

OPEN

**Environment and Communities
Committee**

9 November 2023

Local Plan Next Steps

Report of: Peter Skates, Acting Executive Director of Place

Report Reference No: EC/02/23-24

Ward(s) Affected: All Wards

Purpose of Report

- 1 The purpose of this report is to:
 - advise the Committee of the transitional arrangements for local plan preparation now confirmed by the Department for Levelling Up, Housing and Communities (DLUHC) as part of its proposed reforms to the planning system;
 - highlight the impact these arrangements will have on the Council's programme for preparing the new Local Plan; and
 - set out some proposed next steps to support the preparation of the new Local Plan in the light of the above.

Executive Summary

- 2 The Local Plan is a key corporate strategy aimed at achieving sustainable development, which includes meeting the development needs of the area. It is a statutory requirement to prepare a Local Plan and keep it up to date through regular reviews. The Council has committed to preparing a new Local Plan and agreed a timetable for its preparation in November 2022. However, DLUHC is also taking forward proposals to reform the planning system, including radical changes to

the way in which local plans are prepared¹. In December 2022, it announced proposed transitional arrangements for plan-making and set out deadlines for plans being prepared under the current legal framework and the timing of new style plans under a reformed planning system. These timings were subsequently confirmed in July this year. The transitional arrangements will require the Council to amend its published plan making timetable.

- 3 Specifically, the deadline date of 30 June 2025 for the submission of a current style local plan cannot realistically be met. This means that Cheshire East would need to prepare a new style local plan under the reformed planning system. The opportunity to formally commence the preparation of a new style local plan is expected to be towards the end of 2024, although a phased take-up by councils is an option being considered by DLUHC to prevent the Planning Inspectorate being overwhelmed with examination work. Although DLUHC has described, in broad terms, how the new plan making process is intended to work, the detail is largely missing and will emerge over the next twelve months or so. This uncertainty prevents a clear work programme and detailed costings for the new Local Plan being established at this time.
- 4 However, despite this uncertainty, and recognising the importance of maintaining a longer-term development strategy for the borough, this Committee report recommends that an Issues Paper is published to provide valuable early feedback on key matters that the new Plan will need to address. It is also recommended that progress is made in preparing a Land Availability Assessment (including through a call for sites), a Sustainability Appraisal Scoping Report and a Settlement Hierarchy Review. These are likely to assist the development of the Plan when the opportunity arises to formally commence its preparation.

¹ Through the Levelling Up and Regeneration Act, regulations that will follow, and changes to national planning policy.

RECOMMENDATIONS

The Environment and Communities Committee is recommended to agree that:

1. the Council prepares a 'new style' local plan under the reforms to the plan-making system being taken forward by the Department for Levelling Up, Housing and Communities;
2. an issues paper is prepared to provide an initial opportunity for public engagement to help shape the direction of the Council's new Local Plan; and
3. alongside the issues paper:
 - a. public consultation is carried out on a draft Land Availability Assessment Methodology, a draft Sustainability Appraisal Scoping Report and a draft Settlement Hierarchy Review; and
 - b. a 'call for sites' is carried out.

Background

- 5 In July 2022 the Environment and Communities Committee resolved to prepare a new Local Plan². This followed a review of the Local Plan Strategy (LPS), which found that aspects of the Plan needed to be updated to bring it in line with changes to national planning policy following its adoption in 2017 and to address changes in local circumstances. In terms of national planning policy, the review found that changes had been made to the way in which housing requirements were expected to be set through local plans and how new affordable housing should be provided in future, most significantly through the inclusion of First Homes, now the government's preferred type of discount market housing. The review also found that there were changes in local circumstances warranting an update to LPS policies. Firstly, it identified the need to put in place appropriate policies to respond to the then expected arrival of HS2 at Crewe. Secondly, local planning policies needed to be strengthened to reflect the greater emphasis given in the Council's corporate priorities on achieving good health and well-being for all its residents and the protection and enhancement of the environment, including tackling climate change.

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<https://moderngov.cheshireeast.gov.uk/ecMinutes/ieListDocuments.aspx?CId=962&MId=9277&Ver=4>

- 6 Although the review found that several policies within the LPS needed to be updated, importantly it concluded that the Plan remained well-aligned with national planning policy overall.
- 7 Maintaining an up-to-date, longer term planning strategy for the borough is an important priority for the Council. It has several benefits including:
- providing greater confidence to residents about where and what type of development will take place;
 - providing greater certainty for developers and investors;
 - enabling the more effective co-ordination of new development and infrastructure provision; and
 - maintaining a 5-year housing land supply and keeping decision making plan-led.
- 8 These benefits are readily illustrated by the adoption of the LPS in 2017. Prior to 2017 numerous unwelcome, speculative windfall housing schemes on the edge of towns and villages were allowed at appeal in the absence of a 5-year supply of deliverable housing land. Since 2017, the situation has changed. A robust 5-year housing land supply has been established and a predominantly plan-led approach towards new housing development has been followed. The Council has also seen a substantial increase in housing delivery, including affordable housing, reversing an under-delivery of housing during each of the first seven years of the Plan period³.
- 9 The July 2022 Committee report did not define the exact scope of the new Local Plan, stating that this would be a matter for the update process itself. It was also highlighted that:
- the new Local Plan would be brought forward in the context of national planning reforms that will alter the way in which local plans are prepared;
 - the new Plan would set longer-term development requirements which, in turn, would also necessitate updates to a range of other key strategic policies; and
 - the new Plan period would, most likely, extend into the 2040s given the current national planning policy requirement that strategic

³ In the six years from 2017/2018 to 2022/2023, 15,948 (net) new homes were completed in the borough, an average of 2,658 homes/year compared to the Local Plan requirement for 1,800 homes/year. At 31 March 2017, the level of past under-delivery against the Local Plan requirement stood at 5,365 homes. At 31 March 2023, this had reduced to 217 homes.

policies should look ahead over a minimum 15-year period from adoption.

- 10 A revised Local Development Scheme (LDS) was subsequently considered and approved by the Committee in November 2022⁴. This set out a programme for the preparation of the new Local Plan. All local planning authorities are currently required to prepare and maintain a LDS to enable local communities, businesses, developers, service and infrastructure providers, alongside other interested parties, to find out what local plan documents are proposed and the timetable for their preparation.
- 11 The LDS identifies a five-year programme to prepare and adopt the new Local Plan. The programme includes three rounds of public consultation and provides for a twelve-month public examination following its submission to the Secretary of State. It envisages the Plan's adoption towards the end of 2027.
- 12 The government is reforming many aspects of the planning system including the way that local plans are prepared. The plan-making changes are aimed at speeding up and simplifying plan preparation, enabling them to be updated more regularly and thereby kept up to date. In turn, this is seen as the most effective way to achieve plan-led decision making and provide the jobs and homes needed locally.
- 13 The reforms are being brought about through the Levelling-up and Regeneration Act (LURA), granted Royal Assent on 26 October, and through changes to national planning policy. Most of the Act's sections relating to plan-making will require secondary legislation (regulations) to take effect. A number of changes to the National Planning Policy Framework (NPPF) were consulted on between December 2022 and March 2023 and originally expected to be published in spring 2023⁵, however these are still awaited. A more comprehensive update to the NPPF is expected during 2024, following further public consultation.

⁴ <https://www.cheshireeast.gov.uk/planning/spatial-planning/cheshire-east-local-plan/local-development-scheme.aspx>

⁵ <https://www.gov.uk/government/consultations/levelling-up-and-regeneration-bill-reforms-to-national-planning-policy>

- 14 Changes to plan-making under the proposed reforms include:
- New style local plans which will be shorter and simpler, taking 30 months from start to adoption. This will allow 23 months for the preparation of a plan, 6 months for its examination by a planning inspector and a further month for its adoption following the receipt of the inspector's report. It is proposed that three 'gateway reviews' will take place by an independent examiner/planning inspector ahead of a plan's submission for final examination. The purpose of 'gateway reviews' is to keep plan preparation on track and minimise the length of the plan's final examination.
 - General development management policies that are used by most local planning authorities will be provided through National Development Management Policies (NDMPs), taking away the need to include these policies in individual local plans. The aim of this is to reduce the length of plans and the time taken to prepare them.
 - The current 'Duty to co-operate' which requires local planning authorities and other bodies to engage positively on strategic cross-boundary issues will be replaced by an 'alignment test'. The current requirement for a Sustainability Appraisal (incorporating Strategic Environmental Assessment) to be carried out as part of plan-making will be replaced by an 'Environmental outcomes report'. The detailed arrangements for how these will work will be set out in regulations, following public consultation.
- 15 Within the December 2022 consultation paper regarding changes to the NPPF, the government also set out proposed draft transitional arrangements for local plan preparation. On 25 July 2023, DLUHC confirmed these arrangements within a further consultation document regarding plan-making reforms⁶. However, the transitional arrangements will remain contingent on parliamentary approval of follow-on regulations.
- 16 The transitional arrangements require local plans prepared under the current legislative framework to be submitted for examination by 30 June 2025 and adopted by 30 December 2026. The Council's LDS envisages that a new, current style Local Plan would be submitted for examination in August 2026, around 14 months later than the deadline under the transitional arrangements.

⁶ <https://www.gov.uk/government/consultations/plan-making-reforms-consultation-on-implementation/levelling-up-and-regeneration-bill-consultation-on-implementation-of-plan-making-reforms#chapter14>

- 17 DLUHC envisages that work on new style local plans under the reformed system will be able to formally commence from autumn 2024, giving time ahead of that for the full, new statutory framework to be put in place, and for national planning policy to be fully updated, including the introduction of NDMPs. If an authority misses the submission deadline for a 'current-style' plan, that plan-making process would stop, and work would need to commence immediately on preparing a new style plan.
- 18 The transitional arrangements will require the Council's current timetable for preparing the new Local Plan to change and reconsideration of how the Plan is brought forward.
- 19 This report recommends that Cheshire East prepares a new style Local Plan under the reformed system. The Council is at the very start of the plan-making process, and it is considered that DLUHC's deadline for current style local plans to be submitted for examination cannot realistically be achieved. Although the scope of the Plan has not been fully defined, it has already been acknowledged that it will involve setting new, longer-term development requirements for the borough and identifying how these will be met. It is a major undertaking that will attract considerable interest from residents, local councils, developers and other organisations. Over 60,000 representations were received about the LPS as it was developed. The new Local Plan will need to be informed and supported by a wide range of up-to-date reports and studies. The Council would need to address forthcoming changes to national planning policy. As noted earlier, a number of revisions are expected to be published to the NPPF in the shorter-term and a comprehensive update to the NPPF is expected to take place in 2024. Consideration would need to be given to the implications of NDMPs when they are published, also expected in 2024. The government's intention is that NDMPs will take precedence where there is an inconsistency between them and policies within local plans.
- 20 In addition, the way in which authorities are expected to establish their housing requirements within local plans may change again during 2025. The government is intending to review the implications on the standard method of new household projections data based on the 2021 Census, which is due to be published by mid-2025. The current standard method still utilises 2014-based household projections and any shift to using up to date projections would alter local housing need figures. This could introduce another significant change in circumstances that may require amendments to an emerging local plan.
- 21 Finally, there is a general concern about how long a current style local plan would remain up to date. Where key policies for determining

planning applications become out of date, the 'tilted balance' may be engaged in decision making.

- 22 Therefore, the preparation of a new style Local Plan is considered to be the only feasible option, although not without its own challenges. Cheshire East would be one of the first authorities to prepare this new type of plan and may encounter teething problems arising from the implementation of the new plan-making provisions. Much of the detail about how the new plan making system will work is still to be published. There is also concern that DLUHC's target of autumn 2024 for the new system to go live may slip. It is over three years since the government published its White Paper *Planning for the Future* setting out proposals to reform the planning system⁷. In the intervening period there has been a stop start approach towards the reforms. DLUHC's July 2023 consultation paper indicates that there could be around 90 authorities needing to commence the preparation of a new style plan by the end of 2024 when the new plan making system is expected to come into effect. The paper highlights a potential lack of examiners/inspectors in the system to support early 'gateway reviews' and seeks views on a possible phased roll-out, whereby some authorities would be encouraged to delay, or even be temporarily prevented from, commencing their plan preparation.

Proposed next steps

- 23 Given the lack of certainty about the details of the national plan making reforms, it is not possible at the moment to establish a clear programme for the next Cheshire East Local Plan. Although the reforms are intended to speed up plan making, for many authorities they are currently having the reverse effect⁸.
- 24 Even though the preparation of a new style Local Plan cannot be formally commenced until at least the end of 2024, there is merit in carrying out some initial public engagement on the scope of the new Plan through an 'issues paper'. This would be the subject of a further report to the Committee in the new year and reflect the latest understanding of the new plan preparation arrangements. It would assist the Council to hit the ground running when it is able to formally commence its new Plan.

⁷ <https://www.gov.uk/government/consultations/planning-for-the-future>

⁸ <https://lichfields.uk/blog/2023/april/20/failing-to-plan-or-planning-to-fail-the-state-of-local-plan-making/>

- 25 Through the reforms, DLUHC is intending to reduce the amount of evidence required in preparing local plans, although with the expectation that there will still be a strong evidence base to inform and support them. This is a welcomed element of the reforms although detail is currently lacking about how this reduction will be achieved.
- 26 The Council therefore needs to be cautious about preparing evidence in advance of understanding what the expectations of future national planning policy and guidance will be. That said, it would be helpful to progress some aspects of the Plan's evidence base, particularly where reports and studies are expected to remain necessary under the reformed system. With this in mind, the Committee's agreement is sought for the preparation of three draft reports with a view to public consultation being carried out on them at the same time as the issues paper. The documents would also be brought to the Committee for approval prior to their publication and comprise:
- A draft Housing Land Availability Assessment (LAA) Methodology. This is required by current national planning policy and is expected to continue being a necessary part of a local plan's evidence base. Its purpose would be to provide a clear understanding of the land available within the borough and inform a future site selection process to meet the development needs identified over the Plan period. The LAA would cover housing and employment along with a range of other land uses. It is proposed that this is accompanied by a 'call for sites' enabling landowners, developers and others to submit sites for consideration through the LAA, once the Methodology has been finalised.
 - A Sustainability Appraisal Scoping Report. All local plans must be informed by a Sustainability Appraisal (SA) through which emerging policies and proposals are assessed against environmental, social and economic factors. This initial stage would set the scope of the assessment and seek feedback on it so that the eventual SA is focussed on relevant issues that could influence or be influenced by the Plan. As noted earlier, SAs are expected to be replaced by Environmental Outcome Reports, however, it is currently not known when details of this new assessment framework will be published and brought into effect.
 - A draft Settlement Hierarchy Review (SHR). The establishment of a clear settlement hierarchy helps to inform, alongside other evidence, how future development needs will be met. The SHR will revisit the settlement hierarchy set out in the current Local Plan and take account of any changes in circumstances since the original evidence was prepared to inform it.

Evidence work already underway

- 27 Work is already underway on a new Strategic Flood Risk Assessment (SFRA), Open Spaces Assessment and Playing Pitch Strategy. The first two will replace assessments originally completed around ten years ago to inform the current Local Plan. The new Playing Pitch Strategy will comprehensively replace the one published by the Council in 2017, although regular regular updates to it have been issued since then.
- 28 All local planning authorities are expected to prepare at least a Level 1 SFRA to inform their Local Plans and it is expected that the need for this will continue. A Level 1 SFRA collates information on all known sources of flooding that may affect future development, with particular attention being given to 'priority areas' where flood risk is considered to be significant. SFRAs are used for several purposes including plan-making, decision making on planning applications and emergency planning. A Level 2 SFRA may also need to be carried out for the new Local Plan, depending on where future development is envisaged to take place. This would look in more detail at flood risk in relation to candidate sites or locations for new development.
- 29 The Open Space Assessment will collate information about the quantity and quality of open spaces (excluding playing pitches which are addressed in the Playing Pitch Strategy). It will enable these characteristics to be analysed across a range of open space typologies and across particular areas. This will inform decisions about the protection and improvement of existing open spaces and the need for additional provision in the new Local Plan.
- 30 The Playing Pitch Strategy will assess the supply of, and demand for, playing pitch and outdoor sport facilities across Cheshire East. The strategy will serve several purposes including to act as a tool for the Council and partner organisations to guide resource allocation and set priorities for pitch and outdoor sports in the future, to provide evidence to support capital funding bids and to guide how the additional playing pitch needs generated by new development should be met.

Consultation and Engagement

- 31 The preparation of the new Local Plan will involve a considerable amount of public consultation. The Statement of Community Involvement (SCI), which came into effect in January 2022, sets out how the Council intends to involve all sectors of the community in the planning process, including the preparation of planning policy. Through the national planning reforms the requirement for councils to prepare SCIs is expected to be removed. They will be replaced with a requirement to include engagement and consultation arrangements

within a Project Initiation Document prepared at the start of the plan-making process.

- 32 Proposals for consultation and engagement in connection with the issues paper would also be brought to the Committee for its agreement.

Reasons for Recommendations

- 33 There are considerable benefits in maintaining an up-to-date Local Plan, including to achieve plan-led decision making. Policies and proposals in the Local Plan support many corporate priorities, particularly those relating to promoting good health, providing good housing for all, achieving a thriving economy for all, enhancing biodiversity and tackling climate change.

Other Options Considered

- 34 The Council could wait for the full legal and policy framework for the reformed local plan making system to be put in place before it takes any substantive step towards progressing the new Local Plan. The aim of seeking feedback on an issues paper, and particular evidence work in parallel with that, is to assist the Council advance its Plan within the new plan-making system once that opportunity is available.

Implications and Comments

Monitoring Officer/Legal

- 35 In preparing a new style Local Plan, the Council will need to comply with the relevant requirements of the Levelling-up and Regeneration Act, and in the regulations that will follow which will implement its provisions. These requirements will cover various matters including the content of the plan and how it is prepared.

Section 151 Officer/Finance

- 36 As far as possible, the cost of preparing the new Local Plan has been reflected in the Medium Term Financial Strategy (MTFS) 2023-27, however this will need to be kept under review in the light of future changes to the legal and national policy framework for local plan preparation. The MTFS takes account of an existing earmarked reserve for Local Plan preparation.
- 37 Through national planning reforms, the Government is intending to speed up and streamline the local plan preparation process. However, in the absence of much of the detail governing how the new plan making process will operate, it is not yet possible to gauge whether new style plans will cost less to prepare than current style local plans. This detail is expected to emerge over the next 12 months or so, and further

reports about the new Local Plan process will provide additional information on plan preparation costs.

Policy

- 38 The Local Plan sets out the Council's policy for sustainable development in the Borough. The new Local Plan will be prepared within the context of the new Corporate Plan.

Equality, Diversity and Inclusion

- 39 Equality Impact Assessment will be carried out during the preparation of the Plan.

Human Resources

- 40 There are no additional human resource implications arising from this report.

Risk Management

- 41 Appropriate risk management will be carried out as an integral part of the Plan's project management.

Rural Communities

- 42 An update to the LPS would contain planning policies for the whole of the borough, including rural areas.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

- 43 The well-being of young people and cared for children would be an important objective that any revised policies will seek to support.

Public Health

- 44 Promoting good health for all will be a central objective of the new Local Plan.

Climate Change

- 45 The new Local Plan will provide an opportunity to go further with planning policies to mitigate climate change, recognising the Council's pledge to become a carbon neutral borough by 2045.

Access to Information	
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Contact Officer:	Jeremy Owens, Development Planning Manager
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Appendices:	No appendices
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Background Papers:	These are referenced in the report and links are provided in footnotes.
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