

**Cabinet**

**12 June 2019**

**County Durham Plan Submission**

**Key Decision REAL/02/19**



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**Report of Corporate Management Team**

**Ian Thompson, Corporate Director of Regeneration and Local Services**

**Councillor Carl Marshall, Cabinet Portfolio Holder for Economic Regeneration**

**Electoral division(s) affected:**

Countywide.

**Purpose of the Report**

- 1 To advise Cabinet on the representations received following the final statutory consultation on the Pre-Submission Draft.
- 2 To seek Cabinet's approval to recommend that Council agree the Pre-Submission Draft of the County Durham Plan for Submission. The Full Council meeting is 19 June 2019.
- 3 To identify the significant infrastructure costs required as part of the implementation of the County Durham Plan.
- 4 To agree a Local Development Scheme which outlines a revised timetable for the Minerals and Waste Policies and Allocations Document.
- 5 To agree the Residential Amenity Standards Supplementary Planning Documents (SPDs) for public consultation from 5 July to 16 August 2019.

## Executive summary

- 6 The Pre-Submission Draft of the County Durham Plan is the final stage in the Plan's development. It is informed by extensive formal consultation with residents, businesses, the development industry, key stakeholders and neighbouring authorities at all stages. A total of 2,877 comments from 1,003 different respondents were received. More detail is set out in Statement of Consultation, which includes a statement setting out how the public consultation, at the Issues and Options (2016) and Preferred Options stage (2018), under Regulation 18 (of the Town and Country Planning (Local Planning) (England) Regulations 2012) was addressed and how the representations were reflected in the Plan.
- 7 All representations made at the Pre-Submission draft consultation (Regulation 19) stage have been reviewed and carefully considered and it has been concluded that, subject to a number of minor text and formatting changes which need to be made, there are no matters arising from the representations that call into question the soundness of the Plan or the legality of its preparation that would prevent it being submitted to the Ministry of Housing, Communities and Local Government in its current form.
- 8 The County Durham Plan seeks to ensure that County Durham is a successful place to live, work, invest and visit by focussing on supporting and creating vibrant communities by delivering:
  - More and better jobs and sustained economic growth;
  - A wide choice of high quality homes that supports economic growth and meets the needs of all people;
  - A high quality built and enhanced natural environment; and
  - The necessary supporting infrastructure including transport, health and educational needs.
- 9 Subject to Council's approval on 19 June 2019, the Pre-Submission Draft Plan will be submitted to the Ministry of Housing, Communities and Local Government by the end of June 2019 for independent examination. An independent Inspector will be appointed soon after and the timescales from that point will be determined by the Inspector although we anticipate that the Examination in Public (EIP) hearings will be held in the autumn. After examination and following consultation on any modifications proposed by the Inspector, the Council will be asked to adopt the Plan.

## Recommendation(s)

9 Cabinet is asked to recommend Council:

- (a) Consider the representations received during the final statutory consultation on the Pre-Submission draft;
- (b) Authorise formal submission of the County Durham Plan at Appendix 4 and associated submission documentation to the Secretary of State pursuant to Section 20 of the Planning and Compulsory Purchase Act and Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012; and
- (c) Authorise the Corporate Director of Regeneration and Local Services in consultation with the Portfolio Holder for Economic Regeneration to:
  - (i) approve the submission of the documents required to be submitted alongside the Plan to the Secretary of State as required by Section 20 of the Planning and Compulsory Purchase Act and Regulation 22 of The Town and Country Planning (Local Planning) (England) Regulations 2012 for consideration at public examination;
  - (ii) agree statements of common ground with neighbouring authorities and other interested parties in order to demonstrate effective and on-going joint working;
  - (iii) continue discussions with interested parties and suggest to the Inspector any edits and consequential changes necessary following Council approval up to and during the Examination; and
- (d) Authorise the Corporate Director of Regeneration and Local Services to ask the Inspector appointed to hold the Examination in Public to recommend modifications to the County Durham Plan Submission Document under Section 20(7C) of the Planning and Compulsory Purchase Act 2004 necessary to satisfy the requirements of Section 20(5A) of the Act and make the document sound.
- (e) Agree the Statement of Consultation at Appendix 2; and
- (f) Agree the amendments identified in the 'Schedule of Minor (Additional) Modifications' to the Plan and minor changes to the existing evidence base at Appendix 3.

Cabinet is recommended to:

- (a) Adopt the Local Development Scheme at Appendix 5;
- (b) Agree the Residential Amenity Standards Supplementary Planning Document for consultation from 5 July to 16 August 2019 at Appendix 6. Agree to delegate to the Director of Regeneration and Local Services in consultation with the Portfolio Holder for Economic Regeneration the power to make minor modifications to the document following consultation and approve the final document;
- (c) Agree the Addendum to the Green Belt Assessment at Appendix 7 and the Addendum to the Local Plan Viability Assessment at Appendix 8, Addendum to the Landscape and Visual Appraisal for the Western Relief Road is attached at Appendix 13 and for the Northern Relief Road is attached at Appendix 14; and
- (d) Note the future infrastructure costs associated with the implementation of the County Durham Plan and the need for a future Cabinet report on how these would be financed.

## **Background**

- 10 All Local Planning Authorities have a statutory requirement to prepare and maintain an up to date development plan for their area. The County Durham Plan has been prepared during a time of significant change, including a recently revised National Planning Policy Framework (NPPF) and a new standard approach to assessing housing need.
- 11 The first stage of the new County Durham Plan, Issues and Options, was approved for consultation in June 2016 followed by the second stage, Preferred Options, which was approved for consultation in June 2018. The Pre-Submission Draft was the final stage in the Plan's development. It has been informed by extensive formal and continuous consultation with residents, businesses, the development industry, key stakeholders and neighbouring authorities at all stages.
- 12 There is one additional document, the Minerals and Waste Policies and Allocations Document, which will be prepared to complement the minerals and waste policies of the County Durham Plan. It will contain detailed development management policies and any non-strategic minerals and waste allocations which are considered necessary to meet the future needs of County Durham. Work on the Minerals and Waste document will be undertaken in accordance with the revised timetable set out in the Local Development Scheme.

## **Consultation**

- 13 Following Cabinet approval on 16 January 2019, the Pre-Submission Draft was consulted on widely from 25 January until 8 March 2019. A significant number of public events were held including 19 drop-in sessions across the county and to the Area Action Partnerships. Everyone on the County Durham Plan consultation database was informed of the consultation and there were articles in the press and a number of posts on the Council's social media pages. Social media messages relating to the Plan were seen 140,000 times and the web pages visited 14,000 times.
- 14 A total of 2,877 comments, including 37 comments which were received following the close of the consultation period, from 1,003 different respondents were received. A petition in relation to Policies 5 (Durham City Sustainable Urban Extensions), Policy 20 (Green Belt) and Policy 23 (Durham City Sustainable Transport) was also submitted with 659 names. A separate petition relating just to the Western and Northern Relief Roads with 676 names was also submitted. Finally there were two e-petitions submitted, one in favour of the relief roads with 9 names and one against with 342.

- 15 The parts of the Plan which have been the subject to the most comments are predominantly the Northern and Western Relief Roads and some of the housing allocations including the Green Belt sites at Durham City (Sniperley Park and Sherburn Road) and South of Knitsley Lane and East of Muirfield Close, Consett and High West Road, Crook. The policies receiving most representations include:
- Policy 23 (Durham City Sustainable Transport including Western and Northern Relief Roads);
  - Policy 4 (Housing Allocations);
  - Policy 5 (Durham City's Sustainable Urban Extensions);
  - Policy 1 (Quantity of Development);
  - Policy 15 (Addressing Housing Need);
  - Policy 30 (Sustainable Design);
  - Policy 20 (Green Belt);
  - Policy 6 (Development on Unallocated Sites in the Built Up Area); and
  - Policy 16 (Durham University Development, Purpose Built Student Accommodation and Houses in Multiple Occupation).
- 16 All representations made have been reviewed and carefully considered and it has been concluded that, subject to some minor text and formatting changes which need to be made, there are no matters arising from the representations that call into question the soundness of the Plan or the legality of its preparation that would prevent it being submitted to the Ministry of Housing, Communities and Local Government in its current form. Therefore it is not necessary to carry out any further consultation and any outstanding issues will be resolved at the Examination in Public.
- 17 More detail is set out in the Statement of Consultation, which includes a statement setting out how Regulations 18 and 19 were addressed and how the representations were reflected in the Plan. A summary of the representations received together with a brief summary is included by officers for information (Appendix 2). On submission, the Council will collate all representations made at the Regulation 19 (Pre-Submission) consultation stage.

### **Duty to Cooperate**

- 18 County Durham borders a number of county, district and unitary councils and a National Park Authority. Regular liaison meetings have been held with these authorities to inform plan preparation and to ensure that issues of common concern are identified, taken into account and resolved as the local plan has evolved. Notably, the Council has developed working groups with the Tyne and Wear authorities and

those in Tees Valley, where we have our closest interaction. We also have formal arrangements with authorities in Northumberland, North Yorkshire and Cumbria where specific issues such as minerals and waste are discussed. Other meetings with statutory consultees such as Historic England and Natural England have been held throughout the preparation of the Plan.

- 19 The revised National Planning Policy Framework (NPPF) requires authorities to demonstrate effective and on-going joint working by preparing one or more statements of common ground, documenting the cross-boundary matters being addressed and progress in cooperating to address these. The Council is working and will continue to work with adjoining authorities and other prescribed bodies in the preparation of statements of common ground. The Duty to Cooperate statement is attached at Appendix 9 that demonstrates the requirements of the Duty to Cooperate have been met and that there are no major unresolved cross boundary issues.

### **Content of the Plan**

- 20 In order to ensure that County Durham is a successful place to live, work, invest and visit the County Durham Plan attached at Appendix 4 focusses on supporting and creating vibrant communities by delivering:
- More and better jobs and sustained economic growth;
  - A wide choice of high quality homes that supports economic growth and meets the needs of all people;
  - A high quality built and enhanced natural environment; and
  - The necessary supporting infrastructure including transport, health and educational needs.

### *Quantity of Development*

- 21 In order to meet the needs of present and future residents of County Durham the Plan proposes the following levels of development up to 2035:
- Employment Land: 302 hectares of general employment land for office, industrial and warehousing purposes; and
  - Housing: at least 24,852 new homes of mixed type, size and tenure (calculated using the government's methodology and guidance in Planning Practice Guidance).

### *Distribution*

- 22 The distribution of employment land relates to the economic markets that exist in County Durham i.e. A1 Corridor; Durham City; A19 corridor; Consett; Bishop Auckland; and the rest of the County.

- 23 The chosen Sustainable Communities option for the distribution of housing is a dispersed pattern of development across key settlements in the county, principally focused in and around the towns where the greatest opportunities for employment, services and facilities, public transport and other infrastructure such as healthcare and education exist. This spatial strategy will ensure we have a balance of housing across the County taking into account the most sustainable locations, market attractiveness and the prospects for regeneration to meet our need for housing.
- 24 As a result of the chosen spatial strategy the Plan proposes some land to be removed from the Green Belt at Sniperley Park and Sherburn Road, Durham City. The exceptional circumstances that justify the removal in summary are:
- Enabling sustainable patterns of development;
  - Maximising the number of journeys undertaken by sustainable means;
  - Providing good quality housing to meet needs and aspirations;
  - Helping to address economic under-performance; and
  - Maximising the delivery of affordable housing and other infrastructure.

### *Town Centres*

- 25 Nationally, town centres face increasing economic challenges which requires a flexible approach to uses in town centres. The Plan also links to the Council's work on improving our towns and villages including Cabinet's recent decision to confirm the continuation of its programme of town centre regeneration, in conjunction with the suite of masterplans.

### *Rural Areas*

- 26 It is important that rural settlements are not unduly constrained and remain sustainable. The Plan allows our rural communities proportionate growth so they are able to thrive and grow while also respecting the character of the countryside. The Plan also includes policies which are flexible enough to support housing and employment needs in our rural areas to support the modernisation and diversification of existing activity and encourage the vitality and viability of these communities.

### *Environment*

- 27 A range of policies are included within the Pre-Submission Draft which will positively respond to opportunities to enhance and protect important

assets from inappropriate development including policies relating to landscape, protection of the countryside, Green Belt, protected species and the historic environment amongst others. Climate Change remains a challenge to which the Council continues to respond, ensuring our communities remain resilient to the impacts and it is a matter that is integrated throughout the Plan.

### *Transport*

- 28 The Plan's sustainable transport policies seek to deliver more sustainable transport choices including by directing new development to the most sustainable locations. There are also allocations for a new railway station at Horden and safeguarding of the route of the Leamside Line and a possible Bowburn relief road. A corridor of interest for a possible future eastern relief road is also identified at Barnard Castle.
- 29 In order to create a more sustainable transport network in and around Durham City, there is a need for a positive strategy that manages the demand for car use by re-allocating, sharing and creating highway space for sustainable transport. To enable this to happen and to reduce congestion, improve air quality and improve the setting of the World Heritage Site, the Plan safeguards two possible routes for a Northern Relief Road and proposes a Western Relief Road for Durham City.

### *University Development and Student Accommodation*

- 30 The Plan includes a policy which considers future Durham University development, proposals for Purpose Built Student Accommodation (PBSA), including a number of allocations and proposals for Houses in Multiple Occupation (HMOs).

### *Minerals and Waste*

- 31 Minerals are a fundamental natural resource. They are of vital importance to modern economies and are essential to sustainable economic growth and quality of life. Three sites are proposed in the Plan at Hulands, Todhills and Heights Quarry, which will enable a steady and adequate supply of crushed rock aggregate, sand and gravel aggregate and brick making raw materials to be worked to 2035. There are no waste site allocations although a number of existing sites are safeguarded. More detailed policies and non-strategic site allocation will be included in the separate Minerals and Waste Policies and Allocations Document.

### **Sustainability Appraisal and Habitats Directive**

- 32 Sustainability Appraisal (SA) is a statutory process integrated into the preparation of all aspects and stages of the County Durham Plan. The

process measures the potential impacts of the Plan on a range of economic, social and environmental considerations, and includes the requirements of Strategic Environmental Assessment legislation. Where appropriate changes have been made to the Plan to incorporate SA recommendations. Where the recommendations have not been incorporated into the Plan an explanation is provided.

- 33 In order to comply with the requirements of the Habitat Regulations, a Habitat Regulations Assessment (HRA) has been undertaken. In light of the policies and allocations, together with proposed mitigation, the draft final HRA report concludes that the County Durham Plan will have no significant impact on identified Natura 2000 sites.
- 34 The Council considers that the combined SA and SEA process and the HRA undertaken in support of the Plan, from Issues and Options to Pre-Submission Draft, are legally and procedurally compliant with the relevant European and UK legislation and guidance, including its impartiality.

## **Evidence**

- 35 A robust and credible evidence base is integral to preparing a sound local plan. On 16 January 2019, Members approved the documents that form the evidence base for the Plan including the Strategic Housing Market Assessment, the Employment Land Review and the Affordable Housing, Transport Modelling, Traveller Needs Assessment, amongst many others.
- 36 Following the Pre-Submission draft consultation, minor changes have been made to the Sustainability Appraisal, Habitats Regulations Assessment, Durham Transport Model Appraisal Report, Durham Local Plan Traffic Impact report, Exceptional Circumstances, the Housing Need and Residual for Allocation paper and Residential Internal Space Standards as set out in Appendix 3. In addition, an addendum to the Green Belt Assessment has been produced to assess sites submitted during the Pre-Submission consultation attached at Appendix 7 and the Local Plan Viability report have been produced to reflect changes in national policy and engagement with the Home Builders Federation attached at Appendix 8.
- 37 The Landscape and Visual Appraisals for the Western and Northern Relief Roads were undertaken and published for consultation alongside the Pre-Submission. The Appraisals signalled a potential need for an Addendum in respect of the proposed introduction of Areas of Higher Landscape Value and a Local List of Parks and Gardens and Designed Landscapes of Local Interest. Following consultation, an addendum to these documents has been prepared having had regard to comments

received. The Landscape and Visual Appraisal for the Western Relief Road is attached at Appendix 13 and for the Northern Relief Road is attached at Appendix 14.

- 38 Other associated documents that are encouraged by the Planning Inspectorate for the examination include a self-assessment of the soundness and legal compliance of the Plan. The legal checklist is attached at Appendix 11 and the self-assessment on soundness is attached at Appendix 12.

## **Delivery**

- 39 In order to ensure that the Plan is effective, the delivery of 1,700 houses on Sniperley Park relies on improving transport infrastructure together with other on-site infrastructure requirements including a new 2.5 entry primary school.
- 40 Traffic modelling demonstrates that the build out of Sniperley Park will exacerbate existing traffic issues on the A167 and is therefore required to make a significant financial contribution to funding the Western Relief Road. This contribution will be used as match funding for future funding bids. Whilst 350 houses will be allowed to be completed before the Western Relief Road is in place, developer contributions will be sought throughout the duration of the build.
- 41 For financial planning purposes it has been assumed that the Council will be the accountable body and may need to cash flow some up front works. Therefore there will be deficit in the early years of the development. A future report will be required to consider how this would be financed. The arrangements for using developer monies are complex and along with development costs will need to be closely monitored through a future planning application process and managed by Corporate Finance and Regeneration and Local Services. Funding opportunities for both the Western and Northern Relief Roads will be continually explored.

## **Soundness**

- 42 The focus of the recent consultation was on soundness and legal compliance with the statutory procedures that must be followed when preparing the Plan. The Plan will now be subject to formal examination by the Planning Inspectorate. Examination is against four 'tests of soundness' set out in the National Planning Policy Framework (NPPF). A local authority should submit a plan for examination which it considers 'sound' on the basis that it is:
- **Positively prepared** – providing a strategy which, as a minimum, seeks to meet the area's objectively assessed needs; and is

informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;

- **Justified** – an appropriate strategy, taking into account the reasonable alternatives, and based on a proportionate evidence;
- **Effective** – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
- **Consistent with national policy** – enabling the delivery of sustainable development in accordance with the policies in this Framework.

- 43 Considering carefully the representations received, and following legal advice, it is considered that the Plan is sound and has been prepared in accordance with the Duty to Co-operate and all legal and procedural requirements. It is considered that no significant changes to the Plan are necessary prior to its Submission under Regulation 22 to the Ministry of Housing, Communities and Local Government for independent examination.
- 44 Following consideration of the consultation comments, a schedule of minor (additional) modifications to the Plan are proposed. These modifications will not alter the meaning or substance of the Plan and are attached at Appendix 3 for consideration and approval. Notwithstanding this position and in the interest of good practice, it is proposed that officers continue to discuss issues raised during the consultation period with stakeholders in the run up to the Examination, to further minimise their areas of concern. It is proposed that authority is given to the Corporate Director of Regeneration and Local Services, in consultation with the Portfolio Holder for Economic Regeneration, to continue discussions, prepare and present evidence and suggest to the Inspector any edits and consequential changes necessary to the Plan.
- 45 The Inspector, in examining the Plan and in light of representations made, may conclude that ‘modifications’ are required to make it sound and capable of adoption. Any ‘main modifications’ made in relation to soundness will in almost all cases need to be the subject of further consultation. It is accordingly proposed that Council authorises the Corporate Director of Regeneration and Local Services to ask the Inspector under section 20(7C) of the Planning and Compulsory Purchase Act 2004 to recommend modifications to the Plan, to ensure that modification, if required, can be made to satisfy the requirements of subsection (5)(a) and make the document sound.

## **Timescales and Next Steps**

- 46 Subject to Council approval on 19 June 2019, the Plan will be submitted to the Ministry of Housing, Communities and Local Government by the end of June 2019 for independent examination. An independent Inspector will be appointed soon after and the timescales from that point will be determined by the Inspector although we anticipate that the Examination in Public (EIP) hearings will be held in the autumn. After examination and following consultation on any modifications proposed by the Inspector, the Council will be asked to adopt the Plan.

## **Residential Amenity Standards Supplementary Planning Documents**

- 47 A high quality, built environment should consider the amenity of both existing and future residents and consideration should be given to matters of privacy, outlook, natural lighting, ventilation, as well as local climatic conditions. The Council's revised draft Residential Amenity Standards Supplementary Planning Document (SPD) attached at Appendix 6, sets down standards for alterations, extensions and separation distances between new dwellings. If agreed by Members the SPD will be consulted on from 5 July to 16 August 2019.

## **Revised Local Development Scheme**

- 48 Although the County Durham Plan is still on track with the milestones in the existing Local Development Scheme (LDS), the Minerals and Waste Policies and Allocation document has been delayed to follow the adoption of the County Durham Plan. In order to reflect this delay the Council's LDS has been revised. The updated timescales are shown below and assume a single stage examination. It should also be noted that the timescales for the examination are indicative as they will be set by the appointed Inspector. The revised LDS is attached at Appendix 5.

<b>Stage</b>	<b>County Durham Plan</b>	<b>Minerals and Waste</b>
Regulation 18 consultation (Preferred Options)	<b>Jun/Jul/Aug 2018</b>	<b>Spring/Summer 2020</b>
Regulation 19 consultation (Pre-submission)	<b>Jan/Feb/Mar 2019</b>	<b>Autumn/Winter 2020</b>
Submission	<b>June 2019</b>	<b>Spring 2021</b>
Examination	<b>Autumn 2019</b>	<b>Summer 2021</b>

Adoption	<b>Spring 2020</b>	<b>Winter 2021</b>
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- 49 Cabinet will be asked to consider and approve each consultation stage. Members will be kept up to date through briefings in advance of any consultation. The LDS will be continually reviewed to ensure it takes account of changes to national guidance and legislation.

### **Background papers**

County Durham Local Plan – Pre-Submission Draft (2019)

County Durham Local Plan – Preferred Options (2018)

County Durham Local Plan – Issues and Options (2016)

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**Contact:** Mike Allum

Tel: 03000 261906

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## **Appendix 1: Implications**

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### **Legal Implications**

Local plans must be positively prepared, justified, effective and consistent with national policy in accordance with section 20 of the Planning and Compulsory Purchase Act 2004 (as amended) and the National Planning Policy Framework (NPPF). The NPPF gives guidance to local authorities in drawing up their local plans. The preparation of the Plan, SPDs and the LDS have been informed by a continuous dialogue with the Council's legal team.

### **Finance**

The County Durham Plan has a continuing budget commitment for appropriate evidence gathering, consultation, printing and EIP costs.

As all of the funding for the Western Relief Road will not be in place immediately there may be a role for the Council in forward funding its construction and then recouping the cost over time. This would have some financial implications for the Council's capital and revenue budgets.

### **Consultation**

The programme of consultation has been agreed with the Council's Corporate Communications Team and agreed by the Council's Consultation Officers Group and will be undertaken in accordance with the Statement of Community Involvement and the 2012 Local Plan Regulations.

### **Equality and Diversity / Public Sector Equality Duty**

The Council acknowledges that, in exercising its functions, it has a legal duty under the Equality Act 2010 to have due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations. This duty applies to all people defined as having protected characteristics under that legislation.

The Council has carefully considered the likely impacts of the Plan on persons with a protected characteristic at each stage of the process. An Equality Impact Assessment has been prepared in partnership with the community engagement team. A copy of the Equality Impact Assessment is attached at Appendix 10.

The Plan will continue to be subject to Equality Impact Assessment as it progresses.

## **Human Rights**

Protocol 1 Article 1: Every natural or legal person is entitled to the peaceful enjoyment of his possessions, including their property. The Plan allocates land for development which will affect landowners' rights to develop their land. It is noted, however, that rights afforded under this Article are not absolute but qualified. Therefore, any interference with landowners' rights must be balanced against the wider public. It is lawful for a local planning authority to take action if that action is clearly necessary and proportionate. In this instance, such control is necessary and proportionate in the public interest to ensure that a local plan is in place to guide development across the county to 2035.

## **Crime and Disorder**

The Sustainable Design policy now includes a criterion which seeks to reduce vulnerability, increase resilience and ensure public safety and security.

## **Staffing**

The resource required to progress the local plan is in place.

## **Accommodation**

None.

## **Risk**

Not having an adopted local plan makes it more difficult to resist inappropriate development and also to provide the necessary certainty to facilitate appropriate development to support the local economy. Failure to make progress risks Government intervention.

## **Procurement**

When required, consultants have been commissioned to deliver evidence studies in accordance with the Council's procurement rules/procedures.