

Decision maker:	Cabinet Member Infrastructure and Transport
Decision date:	Friday 6 November 2020
Title of report:	Approach to the Core Strategy review and update in the light of the Planning for the Future White Paper
Report by:	Strategic Planning Manager

Classification

Open

Decision type

Key

This is a key decision because it is likely to be significant having regard to: the strategic nature of the decision; and / or whether the outcome will have an impact, for better or worse, on the amenity of the community or quality of service provided by the authority to a significant number of people living or working in the locality (two or more wards) affected.

Notice has been served in accordance with Part 3, Section 9 (Publicity in Connection with Key Decisions) of the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Wards affected

(All Wards);

Purpose

To agree to update the Herefordshire Local Plan Core Strategy, following a review of the adopted plan, in accordance with The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) and paragraph 33 of the National Planning Policy Framework in the light of of the proposals set out in the White Paper: Planning for the Future.

Recommendation(s)

That:

- (a) **the review of the Herefordshire Local Plan Core Strategy demonstrates that the Herefordshire Local Plan Core Strategy is required to be updated;**
- (b) **a detailed project plan for the development of a new local plan, including resource requirements, taking into account the emerging proposals of the White Paper and other Government advice regarding local plan preparation, be prepared for the approval of the Cabinet Member for Infrastructure and Transport before the end of December 2020;**
- (c) **the work on the Hereford Area Plan, Rural Areas Site Allocations Development Plan Document and Bromyard Development Plan Document should be stopped with effect from the date of this report and any relevant elements of evidence to be used as part of the new Local plan;**
- (d) **progress be continued upon the emerging Minerals and Waste Local Plan;**
- (e) **work on progressing a Herefordshire Community Infrastructure Levy should be put on hold pending the outcome of the significant proposals for reform of planning obligations in the White Paper; and**
- (f) **supplementary planning documents in respect of a) delivering higher environmental building standards in Herefordshire consistent with the Council's goal to be a zero carbon county by 2030 and b) improving ecological protection and pollution reduction, especially with regard to returning our rivers to good ecological status be prepared as soon as practicable and resourced through the local plan reserve in order to enhance the County's existing planning policy framework**

Alternative options

1. The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) (the 2012 Regulations) and paragraph 33 of the National Planning Policy Framework require a review of local plans be undertaken at least every five years in order to determine whether the plan policies and spatial development strategy are in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted in October 2015 and a review was required to be completed before 15 October 2020. The need to consider the implications of the recent White Paper: 'Planning for the Future' resulted in a delay in finalising this report which has resulted in deadline of the 15 October not being achieved. Approval of the recommendations attached to this report will resolve this matter.
2. Following a review of the Core Strategy there is the option of not updating the plan. However, this would only be possible if it was clear and demonstrable that the existing plan policies and proposals do not require an update. The decision not to update the local plan would need to be published together with a clear explanation and justification for the decision.

3. National advice provides a context against which the current Herefordshire Local Plan Core Strategy can be reviewed to decide whether an update is required, the list below sets out a summary of the review criteria together with a summary of the review conclusions for each of the criteria:
- **the plan policies reflect the latest national planning policy.** A number of recent changes to national planning policy are not reflected within existing policies;
 - **local housing need has changed, a sufficient housing land supply exists and delivery targets are being achieved.** A new national method of calculating housing need was introduced in 2019, the Core Strategy housing target was not based on this method. Herefordshire Council cannot currently demonstrate a 5-year housing supply and the Government have indicated that only 74% of the housing need in the County has been delivered in the past three years;
 - **key site proposals are delivering in accordance with the local plan and the delivery of the spatial strategy is not at risk.** A number of the strategic proposals are not delivering as anticipated and remain at risk, this has implications for the current spatial strategy;
 - **key infrastructure projects are on track.** With the current “pause and review” regarding the transport infrastructure projects, there is doubt whether the Core Strategy proposals will be taken forward;
 - **there have been changes to the local environmental or heritage context.** The climate emergency and issues regarding the level of Phosphates in the River Lugg catchment are significant environmental matters which have emerged in the past year;
 - **there have been local political changes or a revised corporate strategy which change the Council’s approach.** Changes to the Council administration in May 2019 has led to changes in the policy direction of the Council which have been incorporated within a new corporate strategy.
4. Therefore, it is clear in the case of the Herefordshire Local Plan Core Strategy, that its policies are considered to be in need of revision and a decision “not to update” could not be justified.

Key considerations

5. The Herefordshire Local Plan Core Strategy was adopted in October 2015 and a review and completion of that review is required within five years of its adoption. The process of review is intended to demonstrate whether the plan and its policies are in need of an update. A full update of the spatial strategy and strategic policies (and potentially non-strategic policies) is likely to be required in instances where there may be a need to change:
- the housing requirement and the overall evidence base;
 - the growth strategy and/or spatial distribution of growth set out in the current plan;
or
 - more than a single strategic site or one or more strategic policies.
6. In the case of the Herefordshire Core Strategy there is likely to be a need to update all three areas of the Plan (see section on Alternative Options above) and therefore a full update will be required.

7. In anticipation of the need to update the Core Strategy work has commenced to prepare for some of these studies, including the housing needs assessment and transport strategy review. These areas of work will also inform other strategies in addition to providing key elements of evidence to support the Core Strategy update. The evidence base will, where possible, be developed using in-house resources but in a number of instances, specialist external consultants will be commissioned to undertake the work. There is also evidence provided to help prepare Neighbourhood Development Plans that may be of use in supporting emerging new Core Strategy policies.
8. However, in August 2020 the Government published the White Paper: 'Planning for the Future'. The White Paper sets out a package of proposals for reform of the planning system in England, including plan-making, to streamline and modernise the planning process, improve outcomes on design and sustainability, reform developer contributions and ensure more land is available for development where it is needed.
9. This proposed new planning system is significantly different in both process and content to the existing plan making procedure. The Government have indicated in the White Paper that their intention is to get the new plans in place by the end of the current Parliament. With a 30 month preparation timescale this would require the legislation to be in place by the summer of 2021. Transitional arrangements, which would enable a longer timescale for the preparation of the new plans, are only likely to be agreed where existing plan updates are at an advanced stage (post-publication). The Core Strategy update will not be at an advanced stage in 2021 and to continue to prepare the plan in accordance with current regulations and processes would lead to significant abortive work and costs.
10. Equally at this stage the White Paper proposals are the subject of consultation and may be amended before they are enacted into legislation, so it may not be appropriate to progress significant work on a plan which is entirely in line with the White Paper. The Government's Chief Planner has strongly encouraged local authorities to continue with the preparation of local plans during this current period of national policy development and the preparation and progress of any legislation required to implement the planning reforms.
11. With this in mind there are clearly areas of work to support the update to the Core Strategy which are likely to still be required for the plans prepared under the new system. Continuing to progress this work will make any statutory timescales which emerge through the planning reforms more likely to be achieved. This includes continuing to progress the work currently underway on the Housing and Employment Land Availability Assessment, the rural settlement hierarchy and housing market and needs assessment and continuing the work on the Hereford Transport Review, which will be subject to a separate report prepared by the Head of Transport and Access Services (see Appendix 1).
12. In addition it is proposed that a detailed project plan be developed for the preparation of a new local plan based upon the emerging proposals of the White Paper which will be subject to a further report prior to the end of 2020 for the approval of the Cabinet Member for Infrastructure and Transport...

Other development plan documents

13. Work has been paused on a number of development plan documents in the County namely the Hereford Area Plan, Rural Areas Sites Allocations DPD and Bromyard DPD. These documents have not yet reached advanced stages of preparation and to complete the documents would require significant resource over the next two years. Given the proposed changes to the planning system it is recommended that these plans be abandoned to focus on the new local plan, acknowledging that any evidence base and other work undertaken to support these plans be utilised as part of that process.

14. The other DPD that is being prepared in the County is the Minerals and Waste Local Plan. This document is further advanced than the other DPDs and is likely to be presented to Council for approval in December 2020 and published in early in 2021 prior to being submitted to the Secretary of State, this plan is likely to be covered by the transitional arrangements introduced with the new system. Given the advanced state of this plan it is recommended that the preparation of the Minerals and Waste Local Plan continues to adoption.

Community Infrastructure Levy

15. The ability to develop a Community Infrastructure Levy (CIL) came into force in April 2010 and allows local authorities to raise funds from owners or developers of land undertaking new building projects in their area, to help fund infrastructure. A preliminary draft charging schedule was developed in March 2016 but in October 2016 the Government indicated it was examining the options for reforming the system of developer contributions including ensuring direct benefit for communities. As a result of the uncertainty, and as advised by its consultants, Herefordshire Council took the decision to pause progressing the adoption of CIL locally, until the government's formal response was completed. The response was anticipated to have been completed in 2017 but the changes to the CIL regulations were brought into effect from September 2019.
16. At the Council meeting on 12 July 2019 there was a Notice of Motion under Standing Orders passed by the Council that asked the executive to investigate the adoption of the CIL as a matter of urgency, ensuring it is implemented for Herefordshire no later than January 2021. However, as the evidence developed in 2015 to support the development of the CIL can no longer be relied upon as being up to date and with the infrastructure requirements likely to be inconsistent or contrary to the proposals of the updated Core Strategy as a result it may have been more appropriate for the preparation of the CIL be aligned to the infrastructure requirements of the updated Core Strategy.
17. The White Paper is now proposing a significant reform of the Community Infrastructure Levy (CIL) and system of planning obligations. The proposals are to set a national, value-based flat rate charge (the 'Infrastructure Levy'). The White Paper indicates that it is aiming for the new Levy to raise more revenue than under the current system of developer contributions, and deliver at least as much on-site affordable housing as at present. It indicates that it is intended to give local authorities greater powers to determine how developer contributions are used, including by expanding the scope of the Levy to cover affordable housing provision to allow local planning authorities to drive up the provision of affordable homes.
18. Therefore, as the White Paper is proposing significant reforms to the system replacing locally developed CILs it is recommended that the outcome of the reforms are known before a decision is made to commit funding to the preparation of a CIL for Herefordshire.

Supplementary Planning Documents

19. Given the timescale for the preparation of a new plan it is necessary to consider where planning advice can be prepared in relation to supplementing the current planning policy framework in the County. With this in mind it is recommended that in two key topic areas supplementary planning documents are prepared to enhance the Council's planning policy framework.
20. Firstly, it is recommended that work commences on a supplementary planning document (SPD) aiming to deliver higher environmental building standards in Herefordshire

consistent with the Council's goal to be a zero carbon county by 2030 by building upon policy SD1 of the Core Strategy. The Government's response to the Future Homes Standard consultation undertaken in 2019 is expected shortly and may provide some useful guidance in preparing the SPD as the Government have indicated that they wish to ensure that implementation takes place in the shortest possible timeline.

21. Secondly, the quality of the water in the County's rivers continues to cause concern. Most notably the level of phosphates within the River Lugg part of the River Wye Special Area of Conservation continues to exceed its limits and stretches of the Upper Wye continue to be at risk of failure. Existing policy SD4 sets out to ensure water quality targets are achieved and the emerging Minerals and Waste Local Plan is looking to develop a policy approach to dealing with agricultural waste. An SPD for this topic area would look to draw together the existing and emerging planning policies together with the developing actions emerging from the work of the multi-organisation and cross-border Nutrient Management Board to set out an approach to improving ecological protection and pollution reduction in the County's rivers especially with regard to returning our rivers to good ecological status.
22. In order to ensure that the SPDs are completed as soon as practicable and in order to ensure that existing staff resources are focussed upon the progress of the Local Plan update it is proposed that the work to prepare the Building Standard SPD be undertaken by procuring suitably qualified consultants, with the ecological protection of the rivers being undertaken using internal staff. It is estimated that the likely timeframe for the preparation of the SPDs will be in the order of 9 to 10 months and will be required to be in accordance with the process outlined within Local Planning regulations. An indicative timetable for the SPDs is set out below:

Commencement of work/ Commission of consultant	Week 1
Preparation of draft SPD	Week 1-17
preliminary findings/recommendations	Week 13
Draft SPD submission	Week 17
Finalisation of draft SPD for consultation	Week 18
Public consultation	Weeks 20-26
Final report submission	Week 32
Approval of SPD	Week 36

23. The anticipated cost for Building Standards SPD would be in the region of £30,000 commissioned through the Council's procurement processes utilising resources from the local plan reserve.

Community impact

24. The principal aim of the Herefordshire Local Plan update will be to set out the spatial vision and objectives for the county and to establish a planning policy framework necessary to deliver the spatial vision. The plan will aim to ensure that there are sufficient homes provided for all members of the community, provide employment opportunities, sufficient retail provision and improved infrastructure while, at the same time, providing protection for the wider environment and helping to tackle climate change
25. The County Plan 2020-2024 provides a commitment to updating the Core Strategy (Local Plan) in order to make sure sustainable development is delivered which meets the needs of local people while respecting the County's heritage and our natural environment.

26. The preparation of an updated plan will include engagement and consultation with the Community at key stages in the preparation of the document in accordance with the local plan regulations and the Council's adopted Statement of Community Involvement.

Environmental Impact

27. The production of the Local Plan will have due regard to the council's environmental policy commitments and will be the delivery vehicle for the planning policies to guide future development within the county. This will therefore have a direct impact on policy development in the following areas;
- Increasing flood resilience and measures to reduce levels of phosphate pollution in the county's river
 - Seeking to reduce the council's carbon emissions
 - Work in partnership with others to reduce county carbon emissions
 - Seeking to ensure developments address the air quality within Herefordshire
 - Improve residents' access to green space in Herefordshire but the designation of Local Green Spaces and safeguarding existing
 - Seeking to improve energy efficiency of homes and build standards for new housing
 - Including policies which seek to increase the number of short distance trips being done by sustainable modes of travel – walking, cycling, public transport
28. Herefordshire Council provides and purchases a wide range of services for the people of Herefordshire. Together with partner organisations in the private, public and voluntary sectors we share a strong commitment to improving our environmental sustainability, achieving carbon neutrality and to protect and enhance Herefordshire's outstanding natural environment.
29. The development of the Local Plan will seek to minimise any adverse environmental impact and will actively seek opportunities to improve and enhance environmental performance.
30. The White Paper has outlined how any Local Plan would need to be subject to a statutory 'sustainable development test'. This will ensure that the plan is meeting national objectives on a range of environmental issues. In addition, statutory undertakers and consultees, such as the Environment Agency, Natural England and Historic England will be consulted during the plan's production and their representations fully addressed.

Equality duty

31. Under section 149 of the Equality Act 2010, the 'general duty' on public authorities is set out as follows:
- A public authority must, in the exercise of its functions, have due regard to the need to -
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;
 - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
 - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

32. There are no specific implications for the council's equality duty arising from the decision to prepare an update of the Local Plan. However, the actual process of producing the new local plan will need to ensure that there will not be any negative or disproportionate impact to those who share a relevant protected characteristic and demonstrate that it will support the council in discharging its equality duty in particular by advancing equality of opportunity between persons who share a protected characteristic. The plan making process will be accompanied by an equality impact assessment at key stages.
33. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. Where any of the plan preparation work is undertaken by external organisations they will be made aware of their contractual requirements in regards to equality legislation. The consultations conducted as part of plan preparation will be undertaken to ensure in a way that is accessible to all and a number of methods will be used to enable those that may share a protected characteristic to have the opportunity to engage fully with the process. The public sector equality duty (specific duty) requires us to consider how we can positively contribute to the advancement of equality and good relations, and demonstrate that we are paying 'due regard' in our decision making in the design of policies and in the delivery of services. Our providers will be made aware of their contractual requirements in regards to equality legislation.

Resource implications

34. Whatever new process for preparing the Local Plan is enacted by the Government it will require significant funding over the plan making period. The key areas which will require funding are:
- The preparation of the evidence base to support the preparation of the plan as listed
 - Consultation and engagement.
 - Examination in Public.
35. A project plan for the preparation of a new local plan based upon the emerging proposals of the White Paper and other Government advice will be subject to a separate decision.
36. Preparation of SPDs to provide policy advice to achieve higher environmental building standards in Herefordshire and improve ecological protection and pollution reduction will be funded from the Local Plan reserve.

Revenue or Capital cost of project (indicate R or C)	2020/21	2021/22	2022/23	Future Years	Total
R	£230k	£500k	£500k	£550k	£1,780k

Funding streams (indicate whether base budget / external / grant / capital borrowing)	2020/21	2021/22	2022/23	Future Years	2022/23 Total

Base budget (New initiatives)	£230k	£500k	£500k	£550k	£1,780k
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Revenue budget implications	2020/21	2021/22	2022/23	Future Years	Total
	£230k	£500k	£500k	£550k	£1,780k

Legal implications

37. The Cabinet member infrastructure and transport has delegated authority from Cabinet in exercise of its functions under Part 3 Section 3 of the constitution for formulating or preparing the documents consisting of the budget and policy framework which includes the LDS pursuant to Part 2 of the Planning and Compulsory Purchase Act 2004 (as amended). The cabinet shall make recommendations to Council on their implementation. Subsequent adoption thereof is a Council function under Part 3 Section 1.
38. Section 15, Part 2 of the Planning and Compulsory Purchase Act 2004 (as amended) places a duty on a Local Planning Authority (LPA) to prepare and maintain a LDS which will specify documents (amongst other matters) once prepared, to be comprised in the Local Plan Core Strategy for the area.
39. Regulation 10A of the 2012 Regulations states that in respect of reviewing a local plan:
- 10A.—(1) A local planning authority must review a local development document within the following time periods—**
- (a) in respect of a local plan, the review must be completed every five years, starting from the date of adoption of the local plan, in accordance with section 23 of the Act (adoption of local development documents);*
40. This is repeated in paragraph 33 of the National Planning Policy which indicates that local plans should be reviewed at least every five years in order to determine whether the plan policies and spatial development strategy is in need of updating, and should then be updated as necessary. The Herefordshire Local Plan Core Strategy was adopted in October 2015 and a review is required to be completed before October 15th 2020.
41. The plan making process requires statutory public engagement and consultation in accordance with Part 6 of the 2012 Regulations as well as demonstrating that the LPA has met the duty to co-operate with neighbouring authorities and other specified organisations in accordance with Regulation 4.
42. Part 11 of the Planning Act 2008 provides for the imposition of a charge to be known as the Community Infrastructure Levy (CIL) and specifies who may charge CIL and includes provision on other aspects of the charge. The Community Infrastructure Levy Regulations 2010 (as amended) implement the detail of CIL, more specifically Part 3 lays out the procedure the LPA as the charging authority needs to follow in order to bring a CIL charging schedule into effect.
43. With regard to the referred to SPDs at paragraphs 19-23 inclusive, the council has the discretionary power to produce and adopt an SPD under the Planning and Compulsory

Purchase Act 2004 as the enabling act, which brought into effect The Town and Country Planning (Local Planning) (England) Regulations 2012. Part 5 (Regulations 11-16) sets out the requirements for producing SPDs, including the consultation and adoption of the SPD.

44. There are no legal problems in doing what is proposed

Risk management

45.

Risk / opportunity	Mitigation
<p>The policies set out in the existing Core Strategy will increasingly become out-of-date. Preparing an updated plan will address this issue but during the plan making process there will be a period where there is reliance upon out-of-date policies, in combination with national policy advice in some areas.</p>	<p>Resources have been identified to expedite preparation of the plan and improve the robustness of the Council's approach. However, it should be recognised that only limited weight can be afforded to emerging policies at least until the later stages of plan preparation.</p>
<p>The Council cannot currently identify a 5 year supply of housing land. Updating the plan will address this issue but during the plan preparation period the Council may be more at risk of speculative development contrary to the current spatial strategy coming forward.</p>	<p>The preparation of the local plan will enable the housing supply in the County to be improved to help demonstrate a 5-year supply is in place at the time of the adoption of an updated plan.</p>
<p>There is a risk that the factors identified as reasons why a comprehensive review is required (set out in paragraph 3 above) may themselves change during the plan preparation process. For example. There may be national policy changes to amend the method of calculating the housing requirement resulting in a higher (or lower) target.</p>	<p>Continuous monitoring to anticipate changes to circumstances including changes to national policy. Development of robust evidence to provide justification any diversion from national approach.</p>

Consultees

46. In order to ensure that the Cabinet were aware of the need to review the Core Strategy and the process required to update the plan a workshop session was held with the Cabinet on 5 December 2019. The discussions at the workshop have informed the key considerations set out in this report.
47. The process of preparing the updated Local Plan will involve a significant level of engagement and consultation with the public, key organisations and other stakeholders. The plan will be independently examined to determine its compliance with legal and

procedural requirements, such as engagement and consultation as well as soundness. The approach to consultation will as a minimum, be in accordance with the Council's adopted Statement of Community Involvement.

48. The political group leaders were consulted on the 24 September 2020. No responses from group leaders were received during the consultation period.

Appendices

Appendix 1 – Table of evidence base requirements

Background papers

None Identified