

## North Devon Council & Torrige District Council

Report Date: 13<sup>th</sup> October 2023

### Topic: Review of the North Devon and Torrige Local Plan

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

#### 1. INTRODUCTION

- 1.1. The North Devon and Torrige Local Plan 2011-2031 (the Local Plan) was adopted by North Devon and Torrige District Councils in October 2018.
- 1.2. In 2017 a new requirement was included in the Local Plan Regulations that a local plan should be reviewed 5 years from its adoption to determine whether the policies of the plan need updating. The review should take into account a number of factors, including changing circumstances affecting the area and changes to national policy, in particular relating to the need for housing in the area.
- 1.3. This report provides the final version of the PAS toolkit (parts 1 and 2) which concludes the strategic elements of the North Devon and Torrige Local Plan are up-to-date, while there are matters of a non-strategic nature, which would benefit from a minimum of a partial review.

#### 2. RECOMMENDATIONS

- 2.1. That the conclusions of the 5 Year Review of the North Devon and Torrige Local Plan attached to this report are confirmed; namely:
  - (1) the policies included in the North Devon and Torrige Local Plan remain up-to-date;
  - (2) additional policies are required to address matters where the Local Plan is silent, namely: First Homes, Coastal Change Management Areas and the provision of traveller sites; and
  - (3) a range of practical implementation issues, principally focused on the detail of the development management policies in Part 3 of the Local Plan, are identified that could be considered for future update.

#### 3. REASONS FOR RECOMMENDATIONS

- 3.1. To meet the legislative requirement to review the local plan within five years of adoption.

#### 4. REPORT

##### Background

- 4.1. Local Planning Authorities are required through legislation<sup>1</sup> to complete a formal

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<sup>1</sup> Section 17 of the Planning and Compulsory Purchase Act 2004 (as amended) and Regulation 10A of the Town and Country Planning (Local Development) (England) Regulations 2012 (as amended).

review of their local plan within a period of five years from the point of adoption. In doing so, they *must consider whether to revise the document following each review and if they decide not to do so, they must publish their reasons for considering that no revisions are necessary.* For the avoidance of doubt, the review needs to be completed within a period of five years, with the actual update able to be completed subsequent to this stipulated five-year review period.

- 4.2. The form of any subsequent update to the Local Plan is a separate issue and not a matter of consideration in this report.
- 4.3. The North Devon and Torrige Local Plan was adopted on 29<sup>th</sup> October 2018. It will reach its 5<sup>th</sup> anniversary on 29<sup>th</sup> October 2023.
- 4.4. Officers have completed an extensive programme of work in order to inform the five year review. This has included a technical assessment of the Local Plan's performance, its compliance with national planning policy and a programme of workshops in the autumn of 2022 to establish elected Member's views on whether they feel the Local Plan is delivering for the communities that they represent.
- 4.5. To support local planning authorities in undertaking a review of their local plans, the Planning Advisory Service (PAS) provides a Toolkit – the Local Plan Route Mapper Toolkit – which provides a structured means to consider whether their local plan remains relevant, appropriate and up to date in the context of national planning policy. The Toolkit is split into four parts, with two parts specifically relevant to reviewing a local plan. Completion of these is intended to help to evaluate whether, and to what extent, an update of a local plan is required.
- 4.6. Toolkit Part 1 (Appendix A), 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 purpose of decision making, and/or where circumstances may have changed. Also whether policies continue to be effective in addressing issues that are identified in the Local Plan.
- 4.7. Part 2 (Appendix B) provides a framework to consider whether the detailed provisions of the Local Plan conform with national planning policy as is currently in force.
- 4.8. Initial drafts of the Toolkits were presented to this Committee in November 2022 and January 2023 to inform early discussion on potential approaches to the Local Plan update. Officers have subsequently refined and updated the Toolkits and these are provided as Appendix A and Appendix B to this report.
- 4.9. It is important to draw a distinction between the five year review, which is discussed in this report, and the way forward for future local plan policies.

### **Outstanding matters to be addressed to enable JPPC to consider the formal decision on the five year review of the Local Plan**

- 4.10. When this committee considered the PAS toolkit in January 2023, there were a small number of matters which officers had yet to assess. These are outlined below along with the outcomes of the further work undertaken.

### **National Planning Reforms**

4.11. Officers reported to this committee in January 2023 that a government consultation on proposals for short-term changes to national planning policy was currently open for comment<sup>2</sup>. At that time, the Department for Housing, Levelling Up and Communities had indicated that the outcomes of the consultation would be known in the Spring of 2023. To date these outcomes have not been published, instead a further local plan reform consultation was published in July 2023, and is the subject of a separate report on this agenda. Given that no relevant changes have subsequently been made to the national planning policy framework since January 2023, this element it is not relevant when considering whether the Local Plan is up-to-date.

### **Five Year Housing Land Supply Position**

4.12. The National Planning Policy Framework requires local planning authorities to identify and update annually a supply of deliverable sites sufficient to provide a minimum of five years' worth of housing against their housing requirement. For a local plan to be considered up-to-date, a five-year land supply needs to be demonstrated.

4.13. The Councils' published a Five Year Housing Land Supply Statement in April 2023, which concluded that 5.9 years of housing sites were deliverable.

4.14. This position was subject to challenge through a planning appeal (APP/X1118/W/23/3318751) heard in July 2023 for the erection of up to 161 dwellings on Land north of St Andrews Road, Fremington. The appeal was dismissed on 11th September 2023, with the appeal Decision concluding that the Councils were able to demonstrate between 5.09 and 5.16 years of supply. This decision endorses officer's conclusions that a five year land supply can be demonstrated at the current time.

### **Duty-to-Cooperate Partners**

4.15. The Councils have engaged with the prescribed duty to cooperate bodies as part of the five-year review of the local plan. This engagement took the form of a survey sent to all of the relevant organisations, which asked for their considered opinion on the following matters:

- Do you consider that the North Devon and Torrige Local Plan remains relevant and continues to effectively address the needs of the local community?
- If you disagree, which particular aspects of the plan do you feel are no longer relevant or continue to effectively address the needs of the local community?
- If you disagree, why do you consider that it is no longer relevant or continues to effectively addresses the needs of the local community?

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<sup>2</sup> <https://www.gov.uk/government/consultations/levelling-up-and-regeneration-bill-reforms-to-national-planning-policy/levelling-up-and-regeneration-bill-reforms-to-national-planning-policy>

- Do you feel that the local plan remains in general conformity with national planning policy?
- If you disagree, why do you consider that the plan no longer remains in general conformity with national planning policy?
- Do you consider that the local plan continues to effectively address any cross-boundary issues (i.e. those that overlap with areas beyond northern Devon)?
- If you disagree, please explain why you consider that the local plan no longer continues to effectively address cross-boundary issues (please include what issues you feel need addressing)?
- Please provide details of any potential cross-boundary issues or matters towards which you would like to draw our attention:

4.16. The responses to the survey are set out in appendix 1 of the PAS toolkit Part 1 (appendix A to this report). Officers do not consider that the responses received raised matters which are of a significant nature in relation to the strategic policies of the Local Plan. Many of the issues which were highlighted have already been captured as part of the draft PAS toolkit e.g. the need for more robust policies relating to climate change. Therefore given the outcomes of the survey, officers consider that the duty to cooperate partners have not highlighted any issues which would render the Local Plan out of date.

### **Plan Period**

- 4.17. At the January 17th 2023 meeting of this committee Members were advised that “National Planning Policy requires that when plan making, local plans should look ahead over a minimum 15-year period from adoption (paragraph 22, National Planning Policy Framework). The adopted local plan has a plan period that currently runs until 31st March 2031, meaning that there are only circa 8 years of the plan period remaining at this point in time, which would clearly be reduced further at the point of adopting any update to the plan”
- 4.18. Having considered this matter further, officers are of the view that the plan-period is 20 years (2011 – 2031) and that it was because of a protracted examination that resulted in the adoption date was less fewer than 15 years before the end of the plan. The Local Plan Inspector raised no concerns in relation to this matter and given that the policies, which need to be addressed through an update, will not affect the overall strategy of the plan then there should not be any negative consequences to this position when making planning decisions.

## **5. CONCLUSIONS OF THE FIVE-YEAR PLAN REVIEW**

- 5.1. The finalised PAS Toolkit (Part 1) generally presents a positive position regarding the effective operation of the Local Plan in respect of proposals being determined in accordance with adopted policies to achieve delivery against established targets. Additionally, the strategic policies of the Local Plan, which establish the local framework for decision making are considered to remain valid to achieve strategic aims and objectives, across the themes of the economy, environment, housing, and community and provide opportunities within defined growth strategies to address

projected needs. The finalised PAS Toolkit (Part 2) further provides that the Local Plan generally continues to work within the parameters of national planning policy.

- 5.2. While recognising the positive outcomes presented in the Toolkits, the assessments also indicate that there are elements of the Local Plan, which currently must be regarded as out of date, by virtue of omission or inconsistency in some policy provisions because of updates to national planning policy subsequent to the submission of the Local Plan. Having regard to the assessed position the recommendation outcome from the PAS Toolkits is that a review of the Local Plan is undertaken to ensure local policy compliance with national planning policy.
- 5.3. The decision to undertake a review of Local Plan policies does not render the plan out of date for the purposes of decision making, In the instances where the Plan is considered silent or out of date with national policy, due weight will be given to the National Planning Policy Framework.

## 6. RESOURCE IMPLICATIONS

- 6.1. Both Councils have planning policy teams in place who have the responsibility to service, support and facilitate the Councils' plan-making activity. Both Councils have financial resources budgeted to support plan-making activity. The approach taken towards plan-making, both in the short-term and across the longer-term will have implications on the level of resourcing required.

## 7. EQUALITIES ASSESSMENT

- 7.1. Plan-making activity and the associated planning outcomes have the potential to impact on the day-to-day lives of individuals and communities. Consideration of equality is embedded into the plan-making process to ensure that it is given due consideration, including through the preparation of an Equalities Impact Assessment (EqIA).

## 8. ENVIRONMENTAL ASSESSMENT

- 8.1. Plan-making activity and the associated planning outcomes have the potential to have an impact on northern Devon's and the more global environment. Consideration of environmental outcomes is embedded into the plan-making process to ensure that it is given due consideration and regard.

## 9. CONSTITUTIONAL CONTEXT

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

## 10. STATEMENT OF CONFIDENTIALITY

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

## 11. BACKGROUND PAPERS

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

- a. Report to Joint Planning Policy Committee (4<sup>th</sup> November 2022)
- b. Report to Joint Planning Policy Committee (27<sup>th</sup> January 2023)
- c. National Planning Policy Framework (NPPF); (MHCLG, Sept 2023)
- d. Planning and Compulsory Purchase Act 2004 (as amended)
- e. Town and Country (Local Planning) (England) Regulations 2012 (as amended)
- f. North Devon and Torrige Five Year Housing Land Supply Statement (April 2023)

## 12. STATEMENT OF INTERNAL ADVICE

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

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

Cllr M Prowse, Lead Member for Economic Development and Strategic Planning Policy; Chair of Joint Planning Policy Committee (NDC)

Cllr R Hicks, Lead Member for the Economy; Vice-chair of Joint Planning Policy Committee (TDC)

Helen Smith, Planning Manager (TDC)

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

## 13. Appendices

Appendix A: PAS Toolkit – Part 1

Appendix B: PAS Toolkit – Part 2