



North Devon Council & Torrige District Council

Report Date: 14th October 2022

Topic: North Devon and Torrige Local Plan – Project Review

Report by: Senior Planning Policy Officers (NDC/TDC)

1. INTRODUCTION

- 1.1. North Devon and Torrige District Councils agreed in November (NDC) and December (TDC) 2020 to undertake a comprehensive review of the relatively recently adopted (October 2018) North Devon and Torrige Local Plan (2011-2031), having regard to a range of both external and local considerations.
- 1.2. Work has commenced on an update to the Local Plan, under the banner of the “People and Place” project based on a schedule of work agreed by this Committee, which provided for Local Plan adoption in 2025.
- 1.3. In response to a range of emerging issues, including pressures on Local Government finance and uncertainties relating to the timescale and a range of still somewhat unknown Government planning reforms, Officers have been tasked with re-examining the current need for and scope of a comprehensive Local Plan update. This report is presented as a discussion paper to Members with the purpose of stimulating debate with a view to moving towards an appropriate course of action for plan review and update.

2. RECOMMENDATIONS

- 2.1. This Committee notes the content of the attached Planning Advisory Service Toolkits and supports their finalisation to inform future decision making on the scope of a review and update of the Local Plan.
- 2.2. This Committee considers the content of this report, the influences and presented options for undertaking an update of the Local Plan.

3. REASONS FOR RECOMMENDATIONS

- 3.1. To ensure the Committee is fully informed in determining the Councils’ approach in undertaking a review and any subsequent update of the Local Plan.
- 3.2. Work is ongoing in assessing the robustness of the current North Devon and Torrige Local Plan and the different options available to update the Local Plan. A comprehensive report is required before a decision can be made.

4. REPORT

- 4.1. Work has progressed on undertaking the comprehensive review and update of the Local Plan. Workshops have been undertaken with the Membership of the Councils, planning stakeholders and the community, technical work has commenced on a range of topics and a range of consultant's brief have been prepared to support an updated evidence base. A detailed project plan, as agreed by this Committee in January 2022 forms the current framework for the progression of this project.
- 4.2. While significant progress has been made on the early stages of this project, it is considered prudent to give Members the opportunity to revisit the agreed approach, reflecting on a range of emerging issues; importantly uncertainties relating to Government planning reforms, and with the benefit of an updated review of the performance of the Local Plan and its compliance with national planning policy.
- 4.3. Members will be aware of the current and likely future financial pressures which will be faced by Local Government. Clearly it is important that financial resources are in place to undertake the costly task of updating a local plan and that budgetary control can be maintained throughout the process. Of note, a significant number of Councils have paused local plan preparation to avoid additional costs and extended preparation timescales that may result from the consequences of responding to changed national planning policy, which could include additional evidence gathering and additional consultations.
- 4.4. Members are reminded that Local Planning Authorities are obligated through legislation¹ to complete a review of their local plan within a period of five years from the point of adoption of the plan (i.e. by 29 October 2023 for the adopted North Devon and Torrige Local Plan) or sooner in particular circumstances. It is important to note that the requirement to review the Local Plan within the prescribed period does not include the subsequent time required to actually update the Local Plan, which may extend beyond this initial period.
- 4.5. To assist with this review, Officers have utilised the PAS Local Plan Route Mapper Toolkit which provides a structured template in order to methodically review whether the Local Plan remains up-to-date. The Planning Advisory Service (PAS) Route Mapper Toolkit comprises 4 sections, with Part 1: Local Plan Review Assessment and Part 2: Local Plan Form and Content, relevant to assisting with the Councils decision on the type of review (if any) to undertake.

¹ 4.6.4.7.Regulation 10A (a) of the, Town and Country Planning (Local Planning)(England) Regulations 2012

- 4.6. Part 1 provides the Councils with the opportunity to consider how well the Local Plan is performing by understanding which policies may be out of date for the purposes of decision making, and/or where circumstances may have changed, and whether or not the policies in the Local Plan continue to be effective in addressing the specific local issues that are identified in the Local Plan.
- 4.7. Part 2 provides a framework to consider whether the detailed provisions of the Local Plan conform with the specific provisions of national planning policy as currently in force. Completion of these should in turn help to evaluate whether, and to what extent, an update of the Local Plan is required.
- 4.8. Officers have completed an initial draft of Part 1 (Appendix 1) and Part 2 (Appendix 2) of the Toolkit, which are provided to inform debate at this stage.
- 4.9. Members will note from the Toolkit that there are a number of matters which would benefit from further investigation and the collation of additional information and evidence. Given the nature of plan review, it is also considered necessary to engage further with members to fully understand their ambitions and 'red lines' for elements of the Local Plan that they consider require fundamental change.
- 4.10. To assist with the finalisation of the review of the Local Plan, discussions are also ongoing with the Planning Advisory Service, with regard to what assistance might be available to help consider options for updating the Local Plan.

Performance of the Local Plan

- 4.11. Having carried out an initial review of the Local Plan's performance and its associated conformity with national planning policy through the use of the Toolkit, it is possible to identify aspects that may require attention as part of any subsequent update. Question A1 in Part 1 of the Toolkit lists the areas where the Local Plan is not fully in conformity with the National Planning Policy Framework (NPPF). It should be borne in mind that the Local Plan was examined against the policies in the 2012 version of the NPPF and there have been several newer versions of the Framework published since then. These can be broadly split into two categories; (1) matters where the Local Plan is out of conformity with national planning policy and (2) those whereby the Local Plan is currently silent.
- 4.12. The following are some of the more notable policy areas where the Local Plan is out of conformity with national planning policy:
 - The **absence of a five-year supply** of deliverable housing sites; this matter is reviewed in some detail in Part 1 of Toolkit (sections A3 and A4), together with the Housing Delivery Test. Work is currently ongoing to identify the land supply position, but as separately reported, this position will not be known until early 2023. In the absence of a five-year supply of

housing, the Local Plan must be regarded as out-of-date. As stated in the Toolkit, it is apparent that the opportunity for housing development provided through the Local Plan by allocations and other housing commitments is not itself a barrier to delivery. On this basis, it is not clear that a comprehensive plan update would be the appropriate response to address the current lack of five-year supply. Equally, it may well be possible to re-establish a five-year supply without the need to update the Local Plan, comprehensively, or otherwise.

A comprehensive update may however offer a mathematical advantage to the demonstration of a five-year housing land supply, recognising that the application of the new standard methodology for deriving need could potentially result in a modest reduction on the housing requirement and that the pre-existing backlog of c.1,500 homes would no longer need to be added to the five-year requirement (as this would be reset).

- **Approach to calculating overall housing requirement** – the acceptable approach to calculating housing need has been overhauled subsequent to the preparation of the Local Plan. National planning policy now advocates the use of a ‘standard method’ to establish the initial level of housing need that local planning authorities should plan for delivery through their local plans. Clearly as this was introduced subsequent to the preparation of the Local Plan, it is technically out of conformity; although it should be noted that due to North Devon Council’s geographical relationship with Exmoor National Park, it will be necessary to deviate from the standard method in any case.

Where the outcome of the standard method is significantly higher than the housing requirement in existing local plans, national guidance indicates that this would initiate the need for a plan review. Work carried out in support of this review identified that this is not the case for northern Devon, with the latest annualised housing need figure calculated to be 759 dwellings (2021-based), compared to a current housing requirement in the adopted local plan of 861 dwellings per annum. Conversely, and whilst not a stated trigger for review, the revised level of housing need is not fundamentally lower than the requirement in the Local Plan, particularly when reflecting on the fact that it does not have regard to any uplift to support additional economic growth (as per the Local Plan).

Whilst the Councils observe an under-delivery of housing to date when compared to the annualised requirement (a deficit of 1,555 dwellings since 2011), this is not totally unexpected, given the passage of time between the start of the plan period (2011) and adoption (2018) and the intervening impacts of the global pandemic. Importantly, the Councils continue to perform well against the Government’s measure of housing delivery – the Housing Delivery Test - with the Councils comfortably exceeding the requirement in every monitoring year since its introduction.

- **Biodiversity net gain** – the Local Plan currently incorporates provisions that seek the delivery of biodiversity net gain from development. In 2023, provisions of the Environment Act will come into force mandating a minimum 10% biodiversity net gain, along with a range of measures to more robustly secure net gain delivery. The Local Plan provides a policy hook to seek biodiversity net gain from development, however further work is required to understand whether it is sufficient going forward, in combination with the provisions of the Environment Act (and associated secondary legislation) or rather whether a more robust policy framework is required.
- **10% Affordable home ownership** – national planning policy introduced subsequent to the adoption of the Local Plan a requirement for 10% of the housing on a qualifying development site to be provided for affordable home ownership. At present, given the prioritisation of social rented affordable housing (75% of the 30%) the provisions of the adopted Local Plan would not meet this requirement. National planning policy does provide exemptions to this requirement, on the basis that it would significantly prejudice the ability to meet the identified affordable housing needs of specific groups. Based upon current evidence of need, Officers believe that this would be the case and that there is compelling evidence to trigger the exemption. Whilst this could be reviewed in more detail as part of any plan update process, it is not necessarily a fundamental driver for update.
- **Approach to town centres** – the use patterns of town centres have changed significantly since the inception of the adopted Local Plan. That being said, the high-level strategies for managing town centres remain broadly in accordance with national planning policy. There have however been a range of national changes to permitted development rights and the Use Classes Order that have introduced additional flexibilities to the range of development that can take place within town centres without requiring explicit planning approval. Whilst these changes enable a more responsive and reactive approach from the market, they do reduce the opportunity for the Councils to proactively plan for the future of the town centres. The changes have had the effect of rendering elements of the local plan's development management policy for town centres ineffective.

4.13. The following represent policy areas from national planning policy where the Local Plan is currently silent or limited on detail:

- **Sites for traveller communities** - The adopted Local Plan does not currently identify a supply of sites sufficient to meet the identified needs of northern Devon's traveller communities. At the time of the adoption of the Local Plan, this was intended to be addressed through a subsequent Travellers Site Allocation Development Plan Document (DPD), with the work subsequently expected to be subsumed into the comprehensive plan

update being taken forward through the People and Place project. At the present time, this represents a significant omission in the coverage of the Local Plan and a matter that would require addressing irrespective of the approach to plan update taken forward.

- **Coastal Change Management Areas** – Whilst the Local Plan contains a range of policy provisions that seek to manage the impacts of coastal change, the Local Plan does not currently establish Coastal Change Management Areas (CCMAs) and provide approaches for managing development within them; as per the requirements of national planning policy. The Councils have been working with consultants at Plymouth University in order to develop the technical evidence necessary to derive boundaries for CCMAs.
 - **Design Codes** – Subsequent to the adoption of the Local Plan, national planning policy now advocates that local planning authorities make use of design guides or codes in order to articulate design expectations; indicating that these may be produced as either part of the plan or alternatively as supplementary planning documents. It is possible that Design Guides or Codes could potentially be introduced without updating the local plan through the use of Supplementary Planning Documents, or if necessary, complementary Development Plan Document(s).
 - **First Homes** – Subsequent to the adoption of the Local Plan, the Government has introduced a new housing product. Applying the default provisions, it has been concluded that First Homes does not constitute a product that would appropriately meet the identified housing needs of northern Devon's communities. Even applying the optional provisions (which would require implementation through an updated local plan) it is not clear that the product would be well placed to meet needs.
- 4.14. There are a range of more modest areas of national planning policy that are not fully covered by the adopted Local Plan– including, for example, the requirement for tree-lined streets.
- 4.15. Officers have additionally completed an initial screening assessment of the status of key site allocations contained within the Local Plan (Appendix 3). The purpose of the assessment being to identify if there are any key strategic allocations that would appear to be fundamentally flawed and may therefore undermine the delivery of the overall spatial strategy for northern Devon or individual places. Whilst a small minority of allocations (or parts of allocations) are identified to have potential questions around their availability or deliverability, it would appear, on initial inspection, that the significant majority remain in good health and capable of appropriately supporting the delivery of the Local Plan. It is worth noting that a number of allocations have not achieved delivery in accordance with timelines expected at point of plan adoption, a matter likely exacerbated by Covid, which means delivery may extend beyond the plan period. Further work, such as that being carried out



through the Housing and Economic Land Availability Assessment (HELAA), is required to fully substantiate the status of individual allocations.

- 4.16. It would appear from Officers initial assessment that most provisions of the Local Plan remain broadly fit-for-purpose and on the whole in conformity with national planning policy (setting aside for a moment the issue of five-year housing land supply), albeit with a number of matters whereby the Local Plan is silent.
- 4.17. It is not clear that any of the above matters (with the exception of the five-year housing land supply) would in isolation, necessarily be a driver that would result in the requirement to prepare a comprehensive update of the existing Local Plan. Rather, some are matters that could potentially be managed within the framework of the existing Local Plan, at least for the time being, whilst others could potentially be accommodated through other means – for example, the preparation of supporting guidance through Supplementary Planning Documents (SPDs), reference to newly prepared technical evidence or potentially through an additional complementary Development Plan Document (DPD).
- 4.18. The exception to this is the current inability to demonstrate a five-year housing land supply, although as noted above, it is not clear that an update to the Local Plan is likely to be the panacea to this issue; not at the very least in the Local Plan and for any subsequent pipeline of supply to be established as deliverable and contribute to the supply figures.

Wider Issues to consider

Member Priorities

- 4.19. In addition to the issues raised through an assessment against national policy, it is clear that Members may seek an update of the Local Plan to address changing local priorities. The following were identified areas for consideration when a comprehensive review of the Local Plan was agreed (Full Councils in November (NDC) and December (TDC) 2020):
 - declarations of Climate and Biodiversity emergencies;
 - changing patterns for use of town centres and retail habits;
 - evolving thinking on rural sustainability;
 - increasing emphasis on environmental considerations and carbon saving;
 - the challenges of maintaining a housing land supply;
 - issues of coastal erosion and flooding;

- the delivery of affordable housing and wider housing affordability;
 - changing work patterns – including increases in home working;
 - significant structural reforms to the agricultural sector; and
 - a changing context for the tourism sector.
- 4.20. On-going discussions with Members, significantly at workshops held in November and December 2021, confirmed the above as matters that Members would wish to continue to be considered through an update of the Local Plan.
- 4.21. To understand the appropriate course of action with the update to the Local Plan, it will be essential to comprehensively and fully understand the detailed matters that Members see as essential to be addressed through any process of review and update. That being said, the scope of the update as discussed above is worth reconsidering.
- 4.22. It may be possible to undertake a partial rather than a comprehensive update, if for example policy revisions are limited to development management policies. The extent of the update will be determined by the nature and scope of sought change to the Local Plan. Of note it is unlikely that a partial update could be undertaken if the Councils are unable to re-establish a five-year supply of deliverable sites.

National Planning Reforms

- 4.23. One of the drivers for promoting an early review of the Local Plan when considered by the Full Councils back in late 2020 was the expectation of fundamental reform of the planning system and plan making regime in the proceeding years; with a clear pathway set out through the planning white paper – *planning for the future* - and with the Government setting out clear ambitions to proceed, at pace, with the introduction of their proposals. These reforms, coupled with the Government's stated position of requiring all local planning authorities to have an up-to-date local plan by the end of 2023, provided a significant driver to suggest that commencing an early plan review would be a prudent course of action; recognising that the proposed fundamental planning reforms would very likely render the existing plan out-of-date and that a demanding 30-month timeline for plan production would be introduced.
- 4.24. Subsequently, there has been an observed hiatus, with commentators suggesting that fundamental reform of the planning and plan-making system is less likely to be forthcoming, at least in the short term. The current administration has indicated that they may take a different approach, although at the time of preparing this report it is unclear what this approach

will be. The Government does therefore appear to continue to recognise the need to make changes to the planning system, and in the short term this may well be through revisions to national policy, with this still being suggested to be set out for consultation in the near future.

- 4.25. Similarly, discussion around the much-touted December 2023 deadline for having an up-to-date local plan appears to have subsided. This was initially introduced through the first '*Planning for the Future*' White Paper that proposed that all local authorities will be required to have an up-to-date local plan by December 2023, with the Government prepared to intervene where local planning authorities fail to meet the deadline in accordance with the existing statutory powers, considering appropriate action on a case-by-case basis.
- 4.26. Although the White Paper has not been progressed, a Written Ministerial Statement by Christopher Pincher in January 2021 included the following: "*It is critical that work should continue to advance local plans through to adoption by the end of 2023 to help ensure that the economy can rebound strongly from the COVID-19 pandemic. Completing local plans will help to ensure that we can build back better and continue to deliver the homes that are needed across England.*"
- 4.27. Whilst it was not fully clear what the consequences may have been for non-compliance, the Secretary of State does have powers to remove plan-making responsibilities from local planning authorities and pass these to a third party. By taking forward an early update to the Local Plan, even if not completed by December 2023, the view was that this would likely demonstrate commitment to securing an up-to-date local plan and mitigate any such risk. Given the current apparent step-back from this deadline, this significant driver for pushing forward with a comprehensive update would appear to have somewhat diminished, although a level of risk always remains.
- 4.28. Given the unclear national context, planning commentators have noted that a not insignificant number of local planning authorities has chosen to suspend or slow work on the preparation of their development plans until more clarity is provided, although there may of course be alternate underlying motives in some cases.

Options for plan review and update

- 4.29. Having regard to the draft assessments provided in the PAS Toolkits, it can be concluded that existing Local Plan policies generally conform with national planning policy and that progress is being made to achieve the Vision for northern Devon for the period to 2031. However as set out in paragraphs 4.13/4.14 there are a range of policy areas which are currently not addressed by the Local Plan, principally as a result of updated national policy guidance and as highlighted above there are further locally significant matters that

members have previously identified as important drivers for review and update.

- 4.30. In reviewing how to take the Local Plan forward there are three potential options for this Committee to consider, although in respect of a partial update this could take various forms.

(i) Comprehensive Local Plan Update

- 4.31. As indicated above, this approach was previously agreed by both Councils, which would enable the Local Plan to be subject to a full update, based on updated evidence to address issues arising from compliance with national planning policy and local priorities. The base date and plan period would be reset. Of note while all elements of the Local Plan would be subject to review, there are clearly policy areas which are national policy compliant and effective in respect of delivery which could be carried forward in a Local Plan update.

- 4.32. The timescale for this project currently provides for adoption towards the end of 2025. Having regard to some slippage in the timescale of the current project, it would be prudent to revisit the project plan. With regard to the financial cost of a comprehensive plan update, it would be challenging to provide an estimate at this time, but clearly in the short term it will be the most expensive option, significantly in relation to expenditure on consultant's fees and a longer examination timeframe.

(ii) Partial Local Plan Update

- 4.33. A partial review may be an option subject to the scope of an update. A partial review would be required to have a narrower focus and is unlikely to incorporate revisions to strategic policies and is likely to require the re-establishment of five-year supply of deliverable housing sites. The plan period would not be adjusted through this approach. As indicated above, there are a range of tools, such as Supplementary Planning Documents, which would enable wider issues in relation to national planning policy to be addressed.
- 4.34. The timeframe for undertaking a partial update would need to be established through a revised project plan. While it is not possible to estimate an adoption date, it can be assumed to be in advance of that for a comprehensive update. With regard to the financial cost, in the short term, again it can be assumed to be downwardly adjusted from a comprehensive update having regard to consultancy and examination costs. However, if a partial review is considered appropriate at this time, a comprehensive update will be required in the medium term.

- 4.35. It is important to note that the statutory requirements relating to plan preparation and in respect of engagement and consultation would be the same for a partial or comprehensive update.

(iii) Reconsider by October 2023

- 4.36. A further option is to undertake a review of the Local Plan by the end of October 2023. As indicated above the Councils are required to undertake a review of the Local Plan from 5 years of adoption. A review could be undertaken and then the Councils would determine the need or not to update the Local Plan.
- 4.37. The potential benefit of this approach would be to enable any changes to the planning system introduced by Government to be considered from the outset of plan preparation, avoiding abortive work, unnecessary costs and a reduction in the timescale for plan preparation. It could be argued that this approach would be the most cost and time effective in delivering a comprehensive update of the Local Plan, although at this time there is no date published by the Government as to when national planning policy will be updated, and it would result in a delay to plan preparation.
- 4.38. If this approach was pursued, as with undertaking a partial review, the Councils could utilise a range of tools to address policy areas which are not national policy compliant as a result of recent updates to the NPPF.

Reflections on the way forward

- 4.39. The initial appraisal of the adopted Local Plan suggests that, on the whole, it continues to be broadly in conformity with national planning policy and, with the exception of the implications of a lack of five-year housing land supply, continues to provide a robust framework capable of effectively considering development proposals across northern Devon.
- 4.40. There are a number of strategic matters that do ideally require attention due to their omission from the adopted Local Plan such as the provision of accommodation for northern Devon's traveller communities and also the introduction of Coastal Change Management Areas, although it is considered that there may be scope for these matters to be addressed by means other than a comprehensive update – for example, through a partial update or a complementary Development Plan Document (DPD) – although this does require further consideration.
- 4.41. There are also a range of more detailed and specific matters that it would be beneficial to address, which could potentially be addressed through, for example, a partial review incorporating revisions or additions to the development management policies within the Local Plan. The Councils do need to be mindful however of the Government's previously stated ambitions

to be publishing revised national planning policy, which is potentially touted to include a portfolio of stock development management policies.

- 4.42. The current situation with five-year housing land supply is somewhat problematic in determining the appropriate course of action at this point in time, given that work is underway to understand and hopefully re-establish the supply. This could, in a relatively short timeframe, resolve this issue. On the other hand, a local plan update could potentially provide a mathematical advantage, however it is not fully clear that any form of update to the Local Plan would necessarily assist more widely in the short to medium term, given that the inability to demonstrate the required supply is not considered to be attributed to a fundamental lack of suitable identified land for housing. The Local Plan cannot however be technically considered to be up-to-date without being able to demonstrate a five-year housing land supply.
- 4.43. A fundamental driver for determining the appropriate approach to updating the Local Plan is likely to remain elected members' ambitions and expectations for a revised Local Plan. Given that the significant majority of the existing Local Plan remains in conformity with national planning policy, the specific nature and extent of these expectations will undoubtedly have a significant influence on the nature of the plan update. It is essential to understand, in detail, elected Members specific requirements for an updated plan at the earliest opportunity as these may fundamentally impact on the most appropriate way forward; this will inform 'what the Councils want to do,' rather than what we necessarily 'need to do'.
- 4.44. It is equally necessary to be mindful of the national context within which this decision on a way forward needs to be taken. This is challenging given that it is in somewhat a state of flux, with previously anticipated reforms to the planning system and plan-making regime unlikely to be taken forward, whilst the intent and ambition for change remains.
- 4.45. The decision on the appropriate way forward for the plan review and update is not therefore considered to be a simple black and white, binary decision that distils to only one potential outcome. It is rather more nuanced that needs to reflect a broad range of factors and which could resolve into different choices and approaches.

5. RESOURCE IMPLICATIONS

Resource implications both in respect of officer time and budgetary consequences will vary depending on how the Councils proceed to update the Local Plan. A comprehensive update of the Local Plan will in the short term present the most significant financial burden and place significant demands on existing resources. A partial review, if such an option is achievable, would reduce short term costs, but at some point, in the medium term a comprehensive update will additionally be required and this on an



accumulated basis could therefore be the more costly option, although the cost would clearly be spread across a longer period.

6. EQUALITIES ASSESSMENT

No impact identified.

7. ENVIRONMENTAL ASSESSMENT

No environmental implications result from the recommendations of this report.

8. CONSTITUTIONAL CONTEXT

Schedule 2, paragraph 1.1.-1.1.3 of the North Devon Councils and Torrige District Council Joint Planning Agreement.

9. STATEMENT OF CONFIDENTIALITY

This report contains no confidential information or exempt information under the provisions of Schedule 12A of 1972 Act.

10. BACKGROUND PAPERS

The following background papers were used in the preparation of this report: (The background papers are available for inspection and kept by the author of the report).

- Members Visioning Workshop – November and December 2021 – Feedback report
- National Planning Policy Framework (2021) North Devon and Torrige Local Plan (2018)
- Planning for the Future White Paper (2020)
- Town and Country Planning Regulations (Local Planning) (England) Regulations 2012

11. STATEMENT OF INTERNAL ADVICE

The author (below) confirms that advice has been taken from all appropriate Councillors and Officers:

Cllr P Watson (TDC) Lead Member for Planning and Development



Cllr M Prowse (NDC) Lead Member for Economic Development and Strategic Planning Policy

Helen Smith (TDC) Planning Manager

Sarah- Jane Mackenzie-Shapland (NDC) Head of Place, Property and Regeneration