

EAST CAMBRIDGESHIRE DISTRICT COUNCIL



East Cambridgeshire Local Plan – A Second Review

April 2020

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1. Introduction

- 1.1. In October 2019, the Council undertook its first ‘review’ of its Local Plan 2015, and determined at that stage that, following that review, no new Local Plan be commenced. However, the Council also committed to monitoring the situation.
- 1.2. Accordingly, and with the Plan hitting its 5th Anniversary on 21 April 2020, a further review has been undertaken, as set out in this document.

2. Legal and Policy Context

- 2.1. The 2017 Neighbourhood Planning Act introduced within section 17 of the Planning and Compulsory Purchase Act 2004 new subsections, two of which are of particular relevance:

“(6A) The Secretary of State may by regulations make provision requiring a local planning authority to review a local development document at such times as may be prescribed.

(6B) If regulations under subsection (6A) require a local planning authority to review a local development document— (a)they must consider whether to revise the document following each review, and (b)if they decide not to do so, they must publish their reasons for considering that no revisions are necessary.”
- 2.2. A ‘local development document’ referred above includes a Local Plan, as well as other planning policy type documents.
- 2.3. The above legislation was subsequently added to by Regulations in 2017 which established that a Local Plan ‘review’ at least every five years is now a legal requirement, by virtue of Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended):

“10A.—(1) A local planning authority must review a local development document [and] in respect of a local plan, the review must be completed every five years, starting from the date of adoption of the local plan”
- 2.4. The above legislative requirement does not mean a new Local Plan must be **adopted** every five years nor does it mean **preparation** of a new Local Plan must be commenced. Rather, as a minimum, a **review** must take place.
- 2.5. The National Planning Policy Framework (NPPF) February 2019 and the supporting National Planning Practice Guidance (NPPG) (live guidance) starts to clarify what is expected by a ‘review’. The NPPF states as follows:

“33. Policies in local plans...should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary. Reviews should be completed no later than five years from the adoption date of a plan, and should take into account changing circumstances affecting the area, or any relevant changes in national policy....”
- 2.6. The NPPG provides greater detail on what is expected, from Paragraph: 062 Reference ID: 61-062-20190315, and extracts are given in the following commentary.
- 2.7. At para 064, it states that the “*review process is a method to ensure that a plan and the policies within remains effective*”.
- 2.8. Para 065 sets out some of the matters a Council could consider as part of its ‘review’ process.

“The authority can consider information such as (but not exclusively):

 - *conformity with national planning policy;*
 - *changes to local circumstances; such as a change in Local Housing Need;*
 - *their Housing Delivery Test performance;*
 - *whether the authority can demonstrate a 5 year supply of deliverable sites for housing;*

- *whether issues have arisen that may impact on the deliverability of key site allocations;*
- *their appeals performance;*
- *success of policies against indicators in the Development Plan as set out in their Authority Monitoring Report;*
- *the impact of changes to higher tier plans;*
- *plan-making activity by other authorities, such as whether they have identified that they are unable to meet all their housing need;*
- *significant economic changes that may impact on viability.; and*
- *whether any new social, environmental or economic priorities may have arisen.”*

2.9. Para 070 reconfirms the legislative position:

“If a local planning authority decides that they do not need to update their policies, they must publish the reasons for this decision within 5 years of the adoption date of the plan.”

2.10. In essence, a ‘review’ is a process whereby a conscious (and public) decision is reached by a Council as to whether or not a Local Plan is in need of updating, either in whole or part. Once such a review is complete, the Council will subsequently need to decide which of the following two options apply: (i) The existing adopted Local Plan (2015 version, in our case) does need updating (and therefore the Council commits to preparing a new Local Plan, in whole or part); or (ii) The existing adopted Local Plan does not need updating, and (as legally required) issues a statement confirming as much.

3. ECDC Second Review

- 3.1. As stated, ECDC undertook its First Review in October 2019, and concluded the Plan was not to be updated.
- 3.2. It is important that reviews are regularly undertaken, to confirm whether or not the circumstances have changed. This document therefore forms the Second Review.
- 3.3. The Second Review has been undertaken in accordance with NPPG guidance. The structure of this Second Review is based upon government advice at Paragraph: 065 Reference ID: 61-065-20190723 of the NPPG, as issued on 23 July 2019.

Conformity with national planning policy

- 3.4. The April 2015 Local Plan was prepared to be in conformity with the NPPF as published in 2012. However, that NPPF was revised and republished in 2018, and again in February 2019.
- 3.5. The updated NPPF is similar to the 2012 version (and in some places is identical), but some aspects of the latest version are different.
- 3.6. As was concluded in the First Review, the Local Plan 2015 is considered to be predominantly but not entirely in conformity with national policy. Areas of non-conformity include:
 - Affordable housing policy is slightly different in the new NPPF, with affordable housing no longer to be sought on sites which are not major developments (fewer than 10 dwellings), whereas previously it was 11. The definition of what constitutes an affordable dwelling has been considerably widened. The new NPPF also refers to 10% of the homes to be available for affordable home ownership. The 2015 Local Plan is slightly out of date, but not critically so and the new NPPF policy position can be (and are being) implemented without the need for Local Plan policy to be updated. Planning Committee received a more detailed note on this matter on 2 October 2019.

- NPPF has updated objectives for promoting sustainable transport (with an emphasis on walking, cycling and public transport provision) and states that the planning system should actively manage patterns of growth in support of these objectives. However, none of this is at significant conflict with the 2015 Local Plan.
 - There is a greater emphasis in the new NPPF on good design, but it is not prescriptive, and therefore the 2015 Local Plan broadly remains in line.
 - Biodiversity requirements have been strengthened in the new NPPF, especially around the need for a 'net gain' in biodiversity. The 2015 Local Plan is less demanding. However, this shortfall could be overcome by other means, such as preparation of supplementary planning documents (which is what the Council has recently consulted upon).
- 3.7. Other elements of the updated NPPF follow a similar theme to the commentary above; namely, the 2015 Local Plan remains broadly in line with the 2019 NPPF, but not entirely so. A new Local Plan would obviously close those inconsistency gaps, but, on this ground alone, there does not appear justification to commence an entirely new Local Plan. Put simply, the new NPPF can be used for decision making in any event, especially in those areas where the 2015 Local Plan is not fully aligned.
- 3.8. However, the above commentary does not prevent the Council from potentially undertaking a partial review of its Plan, which could close any particularly important inconsistencies.

Changes to local circumstances; such as a change in Local Housing Need

- 3.9. Fundamentally, when taken as a whole since 2015, there has been no substantive change of circumstance in the district.
- 3.10. However, there has been some significant changes to calculations around housing requirements, as well as updated forecasts and affordability ratios which are linked to those calculations.
- 3.11. To start with, the way an authorities' housing need is calculated has been altered significantly since April 2015. Rather than relying on an Objectively Assessed Need (OAN) figure derived from a variety of independent evidence-based sources (which is what the Local Plan 2015 is based upon, and which the 2012 NPPF advocated), government has introduced a new Local Housing Need (LHN) method which incorporates a standard methodology for determining each local authorities' housing need.
- 3.12. This LHN figure is also regularly updated at least twice a year, first by rolling forward the household projections forecast by a year, each year; and second, by the annual updating of the affordability of houses – both of these being variables in the LHN method.
- 3.13. Since October 2019, both these variables have been updated yet again.
- 3.14. In addition to above, it is now firmly established that the 'redistribution' of homes across the Cambridgeshire HMA area, as explained in the Local Plan 2015, is no longer valid. The recently adopted Peterborough Local Plan (2019) has deleted its commitment to it, meaning Peterborough no longer accommodates housing 'need' from Cambridgeshire, including from East Cambridgeshire.
- 3.15. Thus, the basis of the housing requirement figure in the East Cambridgeshire Local Plan is no longer up to date. That requirement was based on (a) an outdated method and (b) relied on the redistribution of homes to Peterborough, which is no longer happening.
- 3.16. In addition, the new national LHN method has also continued to be updated regularly, which is not accounted for in the 2015 Local Plan.
- 3.17. Consistent with the above commentary, NPPG ID 61-062-20190315 also explicitly says that 'Local housing need will be considered to have changed significantly where a plan has been adopted prior to the standard method being implemented'.

- 3.18. In conclusion, therefore, there is strong evidence to suggest that the housing requirement in the Local Plan, namely 11,500 homes over the period 2011-31, is in need of updating. Thus, at least in part, Policy GROWTH1 is in need of updating.
- 3.19. There is no other apparent substantive change in local circumstances, other than the establishment of the Combined Authority which is discussed further below.

Housing Delivery Test (HDT) performance

- 3.20. East Cambridgeshire's HDT performance is acknowledged as being poor, but improving. It also has to be remembered what the HDT is about: namely, it is a test of how many homes developers have built (or 'delivered'), not a test of a council's performance.
- 3.21. In August 2019, the Council published, as it was required to do, a HDT Action Plan, which broadly identified what it believed to be the causes of the poor test result, and what action might be undertaken. In short, it found that ECDC was providing ample permission for homes, and had a robust planning service in place to support developers, but, put simply, developers were not building homes they had permission for at anything like the rate which could be expected.
- 3.22. As such, the HDT performance or Action Plan does not provide evidence that a new Local Plan is required, in whole or part.

Whether the authority can demonstrate a 5 year supply of deliverable sites for housing

- 3.23. The Council has periodically not been able to demonstrate a 5 year supply of deliverable sites, when applying national methodology. This 'failure' is entirely down to the low level of delivery of (built) homes since 2011, and is not down to the lack of permissions or allocations (which are perhaps around ten years worth of base requirement).
- 3.24. Accordingly, adopting a new Local Plan would have no immediate material benefit in terms of increasing housing supply in the five year period, because allocating new sites in a new Local Plan would not automatically qualify (in accordance with national policy) such sites as 'deliverable' within the subsequent first five years.
- 3.25. As such, the periodic failure to not being able to demonstrate a five year land supply does not provide evidence that a new Local Plan, in whole or part, should be prepared.
- 3.26. Nevertheless, having concluded above that the housing requirement figure in GROWTH1 is in need of updating, it is worth at this point assessing the wider strategic housing policies. This includes policies such as: quantity of allocations and policies which restrict or promote housing on non-allocated sites.
- 3.27. Overall, the Local Plan 2015 makes a large number of allocations, as well as some broad locations for housing growth (see, for example, para 3.5.6 for an explanation on broad locations). Whilst progress on many of these allocations are progressing (and the broad locations are also now coming forward with proposals), a large proportion are yet to be completed and remain available and deliverable. Overall, the allocations remain sound, including the strategic housing allocations. In addition, further sites amounting to several 100 homes have been allocated via the three completed Neighbourhood Plans. And, in addition to those, a small number of other non-allocated sites have received permission, and more should be forthcoming soon (eg a 500-home scheme at Kennett is anticipated to receive its formal decision notice shortly). The total scale of allocations and permissions are considerable, probably well in excess of 10 years' worth of need.
- 3.28. Overall, therefore, it is not concluded that the allocations are in need of substantial updating and are sufficient to meet need over at least the next 10 years.
- 3.29. Separately, within the Plan are policies which would, in simple terms, be regarded as policies which restrict development for a variety of reasons. An important one is GROWTH2 which establishes development envelopes around settlements. This policy has been reviewed and is considered broadly consistent with the NPPF and, with large amounts of allocations and

permissions in place, does not add weight to it being considered in need of updating. In reviewing this policy, we have noted that the principle of development envelopes remains an important policy tool in plans recently found sound – for example, the Peterborough Local Plan 2019. They are also being established or re-established in Neighbourhood Plans across the country.

- 3.30. Also in GROWTH2 is the 'spatial distribution' of growth, which directs growth to the main settlements. Again, this is considered consistent with national policy and not in need of updating.
- 3.31. Overall, therefore, policy GROWTH2 is considered not to be in need of updating.
- 3.32. Elsewhere, there is not strong evidence of any other strategic housing policies (including policies which could be argued as 'restricting' housing development from taking place) which are in need of updating. It appears just GROWTH1 is in need of updating.
- 3.33. However, if, during the course of reviewing GROWTH1 it becomes apparent that the scale of allocations in the 2015 Local Plan, combined with allocations in Neighbourhood Plans and permissions on non-allocated sites, would be insufficient to meet the requirement of an updated GROWTH1, then it may be necessary for additional allocations (or broad locations) to also be brought forward alongside the updating of GROWTH1. However, preliminary research indicates this is unlikely to be necessary.

Whether issues have arisen that may impact on the deliverability of key site allocations

- 3.34. No key site allocations as set out in the 2015 Local Plan have any issues which have arisen since its adoption which would render such allocations as undeliverable.
- 3.35. As such, there is no evidence under this criterion which points to the need to undertake a new Local Plan or review of its site allocations.

Appeals performance

- 3.36. The Council's appeal performance is generally acceptable, and it is not apparent how a new Local Plan would either reduce the level of appeals or result in a greater number of appeals being rejected.

Success of policies against indicators in the Development Plan as set out in their Authority Monitoring Report

- 3.37. Neither the Local Plan nor the AMR set out a policy-by-policy set of indicators.

The impact of changes to higher tier plans

- 3.38. There are no 'higher tier' plans which have been adopted or under preparation since the 2015 Local Plan was adopted.
- 3.39. However, since 2015, the Combined Authority has been set up and it has the duty to prepare a 'non-statutory spatial framework' (NSSF). This is not a 'higher tier plan' as such, due to its non-statutory status, but nevertheless is intended to give direction as to how the Cambridgeshire-Peterborough area should grow in the future. The NSSF is currently being prepared, though it is uncertain when this will be progressed (unlike in the October 2019 Review, when a consultation was expected imminently, but did not occur).
- 3.40. Whilst a future East Cambridgeshire Local plan would not be obliged to follow what that NSSF says, the expectation is that it should attempt to align with its aims and objectives.
- 3.41. Due to the uncertainty over the NSSF, and its non-statutory basis, this gives no weight to either commencing or delaying preparation of a new Local Plan for East Cambridgeshire.

Plan-making activity by other authorities, such as whether they have identified that they are unable to meet all their housing need

- 3.42. Near neighbours South Cambridgeshire*, Cambridge City*, Fenland and West Suffolk have all committed to preparing a new Local Plan, and are all at the early stages of doing so (* a joint plan).
- 3.43. None have to date identified that they are unable to meet all their housing need, though it is too early in their plan-making process for a conclusion on this to be reached. That said, there is no expectation that any of those councils will be seeking to meet some of their need in East Cambridgeshire.
- 3.44. With several neighbours commencing a new plan, all of whom are, like East Cambridgeshire, within the 'Cambridge Housing Market Area', aligning a new Local Plan for East Cambridgeshire with a similar timetable would be helpful and could mean any strategic cross-border issues are more easily considered and dealt with. It could also result in some cost savings through shared evidence base production, compared with East Cambridgeshire preparing a plan on a timetable not aligned with neighbours.
- 3.45. Overall, plan-making activities of other authorities does add some weight to the argument for East Cambridgeshire commencing a new Local Plan. However, it is not compelling evidence and is more for beneficial practical and slight financial reasons rather than 'planning' reasons.

Significant economic changes that may impact on viability

- 3.46. Directly and locally, there has been no significant change that may impact on viability. That said, both nationally and sub-regionally, there is some considerable economic change yet to come, with the imminent leaving of the European Union (post transition period), on terms not yet finalised (at the time of writing), as well as dealing with the present, and aftermath of the, COVID-19 outbreak. It is too early at this stage to determine whether the economy-based policies of the plan will need adjusting to reflect either of these matters, so this does not point to a Local Plan review.

Whether any new social, environmental or economic priorities may have arisen.

- 3.47. No other priorities of significance have arisen.

Other matters

- 3.48. Government has indicated that a priority for Spring 2020 is the issuing of a Green or White Paper on the planning system, the content of which is expected to include significant suggestions for the way the planning policy system functions. Awaiting such direction of travel could be sensible, rather than commencing a full new Local Plan now and having to adjust to 'different rules' mid-way through its preparation. However, the timing of that Paper, and any legislation to implement it, could be a long time-frame away.

4. OUTCOME OF SECOND REVIEW

- 4.1. This report is a formal Review, under section 17 of the Planning and Compulsory Purchase Act 2004.
- 4.2. The outcome of this Review (the Second such Review of the 2015 Local Plan) is that East Cambridgeshire District Council has determined that its Local Plan 2015 does require to be revised, but only partially and only in respect of its strategic housing policies. Of those policies, Policy GROWTH1 needs to be revised, because it has an out of date housing requirement. Other strategic housing policies may also be updated during the course of updating GROWTH1, should that be necessary.
- 4.3. The rest of the Local Plan is considered to not, at the present time, be in need of updating, therefore a full update of the Local Plan is not considered necessary.

- 4.4. However, whilst only one policy has been identified in need of updating, this does not prevent the council from commencing preparation of a new Local Plan, in whole or part, on matters as it sees fit.
- 4.5. Also, because this Second Review has determined that the Plan needs revising, then s17, (6B) (b) (publish reasons for considering no revisions are necessary) does not apply.

5. Next Steps

- 5.1. In order to progress the conclusion of this Second Review, at a meeting of the Full Council, Members will be asked to determine whether to commence a Local Plan review in whole or just the part identified in need of revising in this Second Review, and to what timetable (i.e. an updated Local Development Scheme). For the avoidance of doubt, this Second Review is not the decision making tool to determine the precise basis and timing of any new Local Plan to be prepared – it is only a Review document, as prescribed by legislation, a document which has determined that the Local Plan does need to be revised.