

North Yorkshire County Council

Executive

13 December 2022

Report of the Member Working Group on Planning

Report B - Recommended Approach to Plan Making for North Yorkshire

Local Government Review (LGR) Planning Workstream:
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Harrogate Borough Council

1.0 Purpose of Report

- 1.1 To brief Executive on the recommended approach to plan making for North Yorkshire, taking into consideration legal requirements, local context, an assessment of risks and benefits and feedback from the Members Planning Task and Finish Group held on 3 October 2022.
- 1.2 To ask that Executive support the recommendations set out in section 10 and seek agreement for them to be taken forward for decision by Full Council.

2.0 Background

- 2.1 Section 15 of the Planning and Compulsory Purchase Act 2004 (as amended) requires the council to prepare and publish a Local Development Scheme (LDS)¹. This will set out the process and timescales for the preparation of those documents that will collectively form the development plan for North Yorkshire. It will also include project management arrangements, information on the evidence required to support plan preparation, resource requirements and an evaluation of the risks to its preparation.
- 2.2 It is important that officers, Members, local communities, partners and stakeholders have clarity about the future of plan making for the new council, including the scope of the plans and how and when they will be prepared and delivered. This report makes several recommendations about the approach to be set out within the new LDS for North Yorkshire. It has been prepared with input from officers representing all of the current planning authorities across North Yorkshire and in consultation with the two National Parks.
- 2.3 On 3 October 2022 the information set out within this report was presented to the LGR Planning Member Task and Finish Group. All of the recommendations have been supported by the Group.

3.0 Outline of the Issue that a Decision is being sought on

- 3.1 Planning is fundamental to delivering and driving North Yorkshire council's place making, sustainable economic growth (homes and jobs) and climate change agendas. It can help

¹ Subject to any changes introduced as part of the Levelling up and Regeneration Bill

other council services to meet the needs of our communities, such as transport, education, housing, health and social care, alongside new council obligations under the Environment Act.

- 3.2 Central to delivering this is the council's new local plan. Our plan making will shape the future of North Yorkshire; through its implementation we can help deliver the council's wider vision and objectives, support our external partners to develop their programmes with mutual benefit and use it as a basis for levering in external funding opportunities. Through strong and successful engagement with external infrastructure providers, the council can influence other agendas and investment programmes.
- 3.3 Importantly, having an up to date plan that provides an ambitious vision and framework for future growth in the county ensures that we keep control of how and where new development takes place. With a localised focus we can achieve quality place making, sustainable economic growth and prosperous communities (both new and existing) whilst protecting the much loved natural and heritage assets the county is synonymous with.
- 3.4 Planning is a joined up cyclical process. Being proactive about delivery is as important as plan preparation. Effective plan implementation relies on an efficient and customer focussed development management service that gives investors' confidence to do business in our county. But planning does not end with the grant of permission. If we are to realise the council's place making and sustainable economic growth ambitions then a proactive approach to monitoring and delivery is required to ensure that planning permissions turn into completions so that the council has a healthy housing land supply and can give full weight to its local plan policies.
- 3.5 Once adopted, the new local plan will replace the existing district-wide local plans adopted by the District Councils and will form part of the development plan for those parts of North Yorkshire that are outside of the two national park authorities. Within the national parks, the relevant national park authorities will remain responsible for preparing their local plans².
- 3.6 Whilst the National Park Authorities will continue to prepare their own local plans, it will be important to ensure close working between planning authorities, particularly on important cross boundary matters such as nature recovery and climate change. Officers representing the national parks are supportive of the recommendations set out within this report and would be happy to engage with the new council on the format and content of the plan at appropriate stages.
- 3.7 North Yorkshire County Council is the Minerals and Waste Planning Authority for those areas of the county outside of the two National Parks. As indicated in Table 1 below, it has recently adopted a Minerals and Waste Joint Plan (prepared jointly with City of York Council and North York Moors National Park Authority).
- 3.8 Across North Yorkshire we have a number of 'made' Neighbourhood Plans and some that are in production. Once these plans are 'made' they also form part of the development plan. North Yorkshire Council as the planning authority will have a responsibility to provide support for local communities who are currently preparing neighbourhood plans and those who may wish to do so in the future.

Current Progress with the Preparation of Local Plans

² It should be noted that there are also area based DPDs that the North York Moors National Park has prepared jointly with Ryedale and Scarborough (at Whitby and Helmsley) which will need to be referenced in the Interim LDS.

3.9 Table 1 below shows that each of the current councils has in place an adopted local plan with a number of those currently in the process of review. The County Council (along with its partners) has recently adopted a Minerals and Waste Joint Plan. It also sets out the anticipated position on the date of investiture of the new authority.

Table 1: Progress with Local Plans

Local Authority	Current Local Plan	Plan Review³	Anticipated position at Investiture (April 2023)
Craven	Adopted 2019 End date 2032	Required by 2024 End date 2039	Consultation on review scope
Hambleton	Adopted Feb 2022 End date 2036	Early topic specific review: accommodation needs of gypsy and travellers	Preparing for Submission (April 2023)
Harrogate	Adopted 2020 End date 2035 Maltkiln DPD ⁴	Required by 2025 End date 2040	Consulted on Review Scope. Submitted for Examination/Examination
Richmondshire	Adopted 2014 End date 2028	Commenced End date 2039	Consulted on Preferred Option Summer 2021. Reg 19 Consultation Winter 2021delayed.
Ryedale	Adopted 2013 End date 2027	Commenced End date 2038	Publication (Reg.19) is to be agreed February/March 2023 with delegated authority sought to Submit Adoption expected in late 2023
Scarborough	Adopted July 2017 End date March 2032	Commenced End date March 2040	Draft Plan Consultation Winter 2022 Reg 19 consultation Winter 2023
Selby	Adopted 2013 End date 2027	Commenced September 2019 End date 2040	Reg 19 consultation 2022 Submission 2023
Minerals & Waste Joint Plan⁵	Adopted Feb 2022	Early Review anticipated	No timetable yet in place.

Legal Duties for the North Yorkshire Council

3.10 Counsel advice has been sought on a number of legal questions in relation to plan making and underpins the recommendations. A summary of the key points is set out below:

³ The requirement to review a plan within 5 years (para 33, NPPF), relates to making an assessment of whether local plans need to be updated and does not relate to all necessary plan-making processes through to adoption – this can follow on after the five year period

⁴ This will guide development of the new settlement known as Maltkiln and is required by adopted Local Plan policy DM4

⁵ Prepared jointly with City of York Council and North York Moors National Park

- on the date of investiture the Development Plan for North Yorkshire Council will comprise seven separate local plans alongside the Minerals and Waste Joint Plan and any 'made Neighbourhood Plans;
- the Local Government (Structural Changes) (Transitional Arrangements) (No.2) Regulations 2008 (as amended) requires that a single tier council adopts a local development document under section 23 of the 2004 Planning and Compulsory Purchase Act to apply to the whole of its area within a period of five years starting with the date of re-organisation. When reading the various regulations as a whole reference to a Local Development Document should be taken to mean a Development Plan Document; so a Local Plan;
- the existence of full local plan coverage from predecessor authorities does not satisfy the above requirement and as such a new local plan for the area will need to be prepared within five years. It would need to be a full local plan covering all of those elements listed in the 2004 Act. The legal opinion is that the duty to prepare a new local plan would not be met through the preparation of a limited set of strategic policies;
- whilst there is a requirement to have a new plan in place within five years, there is no legislation or guidance to suggest what would happen in the event that this duty is not met, or the weight that should be given to the existing local plans after the five year period if a new plan has not been adopted. In the absence of this, the weight to be attached to those existing local plans would be one for the decision taker to make taking into consideration the level of consistency with national planning policy.
- in addition to the requirement to produce an LDS, the new authority will need to prepare a Statement of Community Involvement (SCI). This should be prepared prior to the first consultation on the new Local Plan. The SCI itself will need to be the subject of public consultation.

3.11 Delivering a new local plan within five years will be extremely challenging as evidenced by progress to adoption of current district local plans and the experience of other councils that have gone through the LGR process. However, the aim should be that by year five the plan is at an advanced stage of preparation in order to reduce uncertainty and support strong economic growth and quality place making. To achieve this it will be important to have sufficient resources to support plan preparation and implementation/delivery.

What Do We Need a New Local Plan to Do?

3.12 The new local plan should set out a clear strategy for growth for the planning authority area of North Yorkshire; setting out the scale of new development that is planned and how and where this should be accommodated. This should look ahead over a minimum period of 15 years from plan adoption. If the growth strategy for the area includes larger scale developments, such as new settlements or significant urban extensions then this should be set within a vision that looks further ahead (at least 30 years) to reflect the longevity of delivering this scale of development.

3.13 The new local plan should include a full suite of strategic and development management policies, site allocations and designations to meet the evidenced needs of the area. Together, the vision and policies of the new local plan should tie in and deliver the council's economic aspirations and support the delivery of the Council's climate change, transport, health, education and social care agendas, alongside new obligations on the Council under the Environment Act and related matters such as biodiversity net gain and nature recovery. The plan will need to ensure that development is accompanied by the necessary

infrastructure. It should also include a set of indicators for the ongoing monitoring of the effectiveness of local plan policies.

- 3.14 A key challenge will be for the new plan to meet the needs of a very diverse geography in terms of quality design and place making. Given this diversity, a 'one size' fits all approach to policy making is unlikely to be appropriate and careful consideration will need to be given to how the plan is drawn up.
- 3.15 In May 2022, the Government published the Levelling up and Regeneration Bill (LURB) which, if enacted, will introduce changes to the planning system, including the changes to the form and content of local plans. Whilst there is still uncertainty at this stage in respect of the proposals, in drawing up the format of the new Local Plan it would be prudent to do so within the context of what is being proposed through LURB. Appendix A to this report provides a summary of the key proposals.
- 3.16 In respect of Minerals and Waste, Planning Practice Guidance advises that local planning authorities can produce combined minerals and waste plans and, where relevant, may also prepare one local plan combining policies on minerals, waste and other planning matters.

The Implications of Stopping/Continuing with Local Plan Reviews

- 3.17 The development plan is at the heart of the planning system and planning decisions must be taken in line with the development plan unless material considerations indicate otherwise. Having an up to date plan, as noted above, allows the council to have control over where and how new development takes place. To be effective, plans need to be up to date; for this reason a number of local authorities are in the process of reviewing their local plans (Table 1).
- 3.18 Plan making is resource intensive; in considering the need to bring forward a new local plan for North Yorkshire within five years of investiture, we also need to consider the implications for achieving this in light of continuing concurrently with individual district plan reviews and also what any implications would be of halting the reviews; acknowledging that the implications may vary in different parts of the County.
- 3.19 One area in particular where having an up to date plan is important is in relation to being able to demonstrate a five year housing land supply. The legal advice received confirms that land supply positions will continue to be judged against the relevant housing requirement for each existing local plan area until a local plan for the new council area is prepared (if less than five years old, or older but has been reviewed). Once plans become out of date the standard method (as calculated at the predecessor plan level) will apply. If housing land supply falls below five years, para 11 of the NPPF only applies to the determination of those applications that fall within the geographical area covered by the relevant local plan.
- 3.20 Appendix B provides a summary of the risks or concerns associated with not continuing with plan reviews as it relates to each existing local plan area.

4.0 Conclusions/Explanation of Recommended Approach to Plan Making

1) That a single local plan is prepared and progressed as far as possible within 5 years

- 4.1 The legal advice confirms that a new local plan to cover the full extent of the geography should be put in place within five years.

- 4.2 It is recommended that a single plan is prepared (subject to the recommendation below regarding minerals and waste) that encompasses both strategic and non-strategic policies, site allocations and designations to meet the evidenced needs of the area.
- 4.3 The exact format of the plan needs further consideration in order that we are able to effectively address the needs of a diverse geography. As evidence base develops, we will have a greater understanding of the geographical differences and areas of commonality.

2) That work on the new local plan should start as soon as possible

- 4.4 As noted above, the five year period set out in legislation is an extremely challenging timescale. It is therefore recommended that work on the new local plan should commence as soon as possible so that it is at an advanced stage at the end of the five year period and therefore reduces the risk of operating with out of date policies.
- 4.5 This work has the potential to start prior to vesting day. In practice this will start with scoping out the evidence base and looking collectively at the spatial portrait of North Yorkshire. A review of existing evidence (one comprehensive list for North Yorkshire) is already underway and will help to inform the prioritisation of this work.
- 4.6 Given the importance of linking housing and economic growth, the production of an Economic Strategy for the new authority is also underway. Work on the Local Plan will need to develop strong linkages with the Economic Strategy.

3) A separate Minerals and Waste Local Plan is prepared

- 4.7 As noted earlier in this report, there is the option for minerals and waste policies to either sit within a standalone plan or to be brought within the local plan that covers other planning matters. It is recommended that Minerals and Waste policies are prepared within a separate plan for the following reasons:

- A single plan that also includes minerals and waste policies is best suited to those areas where the geology may not be quite so complex or the waste issues so controversial. In North Yorkshire the issues are both complex and controversial. A separate plan that deals specifically with minerals and waste matters would allow for more focussed and comprehensive coverage of the issues they raise. Where minerals and waste have been subsumed into broader scope plans, they have been somewhat 'light' on tackling key minerals and waste issues and this is considered to be inappropriate for the complex issues faced within North Yorkshire.
- Currently the Minerals and Waste Plan has been prepared as a joint plan; keeping these policies separate from the wider local plan would also better facilitate a review of those policies jointly with the partner authorities, the City of York Council and the North York Moors National Park.

4) The following plan reviews should be halted in order to focus resources on preparing a new Local Plan:

- **Craven Local Plan**
- **Hambleton Local Pan**
- **Harrogate District Local Plan**
- **Richmondshire Local Plan**
- **Scarborough Borough Local Plan**

- 4.8 A common issue for all of these reviews if work ceases is that a number of policy themes will not be refreshed in line with the envisaged timescale. Of particular importance across all are policies on climate change, but there will be other policies as well, for example issues around second homes within Scarborough District. However, this has to be balanced against the need to progress a new local plan for the whole area. If the new local plan can be delivered by 2028 (or at least be sufficiently advanced that weight can be applied to its content), this will only be a marginal difference in delay for some of those authorities over where they envisaged that they would be in terms of timetables for local plan reviews; in particular Craven and Harrogate.
- 4.9 Craven and Harrogate are on a similar timeline for plan review and both are at the very early stages. In relation to housing land supply, if both plans are not reviewed and become out of date they will be judged against the standard methodology figures which are lower than the plan targets. Whilst this will have an impact on wider social and economic aspirations, application of the lower figure is not considered likely to represent a significant risk to the five year housing land supply position. As with all areas, effective monitoring will be important as will ensuring delivery of key schemes.
- 4.10 Richmondshire had anticipated undertaking regulation 19 consultation in winter 2021 but this has been delayed and the council were already starting to consider whether to continue with plan review in light of Local Government Re-organisation. There are considered to be no risks to the housing land supply position.
- 4.11 Hambleton adopted its plan in 2022, as part of which it was committed to a very focussed review on gypsy and traveller accommodation. The remainder of its plan does not require review until 2027, by which time the new local plan will be well advanced. The issue of Gypsy and Traveller provision will be a county wide matter that will be picked up as part of the new local plan.
- 4.12 Looking at the risks relative to the benefits of continuing with these reviews it is considered that no further work should be undertaken in respect of the reviews of the plans of Craven, Hambleton, Harrogate and Richmondshire other than setting out the position in relation to how up to date the policies are when looked at against the NPPF and how future housing land supply positions will be assessed.
- 4.13 Work on the review of the Scarborough Local Plan has commenced and it is anticipated that consultation will be undertaken on a draft plan in Winter 2022. Halting a review is not considered to bring a risk to housing land supply (although it may have some impact on flexibility of supply); the main area of concern is around the introduction of new policies to tackle local issues. Work on the Scarborough Review should cease following the consultation on the Draft plan.

5) That the following reviews should continue:

- **Harrogate: Maltkiln New Settlement DPD**
- **The Ryedale Plan**
- **Selby Local Plan**
- **Minerals and Waste Joint Plan**

- 4.14 As noted above, the Maltkiln New Settlement DPD is a component part of the Harrogate District Local Plan and importantly it allocates the boundary of the new settlement as well as allocating land as a strategic gap. This document will set the vision and policy framework for the new settlement and includes ambitious climate change policies. Work is

at an advanced stage with Regulation 19 recently completed and submission by end of December 2022/January 2023.

- 4.15 The adopted Ryedale Plan has an end date of 2027. The Ryedale Plan review is tightly focussed: looking at adjusting the spatial approach, additional housing sites and responding to climate change. There are some contentious site submissions which, whilst proposing a really positive rural regeneration strategy are big in scale and contentious and that places a pressure on the team to resource the response to this.
- 4.16 Regulation 19 consultation (Publication) was scheduled to take place in September 2022. However, progress is slightly behind the planned timescale and Members have been advised that the review will be subject to Regulation 19 consultation in late/February March for six weeks. It is also proposed that at the agreement of Council to publish the review, officers will seek to obtain delegated authority to Submit the review, post publication. The eventual Submission of the review would, however, rest with the new authority.
- 4.17 The adopted Selby Core Strategy has an end date of 2027. The Selby Local Plan review is in effect the creation of a new Local Plan. Work is at an advanced stage with Regulation 19 consultation due to take place in 2022 and submission in early 2023.
- 4.18 As noted above it is recommended that Minerals and Waste policies are retained within a separate plan; the plan review should therefore continue in order to ensure that minerals and waste policies are kept up to date; in particular to ensure that future site allocations can be made and that policies on climate change are up to date.

6) That an Interim LDS, including key milestones and programme management arrangements, is prepared on the basis of the above recommendations

- 4.19 It is considered appropriate to prepare an LDS at this stage in order to communicate to key stakeholders and communities how the authority intends to meet its legal duties and to enable a joint approach to enable work to begin. The recommendation that the LDS is an interim version is on the basis of the uncertainties at this stage as to how the new plan will be resourced, together with uncertainties relation to the LUWP.

5.0 Financial Implications

- 5.1 The cost of undertaking local Plan preparation, reviews and delivery will be significant, however the recommendations set out in section 4 above are considered to be the most efficient use of resources, taking into consideration risks, benefits and the legal position. The following recommendations are important in identifying more specific resource requirements and ensuring an efficient way of working prior to a formal new staff structure being in place.

7) That a specific report is prepared setting out the required evidence base and associated costs/resource to support the preparation of the new plan

- 5.2 A key factor in determining the shape and format of the new plan will be the evidence base. It is important to have a comprehensive understanding of the commonalities and differences of this new plan geography. This should be proportionate with a focus on supporting and justifying policies contained within the plan. In relation to preparing the new local plan we are not starting with a blank sheet as we have evidence to draw on from review work that is already underway. However, there will inevitably be a need to prepare new evidence and re-fresh existing pieces of work.

- 5.3 It is recommended that early thought is given to those parts of the evidence base that can be progressed imminently to inform plan making. Early consideration of the suite of evidence needed and an estimate of cost should be undertaken and factored into the council's budgeting process.
- 5.4 Some of this work can be extensive in nature and cost and appropriate budget provision will be required. Decisions will also need to be made as to whether all or some of the evidence is provided in-house or whether it is outsourced.
- 5.5 In addition to costs associated with evidence base work and public consultation, there will be a need for legal support (including contingency for a Kings Counsel to support the team through the Examination process), alongside costs associated with the Examination itself. Further contingency should be considered post adoption to respond to any potential legal challenge.
- 5.6 Important to the smooth running of plan preparation is having an appropriate IT package in place to facilitate efficient plan production, public consultation and monitoring. Currently a variety of systems are used, including Objective. Steps need to be taken to ensure that existing systems can be used by the new council in order that existing plan preparation and consultation arrangements can be fulfilled. It is recommended that Objective be used for the preparation of the new Local Plan as it is the only available software to support the full end to end process of plan production. A satisfactory consultation process and system will need to be in place prior to the first county-wide consultation (which is likely to be on the SCI).
- 5.7 Whilst this paper is not about structures and staffing levels, the key to success will be ensuring that the new council has the right skills and capacity in place to support plan preparation and delivery. Successful plan making requires multidisciplinary expertise and effective linkages with other council functions such as transport and economic development.

8) Formal governance arrangements should be established to oversee plan making ahead of transformational change

- 5.8 It is recommended that the cross-county group of planning managers/officers that have contributed to this report and meet regularly through work on the LGR Plans Policies and Processes sub workstream and the Development Plans Forum, take on a more formal governance role relating to the oversight of plan making work until a new structure is in place. Having clear oversight and leadership through this group will allow informal working arrangements and allocation of current resources to take place ahead of any formal restructure and allow momentum on plan making to continue, which is essential given the challenging timescale set out in legislation.
- 5.9 Early elected member involvement as the plan starts to take shape will be important, and it is recommended that a Member working group is drawn together to support this work. This could be based upon the Committee responsible for plan making, as outline in the constitution for the new council, which would meet informally as a working group as well as having a formal role at key stages of plan preparation.

6.0 Legal Implications

- 6.1 As explained at para 3.10 above, external legal advice has been sought and considered in making the recommendations set out within this report. Internal legal consultation has also taken place on the content of this report and no issues have been raised.

7.0 Equalities Implications

- 7.1 All Development Plan Documents are/will be accompanied by an Equalities Impact Assessment (EIA) to ensure that planning policies do not unlawfully discriminate against any protected characteristic. An EIA to accompany this report is set out at Appendix C. There are no known impacts to report at this stage.

8.0 Climate Change Implications

- 8.1 Plan making presents a key opportunity to set out and deliver a county-wide approach to reduce carbon emissions and mitigate the impact of climate change. Those preparing the plan will need to consider how the plan can help to deliver the council's climate change ambitions. A Climate Change Impact Assessment is set out at Appendix D. There are no known impacts to report at this stage.

9.0 Conclusion

- 9.1 It is considered appropriate to prepare a LDS in line with the recommendations set out in section 10, in order to communicate to key stakeholders and local communities how the new authority intends to meet its legal duties and to enable a coordinated approach to plan preparation. The recommendation that the LDS is an interim version is on the basis of the uncertainties at this stage as to how the new plan will be resourced, together with uncertainties in relation to the LUWP.

10.0 Recommendations

- 10.1 Executive is asked to support the following recommendations and agree they be taken forward for decision by Full Council, i.e. that:
- i) A single local plan is prepared and progressed as far as possible within five years
 - ii) Work on the new local plan should start as soon as possible
 - iii) A separate Minerals and Waste Local Plan is prepared
 - iv) The following plan reviews should be halted in order to focus resources on preparing a new Local Plan:
 - Craven Local Plan
 - Hambleton Local Plan
 - Harrogate District Local Plan
 - Richmondshire Local Plan
 - Scarborough Borough Local Plan
 - v) The following reviews should continue:
 - Harrogate: Maltkiln New Settlement DPD
 - The Ryedale Plan
 - Selby Local Plan
 - Minerals and Waste Joint Plan
 - vi) An Interim LDS, including key milestones and programme management arrangements, is prepared on the basis of the above recommendations
 - vii) A specific report is prepared setting out the required evidence base and associated costs/resource to support the preparation of the new plan
 - viii) Formal governance arrangements should also be established to oversee plan making ahead of transformational change.

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Background Papers - None

Appendices:

Appendix A – Summary of Points from the Levelling-Up Regeneration Bill (LURB)

Appendix B – Summary of Risks

Appendix C – Equalities Impact Assessment

Appendix D – Climate Change Impact Assessment