

## North Devon Council & Torridge District Council

Report Date: 17<sup>th</sup> March 2023

### **Topic: Scoping a partial update of the North Devon and Torridge Local Plan**

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

#### 1. INTRODUCTION

- 1.1. The Councils have embarked on a process to reconsider the approach to updating the North Devon and Torridge Local Plan 2011-2031 (NDTLP). This has involved an extensive programme of work to review the performance of the NDTLP, consider the wider context and circumstances and look at potential options.
- 1.2. Drawing upon that body of work, at the previous meeting of the Joint Planning Policy Committee (JPPC) on 20<sup>th</sup> January 2023, the committee resolved to recommend to the respective Full Councils for North Devon and Torridge to move to a targeted and focussed partial update to the NDTLP (supplemented by a series of more detailed sub-ordinate recommendations).
- 1.3. The recommendations were subsequently considered at a meeting of the Full Council for Torridge District Council on 30<sup>th</sup> January 2023 and at North Devon Council on 22<sup>nd</sup> February 2023. This report follows up on the outcomes of that series of meetings in order to understand the programme of work necessary to review and update the plan. It seeks to refine the potential scope of a partial update and provide detail on the potential resource and programme implications of the individual topics that have been identified for consideration, along with a perspective on the potential value of taking them forward.

#### 2. RECOMMENDATIONS

- 2.1. Members of JPPC are recommended to consider and advise on the potential scope of a partial update to the North Devon and Torridge Local Plan, having regard to the potential benefits and costs of each topic outlined.
- 2.2. Members to consider prioritising the items that could be taken forward in a Partial update.

#### 3. REASONS FOR RECOMMENDATIONS

- 3.1. To help establish the scope of any update to the North Devon and Torridge Local Plan.

#### 4. REPORT

- 4.1. At a meeting of the JPPC on 20<sup>th</sup> January 2023, Members resolved to recommend to the respective Full Councils of North Devon and Torridge a

series of detailed recommendations in support of a move to a targeted and focussed partial update (Appendix 1).

- 4.2. Torrige District Council considered the JPPC recommendation at a meeting of its Full Council on 30<sup>th</sup> January 2023. The discussion on the item identified that it was felt that it was not clear about what would be included in a partial review and that there are also concerns over ongoing changes in the national context. In response, Full Council felt that it was appropriate to refer the matter back to JPPC in order to seek more detail; resolving *that a decision be deferred until a response is received from the Joint Planning Policy Committee and to be brought back to the April Full Council meeting with full recommendations on the way forward*. North Devon Council considered the same JPPC recommendation at a meeting of its Full Council on 22<sup>nd</sup> February 2023. The full suite of recommendations from JPPC (Appendix 1), including the principle of moving forward with a partial review, were carried by the Full Council of North Devon Council.
- 4.3. In response to the resolution from Torrige District Council, it will be necessary to go back to the April 2023 meeting of Full Council for Torrige District Council with a further report, setting out JPPC's views on the scope of a partial review in order for the Council to consider whether to proceed with updating the NDTLP on this basis.
- 4.4. To inform this decision, and to also progress the initial work that would be required to proceed with a partial update to the NDTLP, Officers have carried out a more detailed scoping exercise on the topics identified as being potentially included within the scope of a partial update. The topics covered are:
- Active Travel
  - Climate Change
  - Design Codes
  - Fluvial Change Management Areas (FCMAs)
  - Coastal Change Management Areas (CCMAs)
  - Housing
  - Retail and Town Centres
  - Rural Economy
  - Tourism
  - Traveller Accommodation
- 4.5. The outcomes of the scoping exercise are set out in a series of topic-based tables (Appendix 2), identifying what could be considered for that topic through a partial update. The tables include detail of the policy context (national and local), consideration of the evidence, time and direct costs required to carry out the topic-specific work associated with carrying out a partial update, and a judgement about the potential value and/or risks associated to the work,

- 4.6. Collectively, the tables provide an insight into the scope of what could be achieved through a partial update to the NDTLP to address the key issues identified through the work carried out to date, including a technical appraisal of the NDTLP and the programme of engagement with elected Members. They also provide a basis for making a judgement on the costs and value that could be realised in association with a partial update, or each component of a partial update.
- 4.7. A summary of the recommendations arising for each topic is provided in Table 1 below.

Table 1. Summary of topic-based scoping outcomes

<b>Topic</b>	<b>Would the evidence be able to be carried forward to be used as part of a new local plan</b>	<b>Recommendation</b>
Housing (first homes and small sites)	The proposed new and updated evidence could be utilised in a new local plan.	First Homes and the allocation of small sites (except in relation to viability) could form part of a partial review. Clearly the allocation of additional sites would not be required if the five year supply of deliverable sites is re-established.
Retail and Town Centres	<p>The evidence could be utilised by consultants that would undertake a new retail, town centre and leisure assessment, the purpose of which would be to provide recommendations for future local plan policy on key issues such as: retail hierarchy, the extent of town centre boundaries, suitable sites for accommodating any forecast retail and leisure capacity (if necessary) and future strategies for retail, town centre and leisure development.</p> <p>The prepared evidence would provide an updated position from that which is currently available, however updated survey work and analysis would have to be undertaken at the time of newly commissioned work to inform the wider body of work to inform strategic policy.</p>	Policy DM19 could be updated to bring it in line with national planning policy, however on balance, there is considered to be limited value in undertaking a targeted review in response to changes to the Use Class Order and enabled Permitted Development, which already guides decisions, where required. For decision making an updated policy would have limited value.

Topic	Would the evidence be able to be carried forward to be used as part of a new local plan	Recommendation
Rural Strategy: Economy	The evidence could be used in the consideration of future policy, in the context of wider considerations of the economy of northern Devon.	A revision of Policy DM14 could be undertaken as part of a partial review; need to consider the scope of expanding economic opportunities to meet local needs within the rural area and the criteria that would be applied. Additionally, a new policy could be considered to guide agricultural development.
Tourism	Yes, the evidence could be utilised as part of a new local plan.	On balance, this is considered to be a limited piece of work that could add value to the local plan but further work needs to be undertaken to explore the concerns of members and the performance of policies DM17 and DM18 and establish whether any amendments could be made through a Partial review.
Coastal Change Management Areas	Defining the extent and developing policy relating to a CCMA could be undertaken as part of a new local plan.	On balance, given the advanced stage of preparing the evidence for the CCMA designation and associated policies this can be included in a partial review (whilst recognising that the outcomes may need to be addressed in a comprehensive review of the Local Plan). A partial update would need to be careful not to impact on Local Plan place-based strategies.
Design Codes	Yes, this work could be undertaken as part of a new local plan.	On balance, there is value in undertaking design coding work, however, given the significant amount of resources that will be needed, and the cost and the limited best practice available it would be preferable to not include design codes in the partial update, rather this work could be undertaken alongside the Local Plan, the form of which would need to be confirmed. If the decision is made to undertake a partial update, then there would be value in adding a reference to design codes in policy DM04 (this would not require any additional work to be undertaken).

Topic	Would the evidence be able to be carried forward to be used as part of a new local plan	Recommendation
Fluvial Change Management Areas	Yes, the project could be included as part of the evidence base, on the condition that it can be demonstrated the Local Plan will be adopted by 2027.	It is recommended to continue with this project and if the evidence gathering can take place within the timeframe needed to prepare and submit the partial review to the Planning Inspectorate by June 2025 then it should be included in this process. As with the CCMA a partial review would need to be careful not to impact on Local Plan place-based strategies.
Traveller Sites	A new local plan would need to include a refresh of the Gypsy and Travellers Accommodation Assessment (GTAA). The work undertaken for a partial review to allocate new sites would be able to be taken forward as evidence to inform future work.	On balance, given the estimated timetable for the completion of this workstream it is recommended to take it forward as part of a partial review. This will provide the Councils with the opportunity to establish authorised sites across the plan area and ensure that the relevant statutory duties can be met.
Climate Change To allow on shore wind and update policy related to solar arrays	Yes, this work could be undertaken as part of a new local plan.	On balance, this work can be undertaken as part of a partial review without undermining the strategic policies of the adopted Local Plan.
Active Travel	Yes, any work undertaken could be used to inform a new local plan (noting that there may be changes to the strategic development strategy in the new plan)	Not to proceed with this matter through a partial review.

- 4.8. In addition to the topics above, discussion with the Development Management teams at both Councils have identified the potential value in exploring the introduction of a policy to manage the consideration of proposals for agricultural buildings. It is considered that this could reasonably be taken forward within the scope of a partial update.

- 4.9. It is for elected Members to take a view on the value of taking forward the different aspects of work under each of the individual topics and then more holistically as a package of work as a partial update to the NDTLP.
- 4.10. The delivery of a partial update to the local plan, in any form, will be required to be completed in accordance with the same provisions that dictate the preparation of a new local plan. From a statutory perspective this is principally set out in the Planning and Compulsory Purchase Act 2004 (as amended) and The Town and the subordinate Country Planning (Local Planning) (England) Regulations 2012 (as amended) ('the Regulations'). These are complimented by other associated legislation, along with the planning policy and guidance set out in the National Planning Policy Framework (NPPF) (July 2021), Planning Policy for Traveller Sites (August 2015) and national Planning Practice Guidance respectively.
- 4.11. The Councils are obliged to formally set out the intended programme of work for plan-making activity over the next three years within a Local Development Scheme (LDS). The published LDS for North Devon and Torridge currently sets out the previously agreed scope and programme of work relating to the comprehensive update of the local plan. It will be necessary to prepare a revised LDS to set out the scope of a partial update and to provide the associated milestones for the key stages of plan preparation. The revised LDS will be required to be brought back to a future meeting of the JPPC for endorsement.
- 4.12. The Councils will need to embark on a detailed programme of work to inform and prepare the update to the NDTLP. This will likely include the preparation or commissioning of technical evidence, along with engagement with communities and stakeholders. An indication of the level of work required to support each topic is set out in the tables at Appendix 2. Policy options, approaches and detailed policy wording will be developed having regard to research, evidence and engagement.
- 4.13. It will also be necessary to carry out a range of associated prescribed processes and practices, such as the preparation of a sustainability appraisal / strategic environmental assessment and engagement with a range of bodies through the duty-to-cooperate; with the intention of feeding into the formulation and development of policy.
- 4.14. The scope, scale and cost of the actual work required during this phase of plan-preparation will be contingent on the nature of the topics and changes taken forward through any partial update. An indication as to some of the specific requirements that would be considered necessary for individual topics is shown in the tables provided (Appendix 2).
- 4.15. The first formal stage of plan-making activity is, in accordance with the provisions of Regulation 18 of the Regulations, to notify prescribed bodies and persons and to formally consult, for a period of six weeks, on the scope of the development plan (update). The Regulations require, as a minimum, for this to be as simple as seeking views on what a local plan of the 'subject' proposed should contain, however it is often presented in the form of an 'issues and options' document for consultation in order to 'add value' to the plan-preparation process.



- 4.16. Upon satisfactory completion of a draft plan, it will be necessary to formally publish the update to the NDTLP for a six-week consultation in accordance with Regulation 19 of the Regulations. Following the completion of the consultation, the Councils will then submit the update, along with all associated documentation, evidence and the outcomes of the publication consultation to the Secretary of State for examination in public. The nature and duration of the examination will be likely contingent on the scope of the partial update taken forward and also on the level and nature of objection that may be received in response to the plan update.
- 4.17. The Councils find themselves with a challenging context and period of unprecedented uncertainty when it comes to plan-making and taking forward any update to the local plan. The Government has embarked on a programme of planning reforms that have the potential to impact on both the future processes of preparing, and the content, of a local plan. These have the potential to have a direct impact on the preparation of a partial update; most notably through changes to national planning policy on topics that may be subject to update and in relation to the timings of a transition to a new plan-making system which may interplay with the programme for a partial update.
- 4.18. In the short-term, the Government has indicated its intent to make a wide range of revisions to the National Planning Policy Framework, citing its intent to publish a revised NPPF in Spring 2023. The scope of the proposed changes to national policy set out through the recent Government consultation would likely have a direct bearing on a number of the topics indicated for consideration through a partial update; most notably, but not limited to, on-shore wind energy development and the demonstration of a five-year housing land supply. Members are advised that changes to national policy may have an advantageous or unfavourable impact on preferred approaches to individual topics. It will be necessary to be mindful of any changes that arise and respond accordingly during any programme of work; being particularly mindful of progressing workstreams that may have a finite lifetime.
- 4.19. In the longer term, the Government is also advocating changes, amongst other things, to the 'standard method' that is used as the starting point for establishing housing requirements and also to introduce a suite of national Development Management policies.
- 4.20. The Government has set out and consulted on proposals for transitioning to a new plan-making system and new style local plans; with the associated legislative changes being progressed through the Regeneration and Levelling Up Bill. The new system, dated for introduction in November 2024, would require new style local plans to be prepared and adopted within a maximum period of 30 months.
- 4.21. Proposed transitional arrangements are intended to allow local planning authorities to progress work on 'old-style' local plans (and updates) although they would be required to be submitted for examination by June 2025. Such plans would be required to complete their examination and be adopted by the end of December 2026. Of note, is the proposal that local planning authorities with plans

that are older than five years at the point of the new system being introduced and who are not working on a plan for submission by the June 2025 deadline, would be expected to start work immediately on a new style local plan (i.e. November 2024).

- 4.22. The proposals indicate that adopting an 'old style' local plan prior to the end of December 2026 would have the effect of deferring the requirement to prepare a new-style local plan until the adopted plan is five years old. It is not however clear from the Government's proposals, whether a partial update as per that being currently discussed, would be capable of 'resetting the clock' and deferring the requirement to prepare a new-style plan. This introduces an inherent risk for the Councils that the requirement to prepare a new-style local plan, and the associated 30-month timeframe, would be triggered upon the introduction of the new planning system touted for November 2024, whilst they are committed and directing resource to a partial update. It will be necessary to carefully reflect and have regard to this situation going forward. Conversely, should the partial update have the benefit of 'resetting the clock', this would not preclude the Council from advancing a new-style local plan prior to the passing of five years from adoption.
- 4.23. It is important that Members understand the dynamic national context in progressing any partial review, the possible implications of this and the potential need to respond to changing circumstances over the coming months.

## 5. CONCLUSIONS

- 5.1. Following the extensive programme of work over the past months to consider the opportunities and alternatives, this report presents Members with a more detailed appraisal of the potential scope of a partial review. It seeks to provide members with a perspective on the particular topic, specific opportunities that could be explored through a partial review and the changes to policy that might be achieved. It sets out some the likely costs and timeframes associated to those particular elements of work and seeks to advise on the potential value that these might realise. It also seeks to ensure that Members are mindful of the potential consequences of the live national planning reforms that frame this process.
- 5.2. Members are requested to reflect on the scoping information that is presented to them through this report, along with that previously provided to JPPC. In doing so, Members are asked to advise on the potential content of an update that should be taken forward; having regard to the potential value and costs associated to the potential workstreams and individual topics. It would also be beneficial if members could consider prioritising any selected topics.
- 5.3. Members are reminded of the need for this matter to be referred back to the next meeting of Full Council at Torridge District Council in April 2023, and the request for any report to set out full recommendations of JPPC as to the way forward.

## 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 may 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 anticipated preparation of an Equalities Impact Assessment (EqIA). The nature of any potential impacts will be predicated on the scope of the partial update and the distinct policy provisions and approaches that are taken forward.

## 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. The environmental impact will be dictated by the scope of any update to the local plan and the specific policy provisions that are selected to be taken forward. 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 (20<sup>th</sup> January 2023)
  - b. Report to Joint Planning Policy Committee (4<sup>th</sup> November 2022)
  - c. National Planning Policy Framework (NPPF); (MHCLG, July 2021)
  - d. Planning and Compulsory Purchase Act 2004 (as amended)
  - e. Town and Country (Local Planning) (England) Regulations 2012 (as amended)

- f. Levelling-up and Regeneration Bill: reforms to national planning policy (DLUHC, December 2022)
- g. National Planning Policy Framework: draft text for consultation (DLUHC, December 2022)

## 12. STATEMENT OF INTERNAL ADVICE

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

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 1: Resolution of meeting of Joint Planning Policy Committee on 20<sup>th</sup> January 2023 (Item 2)

Appendix 2: Topic-based scoping tables for partial update to local plan