

REPORT TO:	COUNCIL	AGENDA ITEM: 16
DATE OF MEETING:	27 FEBRUARY 2025	CATEGORY:
		DELEGATED
REPORT FROM:	EXECUTIVE DIRECTOR PLACE AND PROSPERITY	OPEN
MEMBERS' CONTACT POINT:	STEFFAN SAUNDERS (HEAD OF PLANNING AND STRATEGIC HOUSING), steffan.saunders@southderbyshire.gov.uk	DOC:
SUBJECT:	DRAFT LOCAL PLAN PART 1 REVIEW (PUBLICATION UNDER REGULATION 19)	
WARD(S) AFFECTED:	ALL	TERMS OF REFERENCE:

1.0 Recommendations

1.1 That Council

- Approves the updated Local Development Scheme (LDS) in Appendix 1 to this report to be published on or before 6 March 2025.
- Approves the Housing Provision Position Paper (HPPP) in Appendix 2 to this report to be published on or before 12 March 2025.
- Approves the Draft Local Plan Part 1 Review in Appendix 3 to be published under Regulation 19 of the Local Plan Regulations with the required supporting documentation on or before 12 March 2025.

1.2 Authorises the Head of Planning to agree further minor changes in consultation with the Chair of Environmental and Development Services Committee prior to the publication of the Draft Local Plan Part 1 under Regulation 19 on or before 12 March 2025.

2.0 Purpose of the Report

2.1 To seek approval for the publication of the Regulation 19 Publication Version Local Plan Part 1 and supporting documents to be published in line with the National Planning Policy Framework (NPPF) transition arrangements. This follows a decision from Environmental and Development Services (EDS) Committee on 11 February 2025 to agree the following main changes to the plan from that published for consultation under Regulation 18 between October and December 2024. The main change to the plan approved by EDS Committee were:

- To extend the Local Plan period to 15 years post adoption (from 2039 to 2041).
- For the housing requirement to be rounded to 14,500 (and with the two years plan extension this gives an annual housing target of 763 from 852).

- To identify Land South of Mackworth as a growth option in South Derbyshire to align with Amber Valley's approach to the remainder of the site which is identified for strategic development of 2000 homes in their Local Plan (land South of Brun Lane) to comprise up to an additional 250 homes to contribute towards meeting the requirement in South Derbyshire.
- To allocate the Freeport site in the Local Plan as opposed to a safeguarded area.

2.2 The Draft Local Plan at Appendix 3 includes these changes and various others for the reasons set out in the Statement of Consultation which can be found via the link at 3.2 below.

2.3 The responses, including the reasons for amending the Draft Local Plan or not, are available to view under the link below at 3.2..

3.0 Executive Summary

3.1 The Council commenced the preparation of the Local Plan review with an Issues and Options consultation (Regulation 18) in the autumn of 2022. The comments received from this initial consultation alongside emerging evidence and changes to national policy informed an initial draft of the Local Plan (The Draft Local Plan Part 1 Review). The documents required by Regulation for publication alongside the plan are:

- The Sustainability Appraisal and Habitats Regulation Assessment.
- The Policies Map
- The Statement of Consultation
- The Statement setting out the location of documents for Inspection and the Statement of Representations Procedure

3.2 The Draft Local Plan Part 1 Review set out the Councils proposed approach to meeting the Councils strategic housing need, helping to address some of the unmet housing need from Derby City, and meeting the Councils strategic employment development needs. This is a review of the Local Plan (comprising an update of the existing adopted Part 1 Local Plan and this point is clarified in the Regulation 19 version in Appendix 3. It is expected that once adopted the Council will review the Local Plan and this is included in the LDS in Appendix 1. Publication of the Local Plan by 12 March will keep a realistic possibility of undertaking a Local Plan Part 2 to be submitted for examination by 31 December 2026 and by doing so ensuring a comprehensive and up to date Local Plan coverage is place within the next two years comprising a full review of the Local Plan Part 2 with consideration given to the need to review the full Local Plan comprehensively. The Draft Local Plan Part 1 Review was consulted on in the autumn of 2024. A copy of the responses are available to view on the Councils website via the following link.

<https://www.southderbyshire.gov.uk/our-services/planning-and-building-control/planning/planning-policy/current-consultations-version-two/draft-local-plan-part-1-review>

3.3 The Council has considered all the consultation responses in detail and has reflected on these when finalising the next draft the Local Plan (Regulation 19) included at Appendix 3. The Regulation 19 draft of the Local Plan (the Publication Version Plan) will be what the Council considers to be the final version of the Local Plan which will be subject to further consultation, and which will be submitted to the Planning Inspectorate for their consideration through a public Examination.

3.4 This Local Plan has been informed by up-to-date information on housing supply and including that relating to the two strategic sites (SRA1 and Infinity Garden Village, and

STRA2 South of Mickleover). The details are included in the Housing Provision Position Paper included in Appendix 2. This shows that the Council is able to robustly demonstrate a five-year housing land supply on various scenarios.

- 3.5 Following the close of the Local Plan consultation a new draft of the National Planning Policy Framework was published (12 December 2024) which has implications for how housing requirements are calculated. To continue plan production under the previous version of the NPPF (i.e. 2023) the Council will need to publish the plan and supporting documents under Regulation 19 by 12 March 2025.
- 3.6 It is considered necessary for the Council to meet this deadline for several reasons. These include a clear understanding of housing numbers in relation to Derby and Amber Valley including work through the Amber Valley Local Plan hearing sessions with South Derbyshire District Council (SDDC) having a lower baseline under the 2023 NPPF, closer alignment with Amber Valley who have a Local Plan at Examination, avoiding the need to revisit and potentially start again on evidence on which the Local Plan is based particularly in relation to Green Belt issues which have changed more significantly in the revised NPPF loosening Green Belt planning controls, minimising the risk of undermining the fundamental plan strategy of meeting unmet need from Derby in close proximity to Derby and delivering the necessary infrastructure to make such strategic allocations sustainable high quality communities of the highest design quality, minimising the risk of needing to allocate or approve less sustainable development in rural areas in more piecemeal manner with less infrastructure delivered around Swadlincote and the villages, minimising the risk of further delays to the delivery of the large strategic sites the planning of which has already been subject to a lot of time and expense with the undertaking of detailed heritage assessments and a detailed and collaborative design review process with Design Midlands.
- 3.7 In summary the main approach to meet unmet need arising from Derby on the same two housing led strategic sites with the same overall housing numbers on the edge of Derby is recommended to remain.
- 3.8 The key recommended changes are to round the housing numbers up to 14,500 (from 14,483), and to extend the plan period by two years to 2041 to give 15 years from the likely adoption in early 2026, to identify the area south of Mackworth as a future location for growth in the event of Amber Valley continuing with the promotion of Mackworth as the strategic growth option in their Borough, and to include the Freeport as a specific allocation as opposed to a 'safeguarded area'. There are a number of other changes to the plan all of which are in response to comments from various consultees and amount to good points of clarification or sometimes avoiding unnecessary repetition. The protection afforded to rural areas are not weakened by the recommended changes to the plan. In addition there are some changes to the content of the allocation policies mainly in response to statutory consultees, and some minor changes to the South of Mickleover site to remove some areas from the allocation (to the north of the site) in response to comments from the landowners planning agent, and to add some areas in the south without reducing the distances between built development and nearby communities at either the Pastures Hospital estate or Burnaston Village.
- 3.9 The implications of these changes would be to reduce the SDDC annual housing requirement from 852 dwellings to 763. This is considered justified due to reduced housing need arising from Derby in the 2024 NPPF and a realistic build trajectory now being in place for both of the residential led strategic sites which includes build out beyond the end of the plan period as amended to 2041.

3.10 In addition, the fundamental issue this plan seeks to address of assisting in meeting unmet need arising from Derby remains, albeit the balance between the three HMA Council's has changed as shown in more detail below. It is anticipated that the Amber Valley Local Plan Inspectors will issue a letter to Amber Valley which amongst other things is expected to cast some doubt on the delivery of the Mackworth allocation. At the time of drafting this report the letter is due imminently. It is also considered to be good planning to identify the area adjacent to Mackworth as shown in the Local Plan in appendix 3 as a future location for growth in South Derbyshire District Council (SDDC) only in the event of Amber Valley proceeding with the allocation at Mackworth. This would add 250 homes to the housing supply taking into account site constraints in the District and will assist in providing a range of options in sustainable locations to meet the overall Local Plan strategy.

4.0 **Detail**

- 4.1 Following on from the initial Regulation 18 (of the Town and Country Planning (Local Planning) Regulations 2012) Issues and Options consultation undertaken in 2022, the Council undertook a subsequent discretionary Regulation 18 consultation which outlined the preferred approach to addressing the strategic issues (housing and employment development) faced by the Council. The responses to this were reported to EDS committee on 11 February but not the Council's response and the full updated Local Plan in response.
- 4.2 When the Draft Local Plan was approved for consultation at SDDC in September 2024 there was a close link between the unmet housing need arising from Derby (9,000 homes) and the provision of this shortfall in the SDDC and Amber Valley Local Plans (5,609 in SDDC and the remainder in Amber Valley, although this in Amber Valley was subject to some assumptions around the delivery of the Mackworth site).
- 4.3 The position now, showing the NPPF standard method (SM) housing need figures from 2023 and 2024, is given in the table below. The Standard Method figures are the starting point for housing provision in Local Plans and do not take into account unmet need within the HMA.

Table 1

	Previous NPPF Annual Need (December 2023)	Previous NPPF Plan Need (2022 to 2039)	New NPPF Annual Need (December 2024)	New NPPF Plan Need (2022 to 2039)
Amber Valley Borough Council	351	6,188	615	10,455
Derby City Council	1244	21,522	906	15,402
South Derbyshire District Council	507	8,874	581	9,877
Total	2102	35,734	2102	35,734

*The 2024 figures have been updated further with the new annual household growth forecast and this gives an annual figure of 498 homes in South Derbyshire. These are not included in the table above as these will need to be updated again when the annual affordability ratio is published in the spring, and this is expected to result in an increase in the numbers. This won't be in time for the publication of the Local Plan by 12 March

- 4.4 The implications of this for each Council are given in more detail below.

Amber Valley

- 4.5 Amber Valley are proposing a 15 year plan period to run to 2040 from adoption and they have the 2023 NPPF figures 'locked in' meaning that they have got past

Regulation 19 stage already and their Local Plan is examined based on the 2023 NPPF figures, with the 351 annual requirement. Their examination is well advanced, and they will be publishing their Inspectors letter any time now. They have advised colleagues in the Derby HMA that the Inspectors will accept their housing need at 351 per annum together with the uplift that Amber Valley were promoting at Mackworth to help to meet Derby's need, which was lower than the figure SDDC said they could provide. The Inspectors are expected to say that 1,300 over the plan period should be added to the 351 annual total (to contribute to Derby's need) giving an annual uplift of 73 homes, an annual total figure of 424 and a total 18 year plan period figure of 7,632.

Derby City

- 4.6 One of the main messages from the AVBC Local Plan examination and others is that Inspectors are generally not accepting plan periods that are less than 15 years from adoption. Derby will soon be publishing an amended LDS to specify a Local Plan adoption date of 2028 giving a 15-year post adoption period to run to 2043. Taking this extended plan period into account and applying their own capacity figures and their now expected plan 'start date' of 2023, they have indicated to their HMA colleagues that their updated unmet need taking into account the reduced 2024 NPPF figures but factoring in their extended plan period is 5,620. This rolls forward the 2024 NPPF figures by 4 years but does not factor in any additional supply for these 4 years as they remain of the view that the assumptions regarding delivery for the period up to 2039 also applies to these 4 years from 2039 (effectively capping their housing figures at 12,500). They are mindful of the point that their capacity figures have not yet been scrutinised by the development industry and it will be as part of upcoming appeals at Derby. Experience from elsewhere including South Derbyshire is that when challenged at appeal housing supply figures are more likely to be downgraded than increased. Supply figures are rarely if ever upgraded following a robust critique from planning agents acting from the development industry. Derby have not published their capacity figures, and the figures put forward by Derby are the only ones that will be available prior to the Publication of the SDDC Local Plan by 12 March 2025.

South Derbyshire District Council

- 4.7 If the Local Plan is published by 12 March 2025, SDDC will also have our Local Plan examined under the 2023 NPPF Figures. This is an annual need of 507 which over 19 years to 2041 (the recommended plan period taking into account the above point regarding 15 years) is 9,633. For SDDC the plan supply (not including the two strategic allocations at STRA1 and STRA2) taking into account existing allocations, sites with planning permission and limited allowances for windfalls on NPPF compliant assumptions on such sites is close to 11,000 homes with the final figures included in the 2025 Housing Provision Position Paper to support the publication version of the Local Plan and attached at Appendix 2. The two strategic allocations comprise 4,500 in the total supply of which 3,450 are now expected to be built out over the plan period to 2041 (1800 at IGV and 1650 at South of Mickleover). When adding these two sites with a combined total of 3,450 homes in the plan period this gives a total housing supply of very close to the recommended plan target figure of 14,500. This gives an amended figure of 4,867 to contribute to Derby's unmet need.

4.8 The HMA position as it currently stands is given in the table below.

	Annual target	Expected Plan provision for each Councils end date	NPPF total plan requirement based on 2023 NPPF for AVBC and SDDC and 2024 NPPF for DCC following each Council's plan end date.	Total over or under-provision based on 2023 NPPPF for AVBC and SDDC and 2024 NPPF for DCC
Amber Valley	424	7,632	6,318	+1314
Derby		12,500 (Capacity Cap)	18,120	-5620
SDDC	763	14,500	9,633	+4,867
		34,632	34,071	+561

New National Planning Policy Framework

- 4.9 On the 12 December (following the close of the consultation) the government published a new draft of the National Planning Policy Framework (NPPF). Overall, there are no fundamental changes which would require changes to the Local Plan provided the 12 March deadline is met, which approval at this committee will enable. Key changes in the new NPPF include reinforcing the need to use the Standard Method for housing need calculations and reducing some of the flexibilities in place in line with the 2023 NPPF, introducing a new standard method (which applies from the date of publication), introducing 'Grey Belt' (i.e. previously developed land in the Green Belt), introducing affordable housing requirements on Green Belt development, new requirements for developers to inform the Council about development build out rates and powers to refuse permission where build outs have been slow. The transitional arrangements for Local Plan production states that where a Local Plan has reached Regulation 19 consultation (pre-submission) on or before the 12 March 2025 where the Local Plan meets at least 80% of the new housing requirement can proceed under the previous version of the NPPF.
- 4.10 The 80% test is met with the draft local plan and so provided the 12 March deadline is also met the Council will 'bank' the 2023 NPPF in the examination of this local plan, as long as it's submitted for examination by December 2026 as set out in the LDS (Appendix 1). It is currently anticipated that the Local Plan part 1 will be submitted for examination by Autumn 2025.
- 4.11 Of most significance to the current plan strategy of focussing the strategic sites on the edge of Derby, a reduction in Derby's need and an increase in our own under the 2024 NPPF will be used by a number of responders to justify an amended strategy of more dispersed development around the District with has already been subject to sustainability appraisal as a less sustainable option than the Derby focus for the new Strategic sites. The recommended approach to publish the Local Plan with the two strategic sites on the edge of Derby remaining, reduces the risk to the Council of losing control of the Plan led approach for the District in a planning by appeal scenario.

Housing Requirements

- 4.12 The NPPF (old and new) states that the starting point for calculating the District's housing need is the Standard Method, this is adjusted in line with annual affordability ratios and annual household growth forecasts. Table 1 above shows the Council's housing requirement based on the Standard Method.
- 4.13 The Councils housing need fluctuates in line with the household projections and affordability ratio and in combination these variables lead to a fluctuation of a handful of homes any given year. The housing need becomes 'fixed' at Submission of the Local plan to the planning Inspectorate. The Council also has a Duty to Cooperate with Neighbouring Authorities. Derby City Council has identified a shortfall due to capacity constraints within its own authority area and has formally requested that South Derbyshire considers meeting some of its unmet need. Despite changes to the individual HMA Councils requirement the overall need across the HMA remains substantially unchanged.
- 4.14 As shown in the table above Derby's housing requirement has reduced since the Regulation 18 consultation was undertaken. SDDCs has increased moderately, and Amber Valley's has increased significantly. Notwithstanding this there are a number of reasons why it is recommended to broadly retain the overall supply in the plan. These include the need to consider extending the plan period (to ensure 15 years at adoption as per the NPPF requirement), the possibility that the Councils requirement will increase again due to the annual adjustment factors prior to submission, to allow flexibility in the supply to accommodate unforeseen delays to delivery, to ensure that the HMA need will be met and it is not expected that the housing-led strategic allocations (STRA1 & STRA2) will deliver in full during the local plan period. This will be included in the plan and supporting documents at the Regulation 19 publication stage. There remains a close link between the housing provision figures recommended for inclusion in the SDDC Local Plan and meeting a proportion of unmet need arising from Derby. In percentage terms this is an increase from the Draft Local Plan as approved in September 2024, but in broad terms the recommended approach remains consistent with the SA findings that the accommodate unmet need from Derby on the Derby urban fringe amounts to Sustainable Development. The recommended approach results in a reduction of the annual housing requirement in the SDDC Local Plan from 852 a year at consultation stage in October 2024, to 763 now, taking into account the reduced housing need from Derby.
- 4.15 Even allowing for uncertainties around the plan period and whether Derby can bring further sites forward post 2039, this is not going to amount to an ability to delete one of the two strategic sites from the SDDC Local Plan or to reduce the scale of development on either site. To reduce the scale of one of the sites would conflict with the Local Plan objective of meeting need on large sites that can provide a close link between housing provision where it is most needed and the infrastructure to support it. In addition, the Part 2 Local Plan, based on the recommended strategy in the Part 1 Local Plan, will only need to consider non-strategic development in and around Swadlincote and the villages, largely reflecting the approach in several Neighbourhood Plans. If the housing provision figures in the Local Plan as recommended for publication are accepted at the Examination in Public including the timing of their delivery, there will not be a need for strategic scale allocations or close to such, but with the deletion of one of the strategic sites now, this increases the risk of an Inspector at the Part 2 Local Plan stage to conclude that more development is needed around Swadlincote and the villages.

- 4.16 There are difficulties in AVBC bringing forward the Mackworth site within their Local Plan period due to ownership issues. The AVBC Inspectors are likely to identify this as a future growth option which is the basis on which the recommended addition of 250 homes South of Mackworth to provide the site with additional road frontage to support the delivery of the site as a whole, has evolved from the Amber Valley Examination. This also amounts to additional capacity which will contribute towards meeting housing need in SDDC, to address housing need post 2041, and also to reduce the pressure on releasing sites around Swadlincote and the villages.
- 4.17 The other recommended main change to the plan is in relation to the 'allocation' of the Freeport site, but this is to be explicit that this is to meet Regional and National needs and any delay in delivery will not put extra pressure on other large employment sites in SDDC.

Further Evidence Required

- 4.18 If the Council is to meet the 12 March 2025 deadline for consultation there are a number of evidence base documents that could impact on the content of the final plan that won't be finalised prior to consultation including transport modelling, plan wide viability which will indicate whether a Section 106 or levy based system is most effective at securing the necessary infrastructure, and Strategic Flood Risk Assessment Level 2. The Council will be able to consider the implications of these at a later date and it is not anticipated that any of these evidence base documents will require an amended strategy. It is much more likely based on several rounds of plan preparation that the transport modelling work in particular will fully endorse a strategy of meeting housing need closest to where it is needed in Derby and closest to the strategic road network with several committed enhancement schemes in the pipe line including the A50 new junction to serve STRA1 (IGV) and the A38 improvement scheme that will assist in the delivery of STRA2 (south of Mickleover). These locations are also likely to be among the most viable creating new sustainable communities in their own right with excellent links to Derby and beyond. The strategic sites can also be developed for built development restricted to Flood Zone 1 (least risk of flooding).
- 4.19 The Council has commissioned Design Midlands to undertake a Design Review of the three strategic allocations. These reviews took place on 16, 20 and 23 January and recommendations on the sites is not available at the time of drafting this committee report. It is expected that these recommendations will be available prior to 27 February.

Next Steps

- 4.20 The next step is for the Council to consult upon a Publication Version of the Local Plan under Regulation 19. This is the final draft of the Local Plan, this plan along with all responses to the consultation will be submitted for public examination

5.0 Financial Implications

- 5.1 None directly arising from this Report.

6.0 Corporate Implications

Employment Implications

- 6.1 None directly relating to this report.

Legal Implications

- 6.2 None directly relating to this report.

Council Plan Implications

- 6.3 Having an adopted up-to-date Local Plan is a corporate plan priority. Approving the approach to evidence gathering supports the progress on Local Plan production.

Risk Impact

- 6.4 Not approving the approach to evidence gathering may delay Local Plan production which could mean that the Council is unable to meet the June 2025 deadline for Local Plan production under the existing Local Plan system. Not meeting this deadline is likely to lead to significant delay and financial cost in the production and adoption of a Local Plan.

7.0 Community Impact

Consultation

- 7.1 This report follows the outcome of public consultation. The next stage of Local Plan production will also be the subject of public consultation to ensure that stakeholders are able to influence the future development of the district.

Equality and Diversity Impact

- 7.2 An Equality Impact Assessment is appended to this report (Appendix 4)

Social Value Impact

- 7.3 None directly relating to this report.

Environmental Sustainability

- 7.4 The Local Plan includes policies to ensure that environmental sustainability is a key consideration for future development within the district. Progression with Local Plan production and evidence gathering will assist in achieving this aim.

8.0 Conclusions

- 8.1 The Local Plan will be published under Regulation 19 subject to Council approval. There remains the opportunity to amend the plan (with Main Modifications) post publication and the publication version of the Local Plan with any such main modifications will be returned to Council for a decision prior to submission. All policies and allocations in the Local Plan need to be based on evidence and in some cases further evidence is required to inform the Plan. The Council will also need to ensure that the Local Plan submitted for examination is deliverable.

9.0 Background Papers

Appendix 1: LDS.

Appendix 2: HPPP.

Appendix 3: Draft Local Plan Part 1 Review

Appendix 4: Equality Impact Assessment