeting: 5 March 2024

Document classification: Part A Public Document

Exemption applied: None

Review date for release N/A

East Devon Local Plan – timetable update report and further plan consultation

Report summary:

This report advises on an update on work on local plan making and summarises progress on key work streams. In summary it is reported that work is progressing broadly in line with plan redrafting timetables albeit the need for a workshop to further discuss green wedges following Members discussion at the previous meeting will cause a delay of at least a couple of weeks in the addendum Regulation 18 consultation being launched with now set to be for early April following the committee meeting on the 2 April.

This report also:

- sets out details of the proposed additional topic specific local plan consultation that is scheduled for March to April 2024; and
- specifically comments in more detail on potential future work on building standards and carbon emissions (such work we highlight would/will delay bringing a revised local plan climate change chapter back to committee).

Is the proposed decision in accordance with:

Budget Yes No

Policy Framework Yes No

Recommendation:

1. That committee note the ongoing work on local plan production as summarised in this update report.
2. That committee agree to the proposed approach to additional local plan consultation in April and May.
3. That committee advise on whether they wish to pursue a policy approach in the new local plan that sets out local plan policy on energy efficiency standards/approaches that exceed those of building regulations.

Reason for recommendation:

To ensure Members of committee are kept aware of local plan making progress.

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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 Medium Impact

Risk: Medium Risk; This report contains information around possible policy options that could have differing (though not quantified) Carbon emission impacts.

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

1. Local plan work planning

- 1.1 This report provides a follow-on update report on local plan making progress from a similar report to Strategic Planning Committee in January 2024. It follows a pattern of updates being provided every two months.
- 1.2 The emphasis on updating is to:
 - report on key work and tasks being undertaken
 - highlight any concerns about deviation from the timetable, and
 - report on forthcoming reports to committee.
- 1.3 Updating on progress should be seen within the wider context of getting to the Publication consultation stage of plan making to a target date of November 2024 and thereafter to the Submission stage to a target date of May 2025.

- 1.4 We are reviewing work progress alongside the timeline chart set out below/over the page. This chart was first presented to committee on 31 October 2023. We would advise of some deviations from this timetable further in in this committee report.
- 1.5 At this February committee meeting (ahead of the March timetabled date) committee has/will receive revised Chapters 1 and 2 of the local plan. We would advise, however, that for reasons set out in more detail later in this report we will not be in a position to have redrafted Chapter 7 - Climate change for the scheduled April committee meeting.
- 1.6 By way of further update we can advise that consultants have been appointed to undertake a whole local plan and Community Infrastructure Levy viability assessment, and tentative work has also started on an Infrastructure Delivery Plan that will support and inform local plan production.
- 1.7 At the time of drafting this committee report an advert has been placed, with responses received, to appoint an agency planner to assist with planning policy work.

Proposed table of key work stages to take the East Devon Local Plan to Submission for Examination

Key work stages	2023			2024												2025						
	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	
Committee approval of this work plan (31 Oct 2023)	X																					
Ongoing evidence work and preparing Reg 18 consultation documents																						
Reports on emerging evidence as it becomes available																						
SPC approval of Reg 18 consultation																						
Reg 18 consultation																						
Officer assessment of representations received																						
Feedback on consultation to committee																						
Ongoing evidence and assessment work																						
Redrafted chapters to committee as below:																						
Ch. 1 introduction and Ch. 2 vision																						
Ch. 7 Climate change and Ch. 8 Housing																						
Ch. 10 design and Ch. 11 transport																						
Ch 15. heritage, Ch 16. community																						
Ch. 13 biodiversity and Ch. 14 open space																						
Ch 12. Landscape and Ch 19. Glossary																						
Ch 5. and Ch 6. development allocations and Ch. 9 economy																						
Ch 3. spatial strategy and Ch 17. implementation																						
Final redrafting of the proposed Publication Plan																						
SPC approval of Reg 19 Publication plan																						
Council approval of Publication plan for consultation																						
Publication plan consultation																						
Officer assessment of submissions received																						
Council approval of plan submission																						
Submission of the plan for Examination																						

 Green bars indicate key background work and consultation periods  Red crosses indicate key committee dates (actual dates to be confirmed)

2. Local plan consultation in April and May 2024

- 2.1 Committee will note that on the agenda for this 5 March 2024 meeting there are a series of topic-based papers that we are seeking authority to undertake consultation on in respect of:
- Potential new housing or other allocations
 - Town centre retail boundaries
- Others will follow at the 12th March meeting.
- 2.2 Following Members consideration of green wedge boundaries at their previous meeting a workshop is being arranged to further discuss these issues and this has consequential delays for the proposed consultation. It is now envisaged that the consultation materials will be presented to Members across the 5th March, 12th March and 2nd April meetings with consultation to commence as soon as possible following the 2nd April meeting. The proposed consultation papers considered by committee will need minor tidying-up before completion, for example in respect of standardising page layouts and pagination.
- 2.3 Consultation material will be posted on the Council's communication and engagement software, Commonplace, and it will be viewable on-line and people will be able also to download pdf copies of documents. We will encourage responses to be made through the commonplace platform but will make materials available in other formats for those unable to use the platform and likewise enable responses to be received through other means where necessary. Whilst the consultation material will be kept as simple and engaging as possible there will be background technical documents that will be available that go into considerably more detail on subject matters. We will ask simple and limited questions in the consultation and will encourage on-line responses.
- 2.4 We will publicise the consultation through our web site and newsletters and send out emails to our lists of consultees. As part of our general Neighbourhood Plan making work we hold on-line meetings with parish councils and will look to run such a meeting alongside and during the local plan consultation period.
- 2.5 We would not, however, recommend that public face-to-face meetings or exhibitions are held. The narrow range of issues covered in this consultation would not warrant such events and engagement levels through the commonplace software is now very good. Officers would be available by telephone and e-mail to answer any questions but we do not have the resources to run face to face events and keep the various workstreams for the plan on track as well.
- 2.6 We will, however, seek to give notice to Parish Council's and any other interested party to advise of the consultation so that any third party, should they choose, can organise their own events.
- 2.7 During the consultation period there will be publicity material prepared and sent out. We will focus each week on a different topic matter in terms of online promotion on the web / social media. We will also look to prepare videos, to be posted on subject

matters that are out for consultation. There will be joint working with the communications team at the council on these and wider areas of the engagement work.

- 2.8 After the consultation is completed officers in the Planning Policy team will prepare a feedback report on comments received with summaries of the main themes and issues emerging. Our expectation is that all comments received will be made public and published on our Planning Policy web pages, though redacting of personal details will be needed and comments will be reviewed to ensure any racist, sexist or otherwise unacceptable text is not published.

3. Climate change chapter of the local plan

- 3.1 We specifically wanted to highlight and draw to members attention considerations around the climate change chapter of the plan that are particularly pertinent and that are relevant to not bringing a redrafted chapter to committee in April 2024.

- 3.2 In December 2023 there were three significant Government actions:

- a. Consultation on proposed revision to building standards - [The Future Homes and Buildings Standards: 2023 consultation - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/consultations/the-future-homes-and-buildings-standards-2023-consultation)
- b. Consultation on matters relating to heat networks - [Heat Network Zoning consultation 2023 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk/government/consultations/heat-network-zoning-consultation-2023)
- c. Ministerial statement on acceptability of having local plan polices on building standards on energy matters that exceed building regulations - [Written statements - Written questions, answers and statements - UK Parliament](https://www.parliament.uk/written-questions-answers-statements/written-question/House-of-Commons/2023-12-14/1000000)

- 3.3 There is a long established system of building regulations that exists in the UK that set out minimum standards that new developments and redevelopments are required to meet. These address such matters as structural and fire safety, damp proofing, impacts of toxic substances, soundproofing, ventilation, hygiene, drainage, heating, stairs, disability concerns, glazing and electrical safety.

- 3.4 One of the matters addressed through the building regulations is energy efficiency in development. There are minimum build standards that are set out and have to be complied with and through consultation (item a. above) the Government are consulting on somewhat more demanding (more energy efficient) standards. We use the word 'somewhat' advisedly as assessment clearly indicates that the new standards proposed are not as demanding as they could be. Furthermore new buildings are increasingly being built to levels of energy efficiency that exceed existing and suggested new efficiency standards; and therefore predicted carbon emission standards during the operation and use of a building.

- 3.5 Item b. above relates to a more process and procedural consultation about heat networks and how they will be established and governed and rules and regulations that exist within.

- 3.6 Consultation feedback, under delegated authority, has been/will be sent to Government expressing concerns that standards are not demanding enough and greater emphasis should be placed on building efficiency in development.
- 3.7 It is advised that up to late 2023 it has been possible to have planning policy in local plans, for energy efficiency standards, that seeks to exceed standards set out in building regulations. A number of local planning authorities, including in the southwest - Cornwall and Bath and North East Somerset - have such policies in adopted plan. However there are distinct technical challenges in respect of establishing and enforcing such policies and also challenges around the legality of such policies. We understand that in some cases Inspectors have rejected these types of policies at local plan examinations.
- 3.8 The picture of complexity of having local plan policy on building standards that exceed those in building regulations got even more complicated, however, by a ministerial statement issued in December 2023 (reference as item c. towards the start of this section of this report).
- 3.9 The ministerial statement includes text stating *“the Government does not expect plan-makers to set local energy efficiency standards for buildings that go beyond current or planned buildings regulations. The proliferation of multiple, local standards by local authority area can add further costs to building new homes by adding complexity and undermining economies of scale.”*
- 3.10 The above may be reasonably read to conclude that we are effectively barred from seeking higher standards in our local plan. But the next sentence, on face value, somewhat contradicts what went before by stating *“Any planning policies that propose local energy efficiency standards for buildings that go beyond current or planned buildings regulation should be rejected at examination if they do not have a well-reasoned and robustly costed rationale that ensures:*
- *That development remains viable, and the impact on housing supply and affordability is considered in accordance with the National Planning Policy Framework.*
 - *The additional requirement is expressed as a percentage uplift of a dwelling’s Target Emissions Rate (TER) calculated using a specified version of the Standard Assessment Procedure (SAP).*
- 3.11 In our draft local plan [commonplace-reg-18-final-071122.pdf \(eastdevon.gov.uk\)](https://www.eastdevon.gov.uk/commonplace-reg-18-final-071122.pdf) we included Strategy 28 that sought net zero carbon emissions from new development (the adopted Cranbrook Plan has policy coverage that also seeks high efficiency standards). Regardless of the Ministerial Statement Strategy 28 would have required some wording tightening up in redrafting.
- 3.12 But, we would now however wish to gain clarity from Committee on whether they would wish to pursue a local plan policy approach that would seek to exceed existing or new potential building regulations standards. There is a case against seeking higher local standards in that it would appear contrary to Government aspirations and expectations, it will involve some extra work, with no certainty of success, to seriously

pursue such an approach and it might be felt that Government standards do or will go far enough anyway. It is clear that minimum standards now are much more demanding than they were in previous years, heating related carbon emissions from new buildings are lower than from old buildings and there is an argument that consumers, should they choose (and have the money) can buy or rent a property that is more energy efficient than minimum standards anyway.

- 3.13 Arguments for seeking or explicitly imposing higher standards rest on such matters as the fact that even after new standards come into place (assuming they do) developments (such as new homes) will still emit carbon and that we should be doing everything (reasonably) possible to reduce overall carbon emissions. It is also the case that more energy efficient homes will cost less to heat and be more comfortable for residents (but there is a cost to greater energy efficiency).
- 3.14 We would highlight that there is a legal challenge (proposed or perhaps already logged) in respect of the validity of the ministerial statement. Also the Town and Country Planning Association are lobbying for a collective local authority campaign of opposition to the Government ministerial statement position.
- 3.15 Given the above considerations, and pending instruction from Committee, we regarded it as appropriate to hold back on bringing a revised climate chapter of the local plan to committee in April. Should committee wish to challenge the government position, and seek policy for more demanding standards, we would see the need to buy in specialist consultancy advice on this matter.
- 3.16 We would also wish to highlight that it would be appropriate to undertake potentially substantive further work on and relating to Strategy 31 of the local plan that relates to wind energy developments (turbines and wind farms).
- 3.17 The National Planning Policy Framework [National Planning Policy Framework \(publishing.service.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/112144/nppf-2019.pdf) (December 2023) at Footnote 58 advises *“Except for applications for the repowering and life-extension of existing wind turbines, a planning application for wind energy development involving one or more turbines should not be considered acceptable unless it is in an area identified as suitable for wind energy development in the development plan or a supplementary planning document; and, following consultation, it can be demonstrated that the planning impacts identified by the affected local community have been appropriately addressed and the proposal has community support.”*
- 3.18 Strategy 31 sets out that “wind energy development will in principle be supported in the identified wind energy suitable area ...”. The Policies Map of the draft local plan colours in such areas (ie they are identified). But there is a question around whether policy wording meets the NPPF tests and more importantly whether we have identified appropriate areas.
- 3.19 The areas identified are taken from a study produced for the Council (and partner authorities) by the Centre for Energy and the Environment at the University of Exeter in 2020 [UoE-2020-Low-Carbon-and-Climate-Change-GESP-report-net-zero-draft-120320.pdf](https://www.exeter.ac.uk/research/centres-and-institutes/centre-for-energy-and-the-environment/wp-content/uploads/2020/06/UoE-2020-Low-Carbon-and-Climate-Change-GESP-report-net-zero-draft-120320.pdf) It was originally for the Greater Exeter Strategic Plan but is now applied for

our local plan work. This work was undertaken at a higher level and areas identified for wind were derived from technical assessment of suitable wind speeds and applying buffers (areas excluded from being defined) around selected physical features and environmental assets – to include (not the full list) - roads, houses, all of the AONBs (now national landscapes), listed buildings, overhead powerlines and woodlands.

- 3.20 On a technical level suitability considerations may have changed since 2020 when the work was completed. But of more significance the definition and application of buffers is not as sophisticated as would ideally be desirable and finer grained assessment work on sites would be highly desirable.
- 3.21 Commercial on-shore wind turbines, it is understood, can reach up to 150 metres (or more) from ground level (up to turbine tips) and as such they can be prominent and highly visible (noting that whilst some people find them attractive others take a counter view). They can be of a height that exceeds those referenced in the evidence report and this may mean differing technical considerations should apply now. But, especially at these higher heights the potential for adverse impacts in respect of technical constraints and receptors of adverse environmental or heritage impacts are likely to be more significant.
- 3.22 In due course it will be relevant for committee to consider how they weigh up the potential for wind turbines and farms to have adverse impacts against the renewable energy generation benefits they offer. We would consider, however, that such considerations should ideally be informed by finer grained assessment and analysis work. We would also need to give some further consideration, given NPPF wording, to how we would meet the test of “.....*the planning impacts identified by the affected local community have been appropriately addressed and the proposal has community support.*”

Financial implications:

There are no direct financial implication resulting from the report.

Legal implications:

The legal implications are covered in the report.