

CABINET

21ST NOVEMBER 2019

REPORT OF HEAD OF PLANNING, ECONOMY AND REGENERATION

MID DEVON LOCAL PLAN REVIEW EXAMINATION PROPOSED MAIN MODIFICATIONS

Cabinet Member(s): Councillor Graeme Barnell, Cabinet Member for Planning and Economic Regeneration

Responsible Officer: Mrs Jenny Clifford, Head of Planning, Economy and Regeneration

Reason for Report: To consider the next steps in the examination process of the Mid Devon Local Plan Review following the receipt of the Inspector's post hearings advice note, and draft Proposed Main Modifications to address the issues raised. This report seeks a recommendation from Cabinet to Council that Proposed Main Modifications and Additional (Minor) Modifications to the Mid Devon Local Plan Review, Addendum to the Sustainability Appraisal, Addendum to the Habitat Regulations Assessment, and Addendum to the Equalities Impact Assessment 2017 are approved for public consultation and, with the exception of the Additional (Minor) Modifications and consultation responses on these, these documents are submitted with consultation responses received on them to the Planning Inspectorate together.

RECOMMENDATION:

That Cabinet recommends to Council that:

- 1. The Council requests the Inspector to recommend main modifications to the Mid Devon Local Plan Review, under section 20(7c) of the Planning and Compulsory Purchase Act 2004, in order for it to be made sound and legally compliant.**
- 2. The following documents are published for a minimum 6 week period of public consultation:**
 - i) Schedule of Proposed Main Modifications to the Mid Devon Local Plan Review (Appendix 1)**
 - ii) Schedule of Additional (Minor) Modifications to the Mid Devon Local Plan Review (Appendix 2)**
 - iii) Addendum to the Sustainability Appraisal (Appendix 3),**

- iv) **Addendum to the Habitat Regulations Assessment (Appendix 4), and**
- v) **Addendum to the Equalities Impact Assessment 2017 (Appendix 5)**

3. Following this consultation the documents listed in recommendation 2, excluding 2ii) are submitted to the Planning Inspectorate together with the consultation responses received on them.

Financial Implications: No direct implications. However securing an up to date development plan is vital to support wider economic and housing development. It will be an important part of the framework that will enable Community Infrastructure Levy and the effective operation of s106 obligations. There is funding provision for the examination and main modifications stage of the Mid Devon Local Plan Review (Local Plan Review).

Legal Implications:

Regulation 4 (amendment of Regulation 10A) of the Town and Country Planning (Local Planning) (England) (Amendment) Regulations 2017, exercises the powers of the Planning and Compulsory Purchase Act 2004 and the Neighbourhood Planning Act 2017, and places a requirement for a review of the Local Plan to be completed every five years starting from the date of the adoption of the Local Plan. The Mid Devon Core Strategy was adopted in July 2007, with Local Plan Part 2 (Allocations and Infrastructure DPD) and Part 3 (Development Management Policies) adopted in October 2010 and November 2013 respectively. There is an urgent need to conclude the examination of the Local Plan Review so that it can be adopted. The Local Plan Review must also meet legal requirements including the need for a Sustainability Appraisal (“SA”) which complies with the Planning and Compulsory Purchase Act 2004 and the Environmental Assessment of Plans and Programmes Regulations 2004 (the “SEA Regulations”), and a Habitat Regulations Assessment in accordance with the Conservation (Natural Habitats, &c.) (Amendment) Regulations 2007, the Conservation of Habitats and Species Regulations 2010 and the Conservation of Habitats and Species (Amendment) Regulations 2012.

The Planning Inspectorate’s Procedure Guide for Local Plan Examinations deals with consultation on main modifications (‘MM’s) as follows:

6.8. The precise arrangements for public consultation will vary from case to case but will follow these general principles:

- it will be made clear that the consultation is only about the proposed MMs and any policies map changes (and no other aspect of the plan), that they are put forward without prejudice to the Inspector’s final conclusions, and that all representations made will be taken into account by the Inspector;
- the consultation document will include all the proposed MMs, making no distinction between those originally proposed by the LPA and those proposed by the Inspector or others;

- if the LPA wish to include additional modifications in the consultation document, they should be clearly distinguished from the MMs and it should be made clear that they are not before the Inspector for consideration;
- the scope and duration of the consultation will reflect those of the consultation held at Regulation 19 stage: this means it will last at least six weeks.

Risk Assessment: The Inspector examining the Local Plan Review has made clear in his post hearings advice note where main modifications are necessary in order for the plan to be made sound, and without which the plan will be unsound. A decision not to approve all of the Proposed Main Modifications for public consultation would further delay the plan's preparation during which time the Council is more vulnerable to speculative planning applications, the evidence supporting the plan becoming dated, the context of the plan altering through forthcoming new legislation and the plan becoming less capable to meet the requirements of future national planning policy and legislation. A decision to not approve all of the draft Main Modifications for public consultation would make the Council's position unclear during the current examination. It would undermine the credibility of the plan and potentially harm the Council's reputation as a plan making authority. It could result in further examination hearings being scheduled.

Equality Impact Assessment: The Mid Devon Local Plan Review has been screened through Equalities Impact Assessment. An addendum has been made to the Equalities Impact Assessment 2017. This includes an assessment of the impact of the proposed main modifications in terms of the five policy areas and the protected characteristics identified in the Equalities Impact Assessment. This Addendum forms part of the recommendations of this report.

Relationship to Corporate Plan: Expediting the Local Plan Review is a key corporate priority. The Local Plan Review will form the legal basis for determining planning proposals, once it has been adopted, and is a vehicle to realise a range of corporate priorities.

Impact on Climate Change: The Local Plan Review has been prepared within a legal framework and national planning policy that has at its heart the principle of sustainable development and policies to help address climate change through the development and use of land.

1.0 Introduction/Background

Submission of the Local Plan Review

- 1.1 The Mid Devon Local Plan Review Submission Version (incorporating proposed modifications), hereafter referred to as the "Local Plan Review", was submitted on 31st March 2017 to the Planning Inspectorate for its examination. This was in accordance with the decision of the Council at its meeting on 1st December 2016 at which Council adopted the recommendations of the preceding Cabinet meeting held on 21st November 2016. The submitted Local Plan Review included a land allocation at Junction 27 and associated housing sites, these having previously also been considered at meetings of

Cabinet and Council on 15th September 2016 and 22nd September 2016 respectively.

Council reaffirms its decisions of 22nd September 2016 and 1st December 2016

1.2 On 21st February 2018 the Council (Minute 116) adopted recommendations of the Cabinet set out in Minute 127 as follows:

- a) Reaffirms its decisions of 22nd September 2016 and 1st December 2016 regarding the Mid Devon Local Plan Review (incorporating proposed modifications) and instructs officers to liaise with the Planning Inspector to restart the examination process as quickly as possible subject to [b] and [c] below.

The Council's decision of the 22nd September 2016 was to adopt the following recommendations of the Cabinet meeting held on 15th September 2016:

Minute 62 (a) that a 6 week consultation period take place prior to the submission of the Local Plan;

Minute 62 (b) that land at Junction 27 of the M5 be allocated for leisure, retail and tourism development; and

Minute 62 (c) that associated additional housing sites giving the extra provision of 260 additional homes be allocated at Blundells Road, Tiverton and Higher Town, Sampford Peverell.

The Council's decision of the 1st December was to adopt the following recommendations of the Cabinet meeting held on 21st November 2016:

Minute 96 (a) that delegated authority be given to the Head of Planning and Regeneration in consultation with the Cabinet Member for Planning and Economic Regeneration to make minor changes both before and after consultation to the text and maps including updating factual information such as the latest commercial land survey results;

Minute 96 (b) that approval be given to publish the proposed modifications to the Local Plan for consultation and that delegated authority be given to the Head of Planning and Regeneration in consultation with the Cabinet Member for Planning and Economic Regeneration for the plan's subsequent submission to the Planning Inspectorate for examination together with its supporting documentation; and

Minute 96 (c) that Policy DM6 (b) be amended removing the wording "The housing" and replacing it with "Each house" with [a] line to be added to paragraph 4.23 "to refer to Mid Devon District Council's cascade system".

The Council's decision of the 1st December also carried two further amendments:

That resolution (d) be added with Policy SP2 to be amended to read as follows:

“Higher Town, Sampford Peverell

A site of 6 hectares at Higher Town, Sampford Peverell is allocated for a low density residential development, to come forward following the commencement of development of the M5 Junction 27 allocation, subject to the following:

- a) No more than 60 dwellings with 30% affordable housing;
- b) No development until the completion of improved access works to the A361;
- c) Landscaping and design which respect the setting and character of the area;
- d) Provision of a drainage strategy and Sustainable Urban Drainage Scheme to deal with all surface water from the development and arrangements for future maintenance;
- e) Mitigation of any wildlife impact including protection of hedgerows; and
- f) _Archaeological investigation and appropriate mitigation; and
- g) 2 hectares of Green Infrastructure laid out and managed with landscaping and open space.

3.224a The site is on the edge of Sampford Peverell, outside the main built up part of the village. The site is elevated and will require careful landscaping and mitigation measures. Development of the highest ground should remain as undeveloped green infrastructure. Low density and good design will be required to respect the existing character of edge-of village housing and conservation area. The site is currently bounded by hedgerow. Some loss of hedgerow would be required to enable access however, careful design should be considered to minimise this impact including incorporating new hedgerow into the design of the development.

3.224b This site lies in an area of archaeological potential with the Historic Environment Record recording prehistoric activity. Any application will need to be accompanied by archaeological investigation and appropriate mitigation.

3.224c The Highway Authority has advised that any development of the site should only commence once improvements to the A361 junction have been implemented to create west facing slip roads to enable direct access to and from the west. The site is required to meet additional housing need arising from the allocation at Junction 27 of the M5 motorway.

Accordingly it shall only come forward following the commencement of development on that site.”

That resolution (e) be added as follows

“96 (e) Policy S1 Sustainable development priorities

(g) Delivering a wide choice of high quality homes through a diverse housing mix and by meeting the housing needs of all sectors of the community including the provision of accessible housing for older people and people with a disability, those wishing to build their own home, affordable housing and gypsy and traveller pitches”

- b) Approves the publication of the LUC SA Update Review (2018), the schedule of amendments made to the Sustainability Appraisal Update (2017), the Sustainability Appraisal Update (2018) and the Executive Summary of the SA Review process (2018);
- c) Approves a 6 week public consultation on the schedule of amendments made to the Sustainability Appraisal Update (2017)

Delegated authority to follow instructions from the appointed Inspector

- 1.3 On 5th July 2018 the Cabinet approved a recommendation (Minute 41) to Council that delegated authority be given to
- Officers to follow instructions from the appointed Inspector to assist with the examination of the Local Plan Review.
 - The Head of Planning, Economy and Regeneration in consultation with the Cabinet Member for Planning and Economic Regeneration to agree upon a set of proposed main modifications if arising during the examination process (most likely at the very end of the examination process) and if asked by the Inspector to do so, and seek approval from the Council to consult on these together with any updated Sustainability Appraisal.
 - The Head of Planning, Economy and Regeneration the ability to make any presentational improvements or other consequential minor changes (e.g. correcting typographical errors or factual inaccuracies and matters of clarification) to the Local Plan or its Policies Map prior to the consultation on proposed main modifications commencing.

- 1.4 On 29th August 2018 the Council adopted the recommendations of the Council as set out in Minute 41.

Examination – Preliminary Hearings

- 1.5 The appointed Inspector held preliminary hearings on the 20th and 21st September 2018 specifically in relation to Policy J27, Policy SP2 Higher Town, Sampford Peverell and Policy TIV16 Blundells School, Tiverton. The Inspector subsequently issued his letter to the Council dated 29th October

2018, in which he made preliminary conclusions that he:

- Saw no 'in principle' difficulty with the Policy J27 allocation;
- Did not share the view, expressed by some, that the process by which the site at Higher Town, Sampford Peverell (Policy SP2) was selected over others was flawed, and that he was content with the Council's conclusion that development of the site proposed for allocation could take place with very little or no harmful impact on the setting or significance of the Grand Western Canal Conservation Area is not an unreasonable one;
- Considered the allocation of the Policy TIV16 site to be soundly based and there is no need for a tie within it to Policy J27.

The Inspector indicated that he wanted to return to the detailed wording of Policy J27 and Policy SP2 in Main Hearings.

Examination – Main Hearings

- 1.6 The Inspector held main hearings on the 14th, 15th, 19th and 20th February 2019 at which he invited the Council and participants to respond to 49 questions. This included a hearing specifically in relation to Policies J27 and SP2 where the Inspector asked "is the wording of draft Policy 27 (land at the Junction 27 of the M5 motorway) too restrictive?" and "could the wording of Draft Policy SP2 (Higher Town, Sampford Peverell) be made more clear, and precise?".

Inspector's post hearings advice note

- 1.7 The Inspector issued his post hearing advice note on 21st May 2019 in which (in summary) he:
- Was content that the objectively assessed need (OAN) figure of 7860 (393 new homes each year) is soundly derived;
 - Considered the vision, and general approach of the Plan, directing development, and housing in particular, to Cullompton, in the main, is reasonable, in principle;
 - Did not see the need for any changes to Policy J27 or Policy CB1;
 - Requested amendments to Policy SP2 Higher Town, Sampford Peverell, through the removal of the tie to Policy J27 and the removal of the limitation on development until the completion of improved access works to the A361;
 - Was concerned at the Plan's approach to provision for Gypsies and Travellers in relation to Policies S14 and DM7;
 - Suggested revisions to some of the Development Management policies (Policies DM1, DM2, DM12, DM19, DM25, DM27) and had a concern with Policy DM28;
 - Acknowledged that a number of changes to the Plan had been agreed in various Statements of Common Ground submitted before and during the hearings and others accepted by the Council at the hearings, which would need to be considered to ascertain whether these changes would necessitate main modifications.

1.8 However, the Inspector expressed concern about the housing trajectory in the early years of the Plan in particular, and he suggested four remedies to maintain a five-year supply of deliverable housing sites (that may require potential Main Modifications to the Plan). These included:

- “1. Bringing forward other allocated sites that are currently restricted in terms of timing with no good reason, the Policy SP2 site for example; and/or*
- 2. Bringing forward the contingency sites; and/or*
- 3. Extending existing allocations to accommodate more dwellings (the Policy W11 site for example) or increasing densities to allow for more dwellings on allocated sites that are less constrained; and/or*
- 4. Allocating a new, large site not constrained by the link road (or motorway junctions) that can come on stream quickly and bolster supply in the early years of the Plan while infrastructure is provided elsewhere.”*

Council’s Draft Housing Land Supply Update 2019, Sustainability Appraisal Implications Report, participants comments and Council’s response to these comments

1.9 In accordance with delegated authority through the Council’s approval of Minute 41 on 29th August 2018, officers prepared and agreed with the Cabinet Member for Planning and Economic Regeneration a Draft Housing Land Supply Update June 2019 and a Sustainability Appraisal Implications Report.

1.10 The Draft Housing Land Supply Update June 2019 confirmed that the delivery of the first phase of the North West Cullompton allocation (600 dwellings) is not dependent on the delivery of the Town Centre Relief Road as long as it makes financial contributions towards it. It also set out proposed Main Modifications which took account of the Inspector’s suggested remedies to address his concerns about the housing trajectory. In particular it followed the Inspector’s suggested remedies “1” and “2” as follows:

To bring forward the existing allocated Policy SP2 site, where the Inspector has stated:

“This was discussed in some detail at the Hearings. I would observe first of all that the Plan’s OAN of 7860 (393 pa) is an overall figure that reflects the inclusion of the Policy J27 allocation. Given that the Policy SP2 allocation is included so that the overall housing requirement can be addressed, the tie to Policy J27 serves no purpose. Reference to it should be removed.

Moreover, it was clear from the helpful submissions of the Highway Authority, that the limitation on development until the completion of

improved access works to the A361 is unnecessary. Criterion b) needs to be removed.

These changes will require MMs.”

To bring forward the contingency site at Colebrook, Cullompton (Policy CU21). This has followed Devon County Council's highway consultation response to MDDC in March 2019, to the current planning application reference 19/00118/MOUT (outline application for up to 105 dwellings on land at Colebrook Lane), where there is no longer a requirement for the prior completion of the North West Cullompton distributor road (Tiverton Road – Willand Road link).

- 1.11 The Inspector's advice sought to bring forward *deliverable* sites to boost the delivery of housing in the early years of the Plan, and did not seek to increase the overall housing requirement for the district. In this specific context, sites that did not have a realistic prospect of yielding completions within five years could not be considered as reasonable alternatives to the measures proposed.
- 1.12 The Local Plan Review is being examined under transitional arrangements against the 2012 National Planning Policy Framework (paragraph 47, footnote 11, page 12) which states “To be considered *deliverable*, sites should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years and in particular that development of the site is viable.” Planning applications submitted for SP2 Higher Town, Sampford Peverell and at CU21 Colebrook, Cullompton indicate there is developer interest in both sites.
- 1.13 In the case of the other contingency site in the Local Plan Review at Tidcombe Hall, Tiverton (Policy TIV13), officers understood this site is affected by land assembly issues.
- 1.14 The Draft Housing Land Supply Update June 2019 has not needed to include proposed Main Modifications which would follow the Inspector's remedies “3” and “4”. Neither remedy was considered to be necessary since the proposed modifications that followed the Inspector's remedies “1” and “2” would sufficiently boost housing supply in the first five years of the plan. At the time of preparing the Draft Housing Land Supply Update June 2019 planning permission had been refused for increased housing numbers at Willand (Policy WI1), but this was the subject of a planning appeal (19/000019/WR). Larger urban extensions, or additions to allocated urban extensions, were not considered to be deliverable in five years.
- 1.15 Officers prepared a Sustainability Appraisal Implications Report to assess the implications of the proposed Main Modifications in relation to the housing trajectory and the remedies suggested by the Inspector. All of the sites assessed in this Sustainability Appraisal implications report had previously been assessed as part of the Council's Sustainability Appraisal (SA) of the

Mid Devon Local Plan Review 2013 -2033¹ (i.e. they were not new sites that had not previously assessed by the Sustainability Appraisal). The purpose of the Sustainability Appraisal implications report was to assess whether the proposed Main Modifications affecting those previously assessed sites had significant implications for the Sustainability Appraisal.

- 1.16 In summary, the findings of the Sustainability Appraisal implications report were that the proposed Main Modifications would not have a material change on the previous assessment of those sites in the Sustainability Appraisal. Additionally, the findings of the Sustainability Appraisal implications report were that the assessment of further “reasonable alternatives” was not necessary. The proposed Main Modifications affecting the two sites at Policy SP2 Higher Town, Sampford Peverell and a Policy CU21 Land at Colebrook, Cullompton did not result in environmental or other effects that were of significance in relation to the objectives of the Sustainability Appraisal. However, some factual updating to the Sustainability Appraisal would be needed, particularly to reflect new information provided at the examination hearings from Highways England and Devon County Council in relation road improvements to the A361 and also at Cullompton.
- 1.17 For completeness, the Sustainability Appraisal Implications report also assessed the Inspector’s suggested options for remedies to maintain a five-year supply of deliverable housing sites that officers had not proposed as Main Modifications to the Plan. These options included bringing forward the contingency site at Tidcombe Hall, Tiverton (TIV13) and extending the site allocation WI1 at Willand. There were found to be no significant implications for the Sustainability Appraisal in terms of not proposing Main Modifications in relation to these two sites.
- 1.18 The Inspector invited participants at hearings related to housing land supply and Policy SP2 Higher Town, Sampford Peverell and Policy CU21 Land at Colebrook, Cullompton to comment on the Draft Housing Land Supply Update June 2019 and Sustainability Appraisal Implications Report. Ten representations were received from the hearing participants.
- 1.19 Officers carefully considered all comments made by hearing participants and concluded that the Draft Housing Land Supply Update June 2019, along with the modifications as suggested by the Inspector in relation to the proposed site allocations at Policy SP2 Higher Town, Sampford Peverell and at Policy CU21 Land at Colebrook, Cullompton represented a sound approach that demonstrated the Local Plan Review would be effective and deliverable over its period. In particular, appropriate provision had been made to meet the housing requirements in the early years of the Local Plan Review. Officers considered that no further modifications to the Local Plan Review would be

¹ The Procedure Guide for Local Plan Examinations (June 2019) advises at paragraph 6.10 that if MMs are likely to involve the allocation of additional sites that did not appear in the submitted plan, the Inspector may ask the LPA to undertake SA and consultation on the additional sites as a separate process, before the schedule of MMs is agreed.
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/813316/Procedure_Guide_for_Local_Plan_Examinations_June_2019_-_Final.pdf

required in addition to the amendments that arose from the Draft Housing Land Supply Update June 2019 and those modifications already set out by the Inspector in his post hearings advice note.

1.20 The Draft Housing Land Supply Update June 2019 (Examination document reference ED20), Sustainability Appraisal Implications Report (ED21), Comments received during the consultation on ED20 and ED21 (ED23), and the Council's response to comments made on ED20 and ED21 (ED22) are published on the Council's website.

1.21 Officers submitted a response to comments received to the Draft Housing Land Supply Update June 2019 and Sustainability Appraisal Implications Report to the Planning Inspectorate on 6th September 2019.

Recent decisions made on planning applications at SP2 Higher Town, Sampford Peverell and at W11 Land East of M5, Willand

1.22 The Inspector's post hearings advice note makes specific reference to the site allocations at Policy SP2 and at W11 in suggested remedies to maintain a five-year supply of deliverable housing sites, which is referred to in paragraph 1.8 of this report. Paragraph 1.10 of this report explains why the site allocation at SP2 Higher Town, Sampford Peverell has been brought forward as a proposed Main Modification. Paragraph 1.14 of this report explains that at the time of preparing the Draft Housing Land Supply Update June 2019 planning permission had been refused for increased housing numbers at Willand (Policy W11), but this was the subject of a planning appeal (19/000019/WR). The Inspector's suggested remedy to extend existing allocations to accommodate more dwellings (the Policy W11 site for example) was not necessary.

1.23 Members will be aware of the recent decisions on planning applications for new housing at the site allocation Policy SP2 Higher Town, Sampford Peverell, and also the site allocation W11 Land East of M5, Willand.

1.24 Both planning decisions were acknowledged by Officers in the response to comments received to the Draft Housing Land Supply Update June 2019 and Sustainability Appraisal Implications Report that was submitted to the Planning Inspectorate on 6th September 2019.

1.25 The decision to refuse planning permission for development at the site allocation Policy SP2 Higher Town, Sampford Peverell does not take away the fact that the site is technically capable of being developed in the early years of the Local Plan Review and that for plan making purposes the potential commencement of development and build out rate follows the Housing and Economic Land Availability Assessment (HELAA) methodology market conditions model. This approach is consistently applied across Greater Exeter area and has been endorsed by housing industry experts that have helped shape the HELAA methodology. The Inspector has remarked in his post hearings advice note there is no good reason for the site allocation at Policy SP2 Higher Town, Sampford Peverell to be restricted in terms of timing.

- 1.26 The Council has a duty to consider other planning applications that could be submitted for the development of this site, where potentially, the decision making process might have a different outcome.
- 1.27 Officers have noted the Appeal Decision issued by the Planning Inspectorate on 29 August 2019 that has granted planning permission for 125 dwellings on a larger site incorporating the site allocation at Policy WI1 Land East of M5, Willand (APP/Y1138/W/18/3214685). These additional dwellings will be included within the Council's housing commitments for the 2019/20 monitoring year. There is no need to amend Policy WI1 in light of this appeal decision.
- 1.28 A comment has been received in response to the consultation on the Draft Housing Land Supply Update June 2019 which has suggested there is "*no need to bring SP2 forward in the build-out sequence*". This is in light of the appeal decision, where the consultation response suggests "*in theory up to an extra 83 houses could be built on WI1*". The Inspector has been made aware of the appeal decision and the comment received, and he has not suggested any change to the advice in his post hearings advice note about bringing forward the Policy SP2 site and the reasons for this.

Proposed Main Modifications to address the Inspector's concern at the Plan's approach to provision for Gypsies and Travellers in relation to Policies S14 and DM7

- 1.29 The Inspector has expressed some concerns with the Plan's approach to provision for Gypsies and Travellers, where he has considered that allocations for Gypsy and Traveller sites as part of wider housing allocations might well lead to problems of delivery of either or both, and that Policy S14 would appear to rule out windfall sites coming forward in the countryside.
- 1.30 The Inspector has suggested that a more pragmatic approach is needed through two options. These include meeting the need [for Gypsy and Traveller sites] in full by allocating enough sites while ensuring those sites are decoupled from general housing allocations to form separate allocations, or, make Policy S14 permissive of Gypsy and Traveller sites in the countryside while decoupling allocated Gypsy and Traveller sites from general housing allocations and deleting the stipulation in relation to need in Policy DM7.
- 1.31 Appendix 1 includes proposed Main Modifications to Local Plan Review paragraphs 2.31, 2.82 and Policies S14 and DM7 to address the Inspector's concerns. The requirement for the provision of pitches for Gypsies and Travellers is maintained on planned urban extensions at the Tiverton Eastern Urban Extension (Policy TIV1), North West Cullompton (Policy CU1), East Cullompton (Policy CU7) and at Pedlerspool in Crediton (Policy CRE5). However, off-site provision will, only, be accepted where it is demonstrated that a more favourable outcome for Gypsies and Travellers will be achieved. This will take into account pitch numbers; site facilities; accessibility to services, including health and education; early delivery of serviced pitches or plots which are available for occupation; and, the provision of an effective mechanism for delivery.

2.0 Proposed Main Modifications to the Local Plan Review

- 2.1 The Inspector contacted the Council on 27th September and has advised that he has “*carefully considered the material contained in ED20, ED21, ED22 and ED23 and has no further questions at this stage. On that basis, the Inspector is content for the Council to publish its draft Main Modifications for consultation as soon as it is ready to do so.*”

Schedule of Proposed Main Modifications to the Local Plan Review

- 2.2 Officers have prepared a schedule of Proposed Main Modifications to the Local Plan Review (Appendix 1 attached to this report). This has been guided by the Inspector’s advice in his post hearings advice note, and includes proposed main modifications to the housing trajectory that have previously been published and consulted on with relevant participants at the hearings.

Schedule of Additional (Minor) Modifications to the Local Plan Review

- 2.3 Officers have also prepared, for the sake of completeness and transparency, a schedule of additional (minor) modifications to the Local Plan Review. These additional modifications are ‘minor’ since they are factual and grammatical corrections and do not materially affect the plan’s policies or go to the heart of the plan. These additional minor modifications will be made available for public comment alongside the proposed Main Modifications, but will not be submitted to the Planning Inspectorate. This is since they are not part of the examination or before the Inspector to consider as proposed Main Modifications. Comments received on the additional minor modifications can be used to help finalise the plan on adoption.

Amendments to the Sustainability Appraisal

- 2.4 Consultant LUC has undertaken an assessment of the proposed Main Modifications to the Local Plan Review for the purpose of the Sustainability Appraisal. This is since the Planning and Compulsory Purchase Act 2004 and Environmental Assessment of Plans and Programmes Regulations (2004) (“The SEA Regulations”) place a legal requirement for the Local Plan Review to be supported by a sustainability appraisal (SA). This legal requirement is an important element of testing the “soundness” of local plans that is required by National Planning Policy Framework paragraph 182.
- 2.5 Appendix 3 to this report includes an Addendum to the Sustainability Appraisal with a schedule that records the implications of each Proposed Main Modification for the Sustainability Appraisal conclusions reported previously.
- 2.6 LUC has concluded that the Proposed Main Modifications would result in a small number of changes to the SA effects previously identified for the Local Plan Review (in the February 2015 SA Report and in the 2018 SA Update (See Appendix 3). The changes to SA effects do not fundamentally alter the cumulative effects of the Local Plan Review. Any effects that have been

changed have been made more positive as a result of the proposed modifications, and in most cases the changes are to the timescales over which likely effects already identified would occur. The overall scale of development proposed in the Local Plan Review, and the spatial strategy, are unaffected by the proposed modifications.

- 2.7 In LUC's professional judgement, the work carried out and presented in the SA Addendum is appropriate to meet the requirements of the SEA Regulations in relation to the Proposed Main Modifications. The SA Addendum will be published alongside the Proposed Main Modifications to the Local Plan Review during a six week consultation period in early 2020.

Habitat Regulations Assessment (HRA)

- 2.8 Consultant LUC has also screened the proposed Main Modifications for the purpose of Habitat Regulations Assessment.
- 2.9 Appendix 4 to this report includes an Addendum to the Habitat Regulations Assessment with a schedule that records the implications of each Proposed Main Modification for the Habitat Regulations Assessment findings reported previously.
- 2.10 LUC's key findings are that the Proposed Main Modifications have no implications for the conclusions reported previously in the HRA Report for the Publication Draft Local Plan (March 2015), and updated in the HRA Addendum (August 2016) and the J27 Appropriate Assessment Report (December 2016). Therefore, the conclusions of the HRA for the Mid Devon Local Plan Review remain that the local plan review (taking into account the Proposed Main Modifications) is not likely to have adverse effects on the integrity of European sites, either alone or in-combination with other plans or projects, providing that the mitigation set out in the Local Plan Review is implemented.

Amendments to the Equalities Impact Assessment 2017

- 2.11 Appendix 5 to this report includes an Addendum to the Equalities Impact Assessment 2017, which is necessary following the proposed Main Modifications. The Equalities Impact Assessment has not identified any fundamental impacts on protected characteristics arising from the Council's proposed Main Modifications to policies in the Local Plan Review that would require further modification to those policies. However, there are some probable positive and negative impacts on protected characteristics in relation to the five policy areas, for example where Main Modifications are proposed to policies for the provision of sites for Gypsies and Travellers.

3.0 Next steps

- 3.1 Subject to Cabinet and Council approval, it will be necessary for the Council to request the Inspector, under section 20(7)(c) of the Planning and Compulsory Purchase Act 2004, to recommend main modifications to the Mid Devon Local Plan Review in order for it to be made sound and legally

compliant. This request must be made before public consultation on proposed main modifications begins.

- 3.2 It is also proposed, subject to Cabinet and Council approval that the schedule of proposed Main Modifications to the Mid Devon Local Plan Review (Appendix 1), schedule of Additional (Minor) Modifications (Appendix 2), Addendum to the Sustainability Appraisal (Appendix 3), Addendum to the Habitat Regulations Assessment (Appendix 4) and Addendum to the Equalities Impact Assessment 2017 (Appendix 5) are published for a minimum 6 week period of public consultation at the earliest practicable date following the Council's request to the Inspector under section 20(7)(c) of the Planning and Compulsory Purchase Act 2004.
- 3.3 It will be made clear within this process that the scope of this minimum 6 week period of public consultation is only about the proposed Main Modifications to the Mid Devon Local Plan Review (and no other aspect of the plan), the Additional (Minor) Modifications, the Addendum to the Sustainability Appraisal, the Addendum to the Habitat Regulations Assessment, and the Addendum to the Equalities Impact Assessment 2017. The scope of the public consultation will not include the unchanged contents of the submitted Local Plan Review, Sustainability Appraisal, Habitat Regulations Assessment or Equalities Impact Assessment (2017). The public consultation is therefore not an opportunity to revisit previous consultations of the Mid Devon Local Plan Review Submission Version (incorporating proposed modifications).
- 3.4 Following this consultation, with the exception of the Schedule of Additional (Minor) Modifications and consultation responses received on these (which are not before the Inspector for consideration), the schedule of proposed Main Modifications to the Mid Devon Local Plan Review, the Addendum to the Sustainability Appraisal, the Addendum to the Habitat Regulations Assessment, and the Addendum to the Equalities Impact Assessment 2017, and the consultation responses received on these will be submitted to the Planning Inspectorate, where they can be considered together with all previously submitted documentation and documents that have formed part of the examination and its hearings. The Council's submission of proposed Main Modifications to the Planning Inspectorate is without prejudice to the Inspector's final conclusions.
- 3.5 A proposed timetable is as follows:

6 week public consultation	January – February 2020
Submission of the schedule of proposed Main Modifications to the Mid Devon Local Plan Review (Appendix 1), Addendum to the Sustainability Appraisal (Appendix 3), Addendum to the Habitat Regulations Assessment (Appendix 4), Addendum to the Equalities Impact Assessment 2017 (Appendix 5) and consultation responses	March 2020

received on these to the Planning Inspectorate

- 3.6 To be clear, there is no requirement for the Council to consider the consultation responses itself. Instead, these are submitted to the Inspector with the Schedule of proposed Main Modifications following the conclusion of the consultation. The Inspector will then consider all the consultation responses received together with all previously submitted documentation in order to conclude the examination with his report and decide which Main Modifications to recommend the Council makes to the Local Plan Review in order for it to be sound and legally compliant. It is anticipated this will be received by the early spring 2020.
- 3.7 The Inspector's report will be subject to a fact-check procedure with the Council. The primary purpose of the fact-check process is for the Council to draw attention to any factual errors or inconsistencies in the report. The Council may not question the conclusions and recommendations in the report, although it may seek clarification on any that it considers to be unclear. Once the fact check has been completed and the Inspector has dealt with any points raised, he will send his final report to the Council. This will mark the completion of the examination. The Council is required to publish the report as soon as is reasonably practicable after it has been received.
- 3.8 Where the Inspector's report recommends that main modifications are needed to the plan the Council must make those recommended main modifications if it wishes to adopt the plan. The report is not binding on the Council, but the Council may not adopt an unsound plan.
- 3.9 The Mid Devon Local Plan Review with the Inspector's recommended main modifications, and a final updated Sustainability Appraisal and Habitat Regulations Assessment, will be reported back to the Cabinet and Council with a recommendation that the plan is formally adopted. Once the plan has been adopted it will replace the current adopted Core Strategy (2007), the Local Plan Part 2 Allocations and Infrastructure Development Plan Document (2010) and the Local Plan Part 3 Development Management Policies Development Plan Document (2013).

4.0 Groups Consulted

- 4.1 The Planning Policy Advisory Group (PPAG) considered the report of Local Plan Review Proposed Main Modifications and appendices, at its meeting on 31st October 2019 and recommended these are reported to the Cabinet.

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Circulation of the Report: Cabinet Members

Cabinet Member -Councillor Graeme Barnell, Cabinet Member for Planning and Economic Regeneration

Leadership Team

List of Background Papers:

Local Plan Review examination library including submission documents, evidence base, hearing statements and examination documents, including Inspector's post hearings advice note(s):

<https://www.middevon.gov.uk/residents/planning-policy/local-plan-review-examination/>

Report to Cabinet 27th November 2014

<https://democracy.middevon.gov.uk/ieListDocuments.aspx?CId=133&MId=151&Ver=4>

Report to Cabinet 4th December 2014

<https://democracy.middevon.gov.uk/ieListDocuments.aspx?CId=133&MId=155&Ver=4>

Report to Cabinet 11th December 2014

<https://democracy.middevon.gov.uk/ieListDocuments.aspx?CId=133&MId=152&Ver=4>

Report Council 21st January 2015

<https://democracy.middevon.gov.uk/ieListDocuments.aspx?CId=156&MId=410&Ver=4>

Report to Cabinet 15th September 2016

<https://democracy.middevon.gov.uk/ieListDocuments.aspx?CId=133&MId=719&Ver=4>

Report to Cabinet 15th September 2016

<https://democracy.middevon.gov.uk/ieListDocuments.aspx?CId=133&MId=719&Ver=4>

Report to Council 22nd September 2016

<https://democracy.middevon.gov.uk/ieListDocuments.aspx?CId=156&MId=720&Ver=4>

Report to Cabinet 21st November 2016

<https://democracy.middevon.gov.uk/ieListDocuments.aspx?CId=133&MId=751&Ver=4>

Report to Council 1st December 2016

<https://democracy.middevon.gov.uk/ieListDocuments.aspx?CId=156&MId=752&Ver=4>

Report to Council 21st February 2018

<https://democracy.middevon.gov.uk/ieListDocuments.aspx?CId=156&MId=849&Ver=4>

Report to Cabinet 5th July 2018

<https://democracy.middevon.gov.uk/ieListDocuments.aspx?CId=133&MId=935&Ver=4>

Report to Council 29th August 2018

<https://democracy.middevon.gov.uk/ieListDocuments.aspx?CId=156&MId=998&Ver=4>

Planning Inspectorate's Procedure Guide for Local Plan Examinations (June 2019)

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/813316/Procedure_Guide_for_Local_Plan_Examinations_June_2019_-_Final.pdf