



**MID DEVON LOCAL PLAN REVIEW 2013 – 2033**

Proposed Submission (incorporating proposed modifications) Examination

Inspector: Paul Griffiths BSc (Hons) BArch IHBC

**Main Hearings - Hearing 1: Thursday 14<sup>th</sup> February 2019**

**Opening Statement of Mid Devon District Council**

**S1.0 Summary of Statement**

S1.1 The Council has prepared an opening statement to assist the Inspector's examination of the Mid Devon Local Plan Review and for the benefit of participants at the examination hearings. This is a summary of the salient content of that opening statement which follows in full.

*About the Local Plan*

S1.2 The Mid Devon Local Plan Review 2013 – 2033 Proposed Submission (incorporating proposed modifications) was submitted to the Planning Inspectorate on 31<sup>st</sup> March 2017 for independent examination, together with the Community Infrastructure Levy Draft Charging Schedule Submission and supporting Submission Documents.

S1.3 The Local Plan Review provides the most current evidence-based view of the needs of the Mid Devon area (outside the Dartmoor National Park) and has an aspirational yet realistic vision and strategy for sustainable development in this area for the period to 2033.

S1.4 The Local Plan Review carries forward site allocations and development management policies from adopted Local Plans for Mid Devon. Many of the site allocations have since been subject to applications for planning permission and some of which are either under construction or have been completed.

S1.5 The Local Plan Review, once adopted, will form part of the statutory development plan for Mid Devon (outside the Dartmoor National Park) together with the Devon Minerals and Waste Local Plans, and Neighbourhood Plans once these are 'made'.

S1.6 The Council is jointly preparing the Greater Exeter Strategic Plan with other Councils. The GESP will replace relevant strategic policies and targets in the Mid Devon Local Plan Review when adopted in 2022 and will cover the period to 2040.

*Meeting the tests of soundness*

- S1.7 The Council believes the Local Plan Review meets the tests of soundness in the 2012 NPPF against which it is being examined under transitional arrangements. It meets the area's objectively assessed needs, sets out the most appropriate strategy for the area, is deliverable over the plan period, and it is consistent with national policy in that it enables the delivery of sustainable development.

*Legal obligations and procedural requirements*

- S1.8 The Council has met its legal obligations and procedural requirements in the preparation of the Local Plan Review, including:
- The 2004 Act (as amended) and 2012 Regulations
  - National planning policy in the 2012 NPPF and the Council's corporate plan
  - The Council's new Local Development Scheme
  - The Public Sector Equality Duty through an Equalities Impact Assessment
  - The Council's Statement of Community Involvement (SCI) and relevant regulations

*Sustainability Appraisal (SA) and Strategic Environmental Assessment (SEA)*

- S1.9 A Sustainability Appraisal (SA) has been carried to understand the sustainability effect of the Local Plan Review and which has been used to inform the preparation of the Local Plan. The SA incorporates the Strategic Environmental Assessment (SEA) to meet the requirements contained in the Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regulations). The SA meets with the requirements of the SEA Regulations and also the Planning and Compulsory Purchase Act 2004 which places a duty on the Council to consider the sustainability of its plans.
- S1.10 The SA was most recently updated in 2018 to clarify work that had previously been undertaken with regard to proposed modifications to the submission plan. A review by consultants LUC has found this work to be proportionate and appropriate to meet the requirements of the SEA Regulations.

*Habitat Regulations Assessment (HRA) - Screening and Appropriate Assessment*

- S1.11 A Habitat Regulations Assessment (HRA) has been undertaken for the Local Plan Review by external consultant LUC. The HRA has considered the impact of the plan on European sites either alone or in combination with other plans. The HRA has followed relevant guidance and has been in line with the requirements of the Habitat Regulations 2007 (as updated in 2010 and 2012). This work has been updated in 2016 to take account of proposed modifications made to the submission plan.
- S1.12 The HRA (including screening and an Appropriate Assessment) has concluded that provided the identified mitigation is implemented (as proposed by the Appropriate Assessment and that also provided by the policies of the Local Plan Review), adverse effects on the integrity of European sites around Mid Devon from policy and site options in the Local Plan Review, either alone or in combination with other plans will not occur in relation to: air pollution;

changes to water quality or quantity; physical loss or damage to offsite habitat, or noise/vibration and light pollution; and recreation.

- S1.13 The HRA has been found by consultant LUC to be legally compliant In light of the recent judgement of the Court of Justice of the European Union in People over Wind, Peter Sweetman v Coillte Teoranta (Case C-323/17)

*Duty to Co-operate*

- S1.14 The Council's Duty to Cooperate Statement indicates there is broad agreement that the duty to cooperate has been satisfactorily met in the relation to the Local Plan Review. The Duty to Cooperate Statement makes clear that Mid Devon is not seeking help from adjoining authorities to meet the housing need arising within the district, and there have been no requests from other authorities for Mid Devon to provide any of their need either. The statement also makes clear that the duty to cooperate has been met in relation to the inclusion of Policy J27 (for a major tourism, leisure and retail attraction adjacent to Junction 27) in the Local Plan Review.

## 1.0 About the Local Plan

### *Mid Devon Local Plan Review*

- 1.1 The Mid Devon Local Plan Review 2013 – 2033 Proposed Submission (incorporating proposed modifications) was submitted to the Planning Inspectorate on 31<sup>st</sup> March 2017 for independent examination, together with the Community Infrastructure Levy Draft Charging Schedule Submission and supporting Submission Documents.
- 1.2 The Local Plan Review provides the most current evidence-based view of the needs of the Mid Devon area (outside the Dartmoor National Park) and has an aspirational yet realistic vision and strategy for sustainable development in this area for the period to 2033. It makes provision for approximately 7,860 new dwellings and 147,000 square metres of new commercial floorspace over a 20 year period, including strategic major allocations at the three main towns, Tiverton, Cullompton and Crediton, whilst positively managing development elsewhere to help meet economic and social needs and protecting the high quality environment. A strategic commercial and leisure allocation is made adjacent to Junction 27 on the M5 to provide a major visitor attraction that will improve the offer that Mid Devon can provide to visitors to the area.
- 1.3 The Local Plan Review carries forward many site allocations from the adopted Allocations and Infrastructure Development Plan Document (January 2011)(**LDO02**) and a significant number of development management policies from the 2012 NPPF compliant adopted Local Plan Part 3 Development Management Policies (October 2013) (**LDO03**).

### *Implementation of the plan*

- 1.4 Since the Local Plan Review has been prepared many of the proposed site allocations have been subject to development proposals that have been granted planning permission and in some instances are currently under construction or have been completed. Housing delivery in Mid Devon has seen a corresponding recent uplift, with 502 completions recorded in 2017/2018. Further information is provided in the Council's Housing Land Supply Topic Paper 2019 (**TPA02**) and Housing Land Availability Summary 2018 (**MID07**).
- 1.5 The Council is meanwhile progressing the masterplanning of major strategic urban extensions at Tiverton and Cullompton, and is proactive in securing funding for and the delivery of key road infrastructure to help support and provide greater certainty for plan-led development coming forward. Further information is provided in the Council's hearing statements for Tiverton and Cullompton.

### *Relationship with current and future plans*

- 1.6 Once adopted the Local Plan Review will replace the current Mid Devon Core Strategy (adopted 2007), Allocations and Infrastructure Development Plan Document (adopted 2010) and Local Plan Part 3: Development Management Policies (adopted 2013). It will form part of the statutory development plan for Mid Devon (outside the Dartmoor National Park) together with the adopted Devon Minerals and Waste Local Plans, and Neighbourhood Development Plans (once these have been examined, passed referendum and 'made').

- 1.7 The Council is currently working in partnership with Exeter City Council, East Devon District Council and Teignbridge District Council to prepare the Greater Exeter Strategic Plan (GESP). It is intended this will include strategic vision, policies and development allocations across the Greater Exeter area. The Council's Local Development Scheme (**ORD03**) indicates that draft proposals will be subject to public consultation later in 2019 with a submission plan in 2021 and adoption earmarked for 2022. The Greater Exeter Strategic Plan will replace relevant strategic policies and targets in the Mid Devon Local Plan Review and cover the period to 2040.

## 2.0 Meeting the tests of soundness

- 2.1 The Council believes the Local Plan Review, as submitted, fully meets the tests of soundness as set out in paragraph 182 of the 2012 National Planning Policy Framework (NPPF) against which it is being examined under transitional arrangements. It is positively prepared in that it is based on a strategy which seeks to meet the area's objectively assessed needs and infrastructure requirements, justified as it is considered to be the most appropriate strategy when considered against the alternatives and based on proportionate evidence, effective because it is deliverable over the plan period, and it is consistent with national policy in that it enables the delivery of sustainable development in accordance with the 2012 NPPF.
- 2.3 The Council proposes to amend the Local Plan Review through making additional (i.e. minor) modifications as set out in the Schedule of Minor Modifications March 2017 (**SD14**). The Council also proposes to make any necessary further additional minor changes to the Local Plan Review on its adoption which do not go to the heart of the Plan, for example which could include presentational improvements or other consequential alterations (e.g. correcting typographical errors or factual inaccuracies, and matters of clarification).

## 3.0 Legal obligations and procedural requirements

- 3.1 The Council has met its legal obligations and procedural requirements in the preparation of the Local Plan Review as follows:

### ***2004 Act (as amended) and 2012 Regulations***

- 3.2 The Local Plan Review complies with the Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning (Local Planning) (England) Regulations 2012.

### ***National planning policy and Council Policy***

- 3.3 The Local Plan Review is in conformity with national policy in the 2012 NPPF against which it is being examined.
- 3.4 The Local Plan Review provides the spatial planning basis for the Council to achieve the priorities set out in its Corporate Plan (**SOC06**).

### ***Local Development Scheme (LDS)***

- 3.5 The Local Plan Review is identified within the Mid Devon LDS as revised in November 2018 (**ORD03**). The new LDS updates and replaces the LDS 2016 (**SD15**).

- 3.6 The Local Plan Review's programme for preparation is compliant with the new LDS, which sets out an expected adoption date of July to September 2019 subject to hearing dates set by the Planning Inspectorate and receipt of the Inspector's report.

***Public Sector Equality Duty (PSED)***

- 3.7 The Local Plan Review (including proposed modifications made prior to its submission in March 2017) has been subject to an Equalities Impact Assessment 2017 (**SOC05**). This has assessed each policy and site allocation against five policy areas which have taken into account the 'protected characteristics' as set out in the Equalities Act 2010. Policies have evolved and altered throughout the Local Plan Review process to reduce discrimination and promote equality. 23 policies are noted as having a high / medium probable positive impact on protected characteristics and 2 policies (DM15 Development outside town centres and DM29 Planning enforcement) were noted as having a mixed impact but which build on national planning policy and are therefore justified. The Council is aware of its obligation to keep the Equalities Impact Assessment under review and is not aware of any circumstance which would result to a change in the assessment that has been carried out.

***Statement of Community Involvement (SCI) and relevant regulations***

- 3.8 The Council has met the requirements for community involvement for the preparation of the Local Plan Review as set out in the Regulations and the Council's adopted Statement of Community Involvement (SCI) October 2016 (**ORD01**). The SCI is currently being reviewed and no changes are proposed to its content relating to the preparation of Local Plans.
- 3.9 A Statement of Consultation (Regulation 22 c) (**SD07**) summarises how the Local Plan Review has been through consultation stages, including a Scoping Report (July 2013), Options Consultation (January 2014), Publication (February 2015) and Publication incorporating proposed modifications (January 2017). Further consultation on updates to the Sustainability Appraisal took place in January 2018.
- 3.10 The Council has published summaries of representations received on the Local Plan Review proposed submission (February 2015) (**SD10**) and Local Plan Review proposed submission incorporating proposed modifications (January 2017) (**SD11**). Both summary documents include the Council's responses to those representations.

***Sustainability Appraisal (SA) and Strategic Environmental Assessment (SEA)***

- 3.11 A Sustainability Appraisal (SA) (**SD03, SD04**) has been carried out in order to understand the sustainability effect of the Local Plan Review. The SA incorporates the Strategic Environmental Assessment (SEA) to meet the requirements contained in the Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regulations). The SA meets with the requirements of the SEA Regulations and also the Planning and Compulsory Purchase Act 2004 which places a duty on the Council to consider the sustainability of its plans.
- 3.12 The SA Update (2017) was subject to a further update in early 2018 (**SA02**). This followed a review by external consultant LUC (**SA03**) specifically in relation to main modifications that

had been made to the Local Plan Review prior to its submission to the Planning Inspectorate. The review focussed on the legal compliance of the SA Update (2017) in relation to Section 19 of the Planning and Compulsory Purchase Act 2004, the Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regulations) and under paragraph 182 of the 2012 NPPF. In response to LUC's recommendations, the Council has carried out additional work to clarify certain elements of the appraisal already undertaken. It has not been necessary to undertake additional SA work in relation to sites or other options, but this work has sought to clarify the decision making process and provide a clearer audit trail. The Council subsequently updated the SA Update (2017) and LUC has since concluded that "the work carried out and presented in the SA Update 2018 [SA02] document (taking into account the amendments the Council has made to the SA Update 2017) is proportionate and appropriate to meet the requirements of the SEA Regulations" (SA03, paragraph 1.6).

### ***Habitat Regulations Assessment (HRA)***

#### *Screening and Appropriate Assessment*

- 3.13 A Habitat Regulations Assessment (HRA) has been undertaken for the Local Plan Review by external consultant LUC. The HRA has considered the impact of the plan on European sites either alone or in combination with other plans. The HRA has followed relevant guidance and has been in line with the requirements of the Habitat Regulations 2007 (as updated in 2010 and 2012).
- 3.14 A HRA report was published in March 2015 (ENV02) for the Local Plan Review publication draft (January 2015). This included a screening of draft policies and proposals of the Local Plan Review. The HRA has also included an Appropriate Assessment in relation to potential impacts of the Local Plan Review on European sites in Mid Devon District (+10km) where likely significant or uncertain effects from the Local Plan Review were identified (or were not able to be ruled out) during the screening stage. The HRA report has concluded that provided the identified mitigation is implemented (as proposed by the Appropriate Assessment and that also provided by the policies of the Local Plan Review), adverse effects on the integrity of European sites around Mid Devon from policy and site options in the Local Plan Review, either alone or in combination with other plans will not occur in relation to: air pollution; changes to water quality or quantity; physical loss or damage to offsite habitat, or noise/vibration and light pollution; and recreation.
- 3.15 The HRA was subsequently updated in August 2016 with an addendum (ENV03) with a screening and Appropriate Assessment to take account of proposed changes to the supply of housing and employment land that were incorporated into the Local Plan Review publication draft. The HRA update August 2016 concluded that no changes are expected to the findings and conclusions of the HRA 2015 report.
- 3.16 The HRA was updated further in December 2016 (ENV04) to take account of the Council's inclusion within the submission draft Local Plan Review (SD01) of the allocation of land at Junction 27 for a major tourism, leisure and retail attraction, and some additional housing at Tiverton (Blundell's School, Policy TIV16) and at Sampford Peverell (Higher Town, Policy SP2). This HRA update includes Appropriate Assessment of air pollution impacts on the Culm

Grasslands SAC which is situated outside Mid Devon but immediately adjacent to the north western boundary of the district straddling the A361 North Devon Link Road. The HRA update (**ENV04**) has concluded that the Junction 27 allocation, alone or in combination with the Local Plan proposals or other plans and projects at the time of undertaking the HRA, will not have an adverse effect on the integrity of the Culm Grasslands SAC.

*Court of Justice of the European Union in People over Wind, Peter Sweetman v Coillte Teoranta (Case C-323/17)*

- 3.17 In light of the recent judgement of the Court of Justice of the European Union in People over Wind, Peter Sweetman v Coillte Teoranta (Case C-323/17) the Planning Inspector submitted a letter (**ID06**) requesting that the Council review the HRA and confirm the extent to which it is legally compliant.
- 3.18 Consultant LUC has reviewed the HRA on behalf of the Council (**ID07**). In summary LUC has concluded that in its professional opinion the overall conclusions of the HRA remain robust in light of the above case law. Although mitigation was taken into account at the screening stage (as detailed in **ID07**), “the potential likely significant effects that were associated with the three policies that were screened out on the basis of mitigation were included in the Appropriate Assessment anyway, as a result of other policies that were not screened out” (Para 1.12 & Table 1 **ID07**). The Local Plan Review was also subject to Appropriate Assessment. Had mitigation not been taken into account at screening stage, the Appropriate Assessment would still have been undertaken in the same way, i.e. including an assessment of the same type of impacts on the same European sites.

***Duty to Co-operate***

- 3.19 The Council has prepared a Duty to Cooperate Statement (**SD12**). This indicates that there is broad agreement that the duty to cooperate has been satisfactorily met in the relation to the Local Plan Review. The Duty to Cooperate Statement makes clear that Mid Devon is not seeking help from adjoining authorities to meet the housing need arising within the district, and there have been no requests from other authorities for Mid Devon to provide any of their need either. The statement also makes clear that the duty to cooperate has been met in relation to the inclusion of Policy J27 (for a major tourism, leisure and retail attraction adjacent to Junction 27) in the Local Plan Review. Policy J27 has been the subject of preliminary hearings held in September 2018 for the examination of the Local Plan Review and where the Inspector has subsequently indicated that he sees ‘no ‘in-principle’ difficulty with the allocation’ (**ID08**).
- 3.20 The Duty to Cooperate Statement is not presented as a Statement of Common Ground where this is required through paragraph 27 of the current 2018 NPPF. This is since the Local Plan Review is being examined under transitional arrangements in accordance with the current 2018 NPPF (paragraph 214), and the requirements of the 2012 NPPF (paragraphs 178 to 181) have been met.