

COUNCIL
19 JANUARY 2022

Report of the Director of Regeneration and Policy

DERBYSHIRE DALES LOCAL PLAN REVIEW

SUMMARY

This report advises Members of the work that has been undertaken in respect of the review of the adopted Derbyshire Dales Local Plan. It advises Members of those aspects of the adopted Derbyshire Dales Local Plan that it is considered will be necessary to modify taking account of an updated evidence base, updated guidance in the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance. The report also outlines a timetable for the next stages of the review process completion.

RECOMMENDATIONS

1. That the extent of work undertaken on the statutory review of the adopted Derbyshire Dales Local Plan is noted.
2. That, those aspects of the Derbyshire Dales Local Plan set out in Appendix 1 which are considered necessary to be modified be approved, as a basis for further more detailed work.
3. That the detailed further work on those aspects of the adopted Derbyshire Dales Local Plan identified in Appendix 1 be subject to scrutiny by the Local Plan Working Group prior to a further reports to future meetings of Council.
4. That for the purposes of Regulation 10A of The Town and Country Planning (Local Planning) (England) Regulations 2012 the review of the Derbyshire Dales Local Plan be determined as having been completed.
5. That the timetable for the ongoing modification of the Derbyshire Dales Local Plan as set out in Paragraph 3.10 be approved.

WARDS AFFECTED

All wards outside the Peak District National Park

STRATEGIC LINK

The Derbyshire Dales District Council Local Plan will be a pivotal tool in the delivery of the Council's Corporate Plan, in particular those priorities relating to *Place* and *Prosperity*.

1 BACKGROUND

1.1 Derbyshire Dales District Council, is the local planning authority for that part of its area that sits outside of the Peak District National Park. In December 2017 the Derbyshire Dales Local Plan was formally adopted. It sets out the policies and proposals for the use and development of land for the period 2013-2033. Regulation 10A of The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) requires local planning authorities to review Local Plans at least once every five years from their adoption date to ensure that policies remain relevant and effectively address the needs of the local community. To comply with this duty, a review of the Derbyshire Dales Local Plan must be completed by December 2022.

1.2 At an Extraordinary Meeting of Council on 9th November 2020 Members resolved that a review of the adopted Derbyshire Dales Local Plan be undertaken and agreed a timetable for its review (Minute 141/20). At this meeting Members were advised that the following issues were likely to be the most debated aspects of the Local Plan review:

- Overall housing requirements for the period up to 2040 – including amounts and types of both market and affordable housing
- Housing allocations to meet the outstanding housing requirements
- Extent to which the current policies in the adopted Derbyshire Dales Local remain in conformity with the NPPF/NPPG and valid for the use in the determination of planning applications
- The extent to which policies are considered sufficient to address matters relating to climate change
- The level of residential development within the National Park
- The necessity or otherwise for a new village to accommodate the future housing requirements
- Gypsy and Traveller provisions and
- Infrastructure Capacity and Future Requirements

1.3 Members also agreed at a separate meeting on 9th November 2020 that as part of the Derbyshire Dales Covid Economic Recovery Plan, to ensure that *“the forthcoming review of the Derbyshire Dales Local Plan (and the studies and surveys commissions in support of the Local Plan review) address economic recovery as a key theme, including residential and leisure uses in town centres, broadband investments and clean growth.”* (Minute 139/20).

1.4 During the course of the last twelve months work has been ongoing on the review of the Derbyshire Dales Local Plan. The following pieces of work have commenced to inform and update the evidence base and assist with the review of the Local Plan:

- Strategic Housing Requirements 2017- 2040
- Employment Land and Retail Capacity 2017-2040
- Infrastructure and Whole Plan Viability

- Strategic Flood Risk Assessment Report
- Strategic Environmental Assessment & Habitats Regulations Assessment
- Strategic Housing & Employment Land Availability Assessment (SHELAA)

1.5 At the Extraordinary Meeting of Council on 9th November 2020 Members additionally resolved that upon receipt of external advice from consultants appointed to provide an updated evidence base, that these should be subject to consideration at Member workshops and further reports be presented to the Local Plan Working Group.

1.6 Member workshops were held in respect of Housing and Employment Land Requirements on 18th May 2021 and the Strategic Flood Risk Assessment on 7th September 2021. A meeting of the Local Plan Working Group was held on 13th October 2021 to discuss Housing and Employment Land requirements and options for the Local Plan review. At this meeting the Local Plan Working Group were advised about the initial findings of the Sustainability Appraisal¹ of the Housing and Employment Growth Options, as well as the need for Members to take into account the Corporate Plan, the District Council's Economic Plan and it's Covid-19 Economic Recovery Plan at the time when a decision is required by Council on which of the housing options to take forward for the period up to 2040.

1.7 Members are reminded that the District Council's Corporate Plan has 'Prosperity – Supporting Better Homes and Jobs' as one of its key priorities because of the low local wages and high local house prices. It sets out that this will be achieved by promoting housing development that meets the needs of the present and future population of the District, and taking forward initiatives that will boost the Derbyshire Dales Economy. Furthermore the District Council's Economic Plan 2019-2033 sets out an aspiration to see growth in higher value jobs in manufacturing, professional, scientific and technical jobs, along with a growth in workplace earnings, GVA and occupied employment land. The Derbyshire Dales Covid-19 Economic Recovery Plan, approved by the District Council in November 2020 sets three priority actions:

1. Invest in regenerating housing and employment sites
2. Re-Invest in Bakewell Road, Matlock
3. Re-shape Regeneration Services to drive investment in brownfield and other key housing/employment sites.

1.8 The District Council's Covid-19 Economic Recovery Plan also includes the following action:

Ensure the forthcoming review of the Derbyshire Dales Local Plan (and the studies and surveys commissioned in support of the Local Plan review) addresses economic recovery as a key theme, including residential and leisure uses in town centres, broadband investment, and clean growth.

¹ The purpose of the Sustainability Appraisal being to assess the likely social, environmental and economic effects of the growth options, both positive and negative and to ensure that decisions are made which contribute towards achieving sustainable development.

1.9 The Local Plan Working Group also met on 16th November 2021 to consider the key policy areas of the Local Plan identified for review as included in this report

1.10 At the current time consultants are in the process of finalising an updated Gypsy and Traveller Accommodation Assessment; the Infrastructure and Whole Plan Viability Study; as well as the Strategic Environmental Assessment and Habitats Regulation Assessment. The SHELAA, which is being conducted by Officers in-house, is also on-going. The outcomes of these studies will provide further evidence to underpin any detailed modifications required to the Local Plan following the completion of the review process. It is recommended that the detailed modifications to the adopted Derbyshire Dales Local Plan take account of the principle issues identified in Appendix 1 and that the detailed modifications be subject to scrutiny by the Local Plan Working Group prior to consideration of further reports at future meetings of Council.

2 **METHODOLOGY FOR REVIEW OF THE ADOPTED DERBYSHIRE DALES LOCAL PLAN**

2.1 Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) requires local planning authorities to review Local Plans at least once every five years from their adoption date to ensure that policies remain relevant and effectively address the needs of the local community.

2.2 The advice in the National Planning Practice Guidance is that reviews should be proportionate to the issues in hand, the guidance also suggests that policies age at different rates according to local circumstance and a plan does not become out of date automatically after 5 years. The review process is a method to ensure that a plan and its policies remain effective at managing the use and development of land in the future. The Plan review requirement is set out in paragraph 33 of the NPPF which states:

“Policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary. Reviews should be completed no later than five years from the adoption date of a plan, and should take into account changing circumstances affecting the area, or any relevant changes in national policy. Relevant strategic policies will need updating at least once every five years if their applicable local housing need figure has changed significantly; and they are likely to require earlier review if local housing need is expected to change significantly in the near future”

2.3 In order to comply with the guidance in the NPPF an assessment and comprehensive appraisal of both the text and existing policies within the Adopted Local Plan has been undertaken. This process has sought to identify whether:

- The vision, policy objectives and spatial strategy of the Local Plan is being effectively delivered; and
- Whether the Plan meets current national planning policy requirements; and
- Whether there have been any local changes which have significant/material spatial implications for the strategy and policies within the Plan.

2.4 A systematic approach has been undertaken to the review of both the text and individual policies contained within the adopted Derbyshire Dales Local Plan. The following criteria have been used to determine whether any modifications to the Derbyshire Dales Local Plan was required.

- Do the policies have regard to/comply with the National Planning Policy Framework/National Planning Practice Guidance?
- Have there been any relevant Ministerial Statements and/or Government policy updates published in the last three years that are relevant?
- Are the policies achieving their objectives and is their purpose still relevant?
- Are the policies meeting stated objectives and targets and do they remain effective?
- Are there any changes in local circumstances and/or evidence that should be considered drawing upon the emerging revised Local Plan evidence base?
- How frequently has the policy been used?
- Does the policy have any implications for wider Development Plan documents, including made Neighbourhood Plans, Supplementary Planning Documents that need to be revised?
- Does the policy or Local Plan itself contain any triggers requiring the policy to be reviewed?
- Has there been any issues with interpretation, duplication and contradiction when implementing the policy from a Development Management perspective?
- Has there been any unintended development consequences as a result of the implementation of the policy?
- Are there any relevant planning applications where the decision has been challenged at appeal? What were the Inspectors findings in respect of the policy?
- Does the policy include any flexibility to deliver across a range of circumstances?

2.5 In appraising the contents of the adopted Derbyshire Dales Local Plan a range of sources of information have been utilised to identify the areas of the Plan which may require amendment. Various sources of information have been drawn upon including the following:

- National Planning Policy Framework and National Planning Practice Guidance
- Government publications, legislation and ministerial statements
- Information drawn from the emerging Local Plan review evidence base on Housing and Economic Needs Assessment, Infrastructure and Viability, Strategic Flood Risk Assessment, Strategic Housing and Employment Land Availability Assessment and information obtained from the Housing Delivery Test and five year housing land supply position.
- Data on policy implementation from the Authority Monitoring Report
- Council Plans, Policies and Strategies such as the Corporate Plan, Economic Plan, COVID Recovery Plan, Climate Change Strategy and Action Plan.
- Made Neighbourhood Development Plans and Adopted Supplementary Planning Documents.
- Planning Inspectors appeal decision statements on planning applications determined by the Authority.

3 DERBYSHIRE DALES LOCAL PLAN - AREAS FOR MODIFICATION

- 3.1 The review of the adopted Local Plan, undertaken in accordance with the methodology set out above has identified those parts of the Local Plan where modifications are considered appropriate to ensure compliance with the National Planning Policy Framework and Practice Guidance, reflect local circumstances and Council aspirations.
- 3.2 Taking all factors into account it is, however, considered that the Derbyshire Dales Local Plan is broadly consistent with the National Planning Policy Framework and Planning Practice Guidance
- 3.3 The review has also identified other aspects of the Local Plan which will need to be modified to reflect the revised evidence including the policies maps, introductory text and portrait of the Derbyshire Dales, the Plans spatial vision and objectives, key diagram, monitoring schedule and supporting appendices.
- 3.4 As to be expected some aspects of the Local Plan will require more wholesale change than others. This will range from simple presentational issues to a more detailed policy and text rewrite to reflect changes in circumstances, evidence and desired outcomes. The suggested areas for modification to provide a framework for decision making for the period up to 2040 are set out in Appendix 1 are summarised below:
- Revisions to policies will be needed to ensure that the Plan appropriately addresses the need to tackle climate change and that all opportunities

are taken to encourage adaptation, mitigation and resilience. Strengthened policy guidance on new build, retrofit/refurbishment and renewable development could be provided but will need to be balanced against considerations of delivery and viability.

- Policies on design will need to be revised to address the increased emphasis on 'Building Beautiful' and the introduction of 'Model Design Codes'.
- The extent of Settlement Development Boundaries may need to be revised to reflect development which has taken place since 2017 and any future housing and employment land allocations. It is considered that in order to assist with interpretation that the term "infill and consolidation" for Tier 5 settlements will also need to be revised.
- Strengthening of policy areas to support greater opportunities for the re-use, conversion of buildings, agricultural enterprises and support for the rural economy may be necessary.
- The Infrastructure and Developer Contributions policy will need to be revised to reflect emerging evidence in the Infrastructure Delivery Plan and the adopted Supplementary Planning Document on Developer Contributions. The adoption of revised affordable housing thresholds and rates of off-site financial contributions for affordable housing will require viability testing to ensure that they do not adversely impact the delivery of the plan as a whole.
- Revisions to policies on the natural environment will be required to ensure the Local Plan makes adequate provision for biodiversity net gain.
- The flood risk policy will need to be revised to consider the impacts of development "on all sources of flood risk" and to take account of the revised Derbyshire Dales Strategic Flood Risk Assessment and recommendations relating to the cumulative impact of development on flood risk.
- Updated evidence on the local housing and employment land need for the period to 2040 will need to be reflected in the strategic housing and employment policies and subsequent land allocations. 10% of the Local Plans housing requirement will need to be accommodated and allocated on sites no larger than one hectare to comply with the NPPF.
- Amendments to the policy area on affordable housing will be necessary to ensure compliance with revisions in the NPPF, notably to include the Councils approach to the delivery of First Homes and Exception Sites and the definition of 'affordable housing'. The Local Plan will also need to reflect the outcome of any application by the District Council to the Secretary of State for Rural Area Designation. Revisions to the policy on housing mix, type and specialist housing will be required to address revised evidence on housing need.
- The policy on Gypsy and Traveller accommodation will need to be amended to reflect a revised pitch requirement for the District for the period 2017-2040, land allocations to meet this need will also be required.

- Changes to the Use Classes Order to permit certain changes of use without requiring planning permission will need to be reflected in Local Plan policies for town centres and economic development
 - Revised wording for policies on new and existing economic development, including tourism may be required to ensure aspirations for economic recovery and support for the rural economy are provided and to comply with the NPPF approach to employment development in the countryside.
- 3.5 Appendix 1 sets out an indication of the principle areas of the Adopted Derbyshire Dales Local Plan that require modification in order to provide a framework for the determination of planning applications up to 2040. Notwithstanding the contents of Appendix 1 further work will be necessary to prepare new and revised text and policy wording.
- 3.6 At the current time it is envisaged that a schedule of proposed changes to the adopted Derbyshire Dales Local Plan will be prepared, setting out the detailed revisions to policy wording required. In order for there to be some scrutiny of the proposed modifications to the text and policies it is proposed that such a schedule of modifications be presented to the Local Plan Working Group prior to a further report being presented to a future meeting of Council.
- 3.7 As set out in Paragraph 1.1 above in order to comply with Regulation 10A of the Town and County Planning (Local Planning) (England) Regulations 2012 local planning authorities are required to review local plans at least once every five years. Advice from DLUCLG is that in legal terms the duty under Regulation 10A can be considered discharged at the point at the local planning authority considers it has undertaken a thorough review of the Local Plan. It does not require the local planning authority to have completed the formal stages of a Local Plan preparation process including public consultation and examination in public.
- 3.8 In light of this advice it is considered that the process that the District Council has undertaken over the course of the past 14 months is sufficient to be able to determine that at this time the statutory requirements under Regulation 10A have been met.
- 3.9 However in order to ensure that any modifications to the Local Plan can be identified as part of the adopted Local Plan they will need to be subject to public consultation and an examination in public held before an independent Planning Inspector.
- 3.10 The next steps for the review of the Derbyshire Dales Local Plan are as follows:

| Milestone | Date |
|---|---------------|
| Completion of Review of Derbyshire Dales Local Plan | January 2022 |
| Draft Modifications | April 2022 |
| Draft Submission Modifications | October 2022 |
| Submit Modifications to Secretary of State | December 2022 |
| Examination in Public (End) | April 2023 |
| Adoption of Modifications | June 2023 |

4 RISK ASSESSMENT

4.1 Legal

Regulation 10A the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) requires local planning authorities to review Local Plans, and Statements of Community Involvement at least once every 5 years from their adoption date to ensure that policies remain relevant and effectively address the needs of the local community.

The legislation does not, however, prescribe how to go about undertaking a review of a Local Plan. If following the completion of the review of the Derbyshire Dales Local Plan it is considered appropriate to take forward a formal revision of the current version of the Local Plan then this will need to be taken forward in accordance with the requirements of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended).

This is a statutory requirement and the proposals accord with the provisions of the relevant legislation.

At the current time, the legal risk connected to this report as has been assessed as low.

4.2 Financial

Within the revenue budget for 2021/22 there is £55,832 for expenditure associated with the review of the Derbyshire Dales Local Plan; a further £74,829 has been included in the draft revenue budget for 2022/23, which will be subject to approval at the March Council meeting. This expenditure will be financed by a transfer from the Local Plan Reserve. Taking account of this expenditure and of planned contributions to the reserve, the Local Plan Reserve has a forecast balance of £155,275 at 31 March 2023. This

is expected to be sufficient for future requirements. The financial risk is therefore assessed as low.

4.3 Corporate Risk

Failure to undertake a review of the Derbyshire Dales Local Plan within the five year period set out in the legislation will expose the District Council to significant risk in relation to its ability to make and defend decisions on planning applications. Managing the review process and risks as set out in the report will minimise any risk to the District Council.

5 OTHER CONSIDERATIONS

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

CLIMATE CHANGE

Appendix One includes detailed of areas of policy relevant to climate change considered necessary to be modified, as a basis for further more detailed work. This includes:

- revision to policies will be needed to ensure that the Plan appropriately addresses the need to tackle climate change and that all opportunities are taken to encourage adaptation, mitigation and resilience
- revisions to policies on the natural environment will be required to ensure the Plan makes adequate provision for biodiversity net gain.
- revisions to the flood risk policy to consider the impacts of development “on all sources of flood risk” and to take account of the revised Derbyshire Dales Strategic Flood Risk Assessment and recommendations relating to the cumulative impact of development on flood risk. This assessment includes climate change allowances - predictions of anticipated change such as peak river flow and peak rainfall intensity

Following the conclusion of this more detailed work a further report will be brought before Council. At this stage a full Climate Change Impact Assessment will be undertaken.

6 CONTACT INFORMATION

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7 BACKGROUND PAPERS

| Description | Date | Location |
|-------------------------------------|---------------|---|
| Adopted Derbyshire Dales Local Plan | December 2017 | https://www.derbyshiredales.gov.uk/images/L/DDDC_Planning_Doc_2_018_vweb2.pdf |
| National Planning Policy Framework | February 2019 | https://assets.publishing.service.gov.uk/government/uploads/system/u |

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| | | ploads/attachment_data/file/810197/NPPF_Feb_2019_revised.pdf |
| Planning Practice Guidance | | https://www.gov.uk/government/collections/planning-practice-guidance |
| Report to Council on Local Plan Review | November 2020 | https://www.derbyshiredales.gov.uk/images/AGENDA_09-11-2020_Local_Plan_Review_7pm.pdf |