

Sponsor: Strategic Director for Communities and Place  
Author: Spatial Planning Group Manager

## **Preparing a new Local Plan for Derby**

### **Purpose**

- 1.1 The Derby City Local Plan Part 1 (DCLP1) was adopted in January 2017. It sets out strategic planning policies, including a housing target and a strategy for meeting this and other development needs. The DCLP1 together with the saved policies of the City of Derby Local Plan Review (CDLPR) form the adopted development plan for Derby. This report seeks approval to begin work on a new Local Plan.
- 1.2 There have been several important developments that underpin this proposal:
  - a. changes to standard methodology for calculating housing requirements
  - b. need to align with our Derby Housing Market Area partners, particularly given the requirement to achieve target numbers from (a)
  - c. regulatory requirement to review Local Plans every 5 years
  - d. intended changes to the national planning system
- 1.3 Achieving the levels of growth required, due to changes in (a) above, will have significant impacts across the city. Taken with the other points above there is compelling justification to begin the process of preparing a new Local Plan. An indicative timetable is included in the report along with a proposal to establish a cross-party advisory group to oversee and steer the preparation.

### **Recommendations**

- 2.1 To authorise the Chief Planning Officer to begin work on a new Local Plan for Derby, having considered the preparation of a Joint plan with Housing Market Area partners as set out in para 4.5.3 of this report, and for this to review DCLP1 and CDLPR policies, integrating and up-dating draft DCLP2 policies into it as appropriate.
- 2.2 To agree and authorise the Chief Planning Officer to publish the schedule at Appendix 1 reviewing existing adopted Local Plan policies.
- 2.3 To recommend to Executive Scrutiny Board that they establish a cross-party Local Plan Member Working Group, to advise and steer the preparation of the new Local Plan.
- 2.4 To approve use £158,000 of the local plan reserve over the next 3 years to support the development of the plan.
- 2.5 To delegate authority to the Strategic Director for Communities and Place, following consultation with the Cabinet Member for Regeneration, Decarbonisation, Strategic Planning, to agree a Local Plan Timetable and revisions to the Local Development Scheme, in line with the indicative milestones in paragraph 4.12.

## Reasons

- 3.1 To comply with our statutory duty to prepare and maintain a Local Plan as required by the Planning and Compulsory Purchase Act 2004 and the National Planning Policy Framework (NPPF) and to consider preparing a Joint Plan with partners as required by Section 33A of the same Act.
- 3.2 In accordance with the requirements of s10A of the Town and Country Planning (Local Planning) (England) Regulations 2017.
- 3.3 To provide early and ongoing cross-party input into Local Plan preparation and other planning policy documents.
- 3.4 To ensure the sustainable funding of Local Plan preparation.
- 3.5 To ensure that the Council can update and publish a revised Local Development scheme in line with s15 of the Planning and Compulsory Purchase Act 2004 (as amended).

## Supporting information

- 4.1 The Derby City Local Plan Part 1 (DCLP1) was adopted in January 2017. It sets out strategic planning policies, including a housing target and a strategy for meeting this and other development needs. This strategy includes housing site allocations as well as policies to manage the impacts of development. The DCLP1 together with the saved policies of the City of Derby Local Plan Review (CDLPR) form the adopted development plan for the City.
- 4.2 It was intended to follow the DCLP1 with a Local Plan Part 2 (DCLP2), which would provide more detailed development management criteria-based policies as well as make further housing allocations if needed. The reasons set out below, however, indicate that we should now move to creating a new Local Plan, integrating any DCLP2 work undertaken so far.
- 4.3 **Why do we need a new Local Plan?**  
The key reasons are set out in 1.2 but described in more detail below:
  - 4.3.1 **a) Changes to the methodology for calculating housing need**  
Nationally there is a Government commitment to deliver 300,000 new homes per year and after several changes, a revised national standard methodology was introduced in December 2020. The standard methodology sets the housing requirement figure for each Local Authority and, since the December 2020 changes, includes an additional 35% for Authorities in the top 20 urban centres in England by population. In the East Midlands this includes Derby, Nottingham and Leicester.
  - 4.3.2 This change has a very significant impact on Derby's housing requirement figure, moving from a need to deliver 881 dwellings annually under the previous methodology, to 1,189. This compares with the current Local Plan housing requirement of 647 dwellings annually or 11,000 (2011-2028).

- 4.3.3 This would be an unprecedented level of housing delivery. The average number of dwellings built within the City since the start of the current plan period in 2011 is only 545 a year, and no single year since 2011 has seen more than 800 built.
- 4.3.4 **b) An Aligned Approach**  
Derby has been unable to accommodate the objectively assessed housing need figures in full through the current round of local plans (2011-2028), because it is a compact city with tight administrative boundaries. Partner authorities in South Derbyshire and Amber Valley, however, agreed under the Duty to Cooperate (DtC), to deliver about a third of our overall housing growth for this period.
- 4.3.5 These two authorities have already begun preparing new Local Plans for a longer plan period. If we are to work in collaboration with our HMA partners, and other neighbouring authorities, to address future need for housing and other development pressure, we must be aligned on new Local Plans. The changes to the standard methodology for housing need makes this an imperative as there is a very real possibility we will not be able to meet our housing requirement in full within our administrative boundary, given the significant increase resulting from the 35% uplift.
- 4.3.6 **c) 5-year Review**  
Since the adoption of the DCLP1, the Government introduced a requirement for Local Authorities to review their Local Plans within five years of adoption. The Derby Local Plan therefore needs to be reviewed before January 2022. The review process is not in itself a requirement to prepare a new local plan, rather it means a proportionate assessment of whether the adopted Local Plan and its policies remain effective, and to identify any areas for update. The review must be transparent and made available for scrutiny on the Council's website.
- 4.3.7 This review has been undertaken as a self-assessment using the Planning Advisory Service (PAS) Local Plan Route Mapper Toolkit. This framework considers whether there has been a significant change in circumstances which affects a plan's policies and whether they remain consistent with current national planning policy in the NPPF 2021. Attached at **Appendix 1** is the PAS self-assessment, identifying those areas of the Local Plan that need updating.
- 4.3.8 It is important to understand that being assessed for update does not necessarily mean that policies are out of date in terms of decision making. National Planning Practice Guidance states that "*policies age at different rates according to local circumstances and a plan does not become out-of-date automatically after 5-years*". Policies in a plan over 5 years old can still be given due weight in the decision-making process if they remain consistent with the NPPF and it is up to the Council, as Local Planning Authority, to decide what weight to give to these policies.
- 4.3.9 The only area where our existing planning policies are no longer consistent with national policy are those dealing with meeting housing requirements, reflecting changes to the Government's standard methodology as set out in 4.3.1. This is a serious inconsistency given the significance Government attaches to having up-to-date housing policies. This inconsistency on its own indicates that a new Local Plan is needed.

- 4.3.10 The change to our housing requirement figure will also affect our decision making on planning applications. Once our Local Plan reaches its 5-year review date in January next year, we must use the standard methodology housing requirement figure, rather than our current Local Plan target, to calculate if we can demonstrate a 5-year supply of deliverable housing land. Given the significant increase it is likely that we will not be able to demonstrate a 5-year supply.

As well as necessitating an update to our policies, not having a 5-year supply also means that we must invoke the presumption in favour of sustainable development or 'tilted balance' in terms of determining planning applications, as set out at paragraph 11 of the NPPF. This means granting permission unless:

- i. the NPPF provides a clear reason for refusing the development proposed; or
- ii. that any adverse impacts granting permission would significantly and demonstrably outweigh the benefits, when assessed against the policies in NPPF as a whole

4.3.11 **d) Proposed changes to national planning system**

The intention to publish a Planning Bill was announced in the Queen's Speech, which will set out the Government's response to the Planning White Paper issued during summer 2020. The White Paper outlined radical changes to the plan making process, introducing a 'zoning plan' and removing traditional local 'criteria-based' policies. The latter would have formed the bulk of the policies intended to be included in the DCLP2, but the White Paper proposed that these would instead be set at a national level.

- 4.3.12 At present it is not known when the Planning Bill will be published. Rather than waiting, the uncertainty caused by the proposed planning reforms justifies preparing a new local plan under the current system. Any delay in addressing the City's increased housing requirement will impact on the effectiveness of plan making across the Derby HMA. It will make the Authority vulnerable to challenge that our adopted Local Plan policies are no longer up to date and lengthen the period we are required to invoke the tilted balance in the decision making process as outlined at paragraph 4.3.10.

- 4.3.13 It is considered that the risk of undertaking abortive work on a new Local Plan, should the planning system change, is outweighed by these considerations and can also be mitigated by concentrating initial work on those areas of plan making that will be required irrespective of the eventual plan making process, as set out at 4.9.

- 4.4 These four elements combine to strongly indicate that we should begin a new Local Plan. Most importantly if we begin a new local plan process now, it will allow us to work effectively with our neighbours to address our future housing and growth needs over the long-term.

4.5 **Current actions**

Along with completion of the 5-year review, several other actions are underway that will inform a new Local Plan process:

#### 4.5.1 **Housing Needs and Land Capacity**

As explained in 4.3.5 it is very unlikely Derby will be able to fully meet its housing requirement within the administrative boundary. Understanding our capacity to accommodate growth will inform discussions with neighbouring authorities. For these discussions to arrive at an agreed approach for dealing with Derby's unmet housing need, we need to keep pace with Derby HMA partners plan making.

#### 4.5.2 Work is underway to establish the likely land capacity available within the City to accommodate the level of housing growth required. This will explore and maximise development opportunities on brownfield land, especially in and around the city centre and identified through the emerging new Derby City Centre Plan.

#### 4.5.3 **A HMA Joint Local Plan**

Derby HMA Authorities, through the Joint Advisory Board, have been considering how to address the next round of plan making, including the preparation of a Joint Local Plan. It has been agreed that HMA partners will prepare separate new local plans for their administrative areas, but that these individual Local Plans should seek to achieve and maintain alignment between them.

#### 4.5.4 Cabinet is therefore advised that whilst considering the preparation of a Joint Local Plan, as required by Section 33A of the Planning and Compulsory Purchase Act 2004, the preparation of a separate, but aligned plan represents the most appropriate way forward.

#### 4.5.5 **HMA wide strategy**

The HMA Joint Advisory Board has agreed that, rather than preparing a joint plan, the necessary alignment between individual Local Plans can be achieved through the preparation of some form of joint strategy, or similar non-statutory document, for the Derby HMA as a whole. This would guide the production of the individual yet aligned Local Plans.

#### 4.5.6 A 'Growth Opportunities Study' for the whole of the Derby HMA, outside of the City, is being undertaken to identify opportunities for long term growth to 2050 and to complement the capacity analysis carried out in the City. This will underpin the development of any HMA wide strategy and inform the options for the scale and distribution of future development.

#### 4.6 **Scope the new Local Plan**

It is proposed that the new Local Plan would look forward to around 2040 rather than the current date of 2028. The new Local Plan allows us to address key issues affecting the City afresh, without the need to conform to the strategy set out in the DCLP1. This fits with the requirements of the National Planning Policy Framework (NPPF) by demonstrating our approach is pro-active and sustainable.

- 4.7 Since the adoption of the DCLP1 there have been several nationally and locally important developments that a new Plan would allow us to respond to more effectively, including:
- climate change and the national 2050 net carbon zero target, alongside the emerging Derby Climate Strategy and Council Action Plan
  - the impact of the current Covid19 pandemic
  - the creation of a new Derby City Centre Plan
  - recently amendments to the NPPF have introduced a “building beautifully” concept and requirements for local design codes
- 4.8 Some of these matters do require a more immediate response, it is therefore proposed that non-statutory ‘interim’ policies are prepared where relevant, on climate change for instance, whilst the new Plan is being developed. Such interim policies will be used on an informal basis but ultimately integrated into the new Plan.
- 4.9 **Local Plan Member Working Group**  
The Local Plan is a critically important strategic, statutory document. It has implications for everyone who lives, works, visits and invests in our city, because it shapes what our city looks and feels like in the future, as well as setting the context by which decisions on planning applications are made every day. With such a profound long-term influence, it is recommended that cross-party political involvement is vital. The introduction of new governance arrangements is needed to steer and advise on Local Plan preparation and any other planning policy documents that might be prepared, such as Supplementary Planning Documents and Design Codes.
- 4.10 It is proposed, therefore, to establish a new Local Plan Member Working Group to undertake this oversight role, acting as a task and finish group of Executive Scrutiny Board. The group would be able to consider the full range of Local Plan issues and how to address them. It would provide recommendations to Executive Scrutiny Board who can in turn make recommendations to Cabinet. This bespoke group would allow its members to meet more frequently and fully engage with the complicated and lengthy nature of Local Plan preparation. It would also provide an opportunity for all political parties to be involved throughout the preparation process rather than when a formal decision is needed. It is suggested that Cabinet request that Executive Scrutiny Board establish a Local Plan Member Working Group. If agreed, a further report and draft terms of reference will be put to the Board for their endorsement.
- 4.11 **Initial Priorities and Key Milestones**  
Initial work on a new Local Plan would concentrate on those areas that will be needed irrespective of the eventual plan making process; minimising the risk of abortive work should planning reforms be introduced more quickly than anticipated. This work includes reviewing the existing adopted Local Plan policies as described, establishing the capacity to accommodate future growth needs within the City; and, as outlined above, working with HMA partners to establish a strategy for accommodating future growth across the HMA enabling us to agree a housing target for the new Local Plan and corresponding site allocations.

- 4.12 The table below sets out indicative milestones although the dates would be affected by any changes to the planning system introduced at a national level and by the resources available to undertake plan making work. The key tasks and a more formalised timetable would be set out in an update of the Council's Local Development Scheme.

Plan Making Stage	Indicative dates
Initial plan making work: Review adopted Local Plan policies, Evidence gathering, developing HMA Strategy, informal stakeholder and community consultation (Reg 18)	Autumn 2021-Winter 2022
Approval of draft Local Plan for Consultation (Reg 19)	Spring 2023
Approve, consult and submit draft Local Plan for independent examination (Reg 22)	Autumn 2023
Independent examination by the Planning Inspectorate (Reg 24)	Spring 2024
Adoption of Local Plan (Reg 26)	Winter 2024

- 4.13 The delegation sought in this report would allow the Cabinet Member for Regeneration, Decarbonisation, Strategic Planning and Transport working with the Strategic Director for Communities and Place to agree a new Local Development Scheme.

## Public/stakeholder engagement

- 5.1 Involvement of the public and stakeholders in Local Plan preparation is a key part of the plan making process, which is guided by national regulations and policy and the requirements of our own Statement of Community Involvement. The Local Plan will be prepared in line with these requirements or any requirement that replaces them brought about by the anticipated Planning Bill.

## Other options

- 6.1 **Wait for further details from the anticipated Planning Bill**  
As set out at paragraph 4.3.4 we need to work with our HMA partners and neighbouring authorities to address how we meet our housing requirements. Not commencing a new Local Plan and waiting for further details from the Planning Bill risks being left behind in the process and failing to find a solution for dealing with any of the City's increased housing requirement that cannot be met within our administrative boundaries.

## Financial and value for money issues

- 7.1 The cost of preparing a Local Plan is estimated to be £325,000 over a 3-year period starting in the financial year 2022/23. The plan will be funded from the existing annual revenue budget and the Local plan reserve.

The annual revenue budget available is £56,000 so total revenue over the 3-year period will be £168,000. Uncommitted funds available in the Local plan reserve is £158,000

The preparation and maintenance of an up-to-date local plan is a statutory requirement on the Council. Failure to prepare one within nationally set time frames

will result in the loss of control over decisions on planning applications and could result in the Government appointing a third party to prepare a plan and re-charging the Council.

## Legal implications

- 8.1 The recommended approach is consistent with the Council's obligations as the Local Planning Authority to prepare and maintain a local plan under the Planning and Compulsory Purchase Act 2004 and the National Planning Policy Framework. They are also consistent with the Council's obligations under the Duty to Cooperate to work with partner Authorities and other organisations to ensure that strategic issues are properly addressed.

## Climate implications

- 9.1 The capacity of the City to accommodate future development and the overall HMA strategy for growth will in part be based on a sustainability appraisal that takes account of mitigating and adapting to climate change, including reducing car borne travel, promoting growth locations capable of exploiting or delivering sustainable transport choices. A new Local Plan offers the potential to develop stronger climate change policies and to incorporate elements of Derby's emerging Climate Change Strategy into a statutory plan.

## Other significant implications

- 10.1 An Equalities Impact Assessment (EIA) of the policies of the new Local Plan will be required and we will engage with the Council's Equalities lead during plan preparation.

This report has been approved by the following people:

Role	Name	Date of sign-off
Legal	Stephen Teasdale	15 November 2021
Finance	Janice Hadfield	23 November 2021
Service Director(s)	Verna Bayliss	23 November 2021
Report sponsor	Rachel North	23 November 2021
Other(s)		

Background papers:	
List of appendices:	Appendix 1 – Schedule of Local Plan Policies reviewed (under Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2017