

Bolsover District Council

Extraordinary Planning Committee

Date of meeting - 18th April 2018

**Sustainability Appraisal and Habitats Regulations Assessment
for the Publication Local Plan for Bolsover District**

Report of the Interim Planning Policy Manager

This report is public.

Purpose of the Report

- To outline the findings of the Sustainability Appraisal Report and the Habitats Regulations Assessment Report for the Publication Local Plan for Bolsover District.

1 Report Details

Background to the Sustainability Appraisal (SA) process

- 1.1 Under Section 19(5) of the Planning and Compulsory Purchase Act 2004, the Council is required to carry out a SA of the Local Plan to help guide the selection and development of policies and proposals in terms of their potential social, environmental and economic effects. In undertaking this requirement, local planning authorities must also incorporate the requirements of European Union Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment, referred to as the Strategic Environmental Assessment (SEA) Directive, and its transposing regulations the Environmental Assessment of Plans and Programmes Regulations 2004 (statutory instrument 2004 No. 1633) (the SEA Regulations).
- 1.2 As such, the SA process is one of the legal tests for plan making. It is intended to be iterative with the appraisal undertaken during the key stages of plan development so that the findings inform the preparation of a Local Plan.
- 1.3 SA involves the appraisal of the performance of reasonable alternatives (including in respect of the amount of new development to be accommodated in the District, its broad location and site allocations as well as plan policies) against a wide range of economic, social and environmental objectives that we have recognised as being important to the future sustainable development of the district. It is informed by relevant international, national, regional and local plans and programmes, such as the Government's 'UK post 2010 Biodiversity Framework', and uses a wide range of evidence sources, including the Council's own Local Plan Evidence Base.
- 1.4 It is important to recognise that the SA does not determine whether a policy or allocation should or should not be taken forward, but ensures that the Council is able

to recognise the balance of environmental, social and economic impacts of a proposal.

- 1.5 The Council will be tested on its compliance with this legal test by an Inspector at the Local Plan Examination. The SA process also underpins the second soundness test within the National Planning Policy Framework (NPPF) and the Inspector will use the SA Report to inform their assessment of whether the Council's Local Plan is the most appropriate strategy when considered against the reasonable alternatives.
- 1.6 In recognition of the importance of the SA process, since work began on the Local Plan in 2014 updates on the findings of the SA on each stage of the plan making process have been reported to the Council's Local Plan Steering Group. This reflects the Steering Group's Constitutional role to oversee the preparation of the Local Plan and to make recommendations to Planning Committee on the Local Plan. This is done to ensure the Council's plan making decisions are informed by the findings of the SA.
- 1.7 Now that the Council has reached the formal milestone of Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended), i.e. the Publication stage and thus the version of the Local Plan the Council wishes to publish for consultation as its intended submission to the Government, an accompanying SA Report has been prepared. The SA Report will also be made available for public consultation alongside the Publication Local Plan.
- 1.8 The full SA Report is a large document, well over 400 pages long. In recognition of this, the SA Report is preceded by a Non-Technical Summary. This Non-Technical Summary is attached as Appendix A to this report. The full SA Report is attached as Appendix B to this report and so will be available to view online but hard copies will also be placed in the Labour and Independent Groups' rooms a week prior to the Committee meeting.
- 1.9 The findings of the SA Report are discussed below in paragraphs 1.17 to 1.27.

Background to the Habitats Regulations Assessment (HRA) process

- 1.10 Regulation 105 of the Conservation of Habitats and Species Regulations 2017 (the 'Habitats Regulations') states that if a land-use plan "(a) is likely to have a significant effect on a European site or a European offshore marine site (either alone or in combination with other plans or projects); and (b) is not directly connected with or necessary to the management of the site" then the plan-making authority must "...make an appropriate assessment of the implications for the site in view of that site's conservation objectives" before the plan is given effect.
- 1.11 The process by which Regulation 105 is met is known as Habitats Regulations Assessment (HRA). An HRA determines whether there will be any 'likely significant effects' (LSE) on any European site as a result of a plan's implementation (either on its own or 'in combination' with other plans or projects) and, if so, whether these effects will result in any adverse effects on the site's integrity. The Council has a statutory duty to prepare the Local Plan and is therefore the Competent Authority for an HRA. As such, the HRA process is another of the legal tests for plan making.

- 1.12 Since work began on the Local Plan in 2014, a HRA Scope and Approach Note was prepared in October 2015 to aid dialogue with Natural England. This note identified that there are no European sites within Bolsover District, with 5 sites within 15km of the District boundary. The closest of these European sites is the Birklands and Bilhaugh Special Area of Conservation (SAC) just to the north of Edwinstowe, with the others being Gang Mine SAC, Peak District Moors (South Pennine Moors Phase1) SPA, Peak District Dales SAC, and South Pennine Moors SAC.
- 1.13 At this stage, it was judged that the impacts associated with the Local Plan 'alone' are likely to be weak or absent due to the distances involved, the characteristics of the sites and the lack of impact pathways. 'In combination' effects with other plans may be possible but that the contribution of Bolsover's Local Plan would be likely to be limited.
- 1.14 Now that the Council has reached the formal Publication milestone, an accompanying HRA Report has been prepared. The HRA Report will also be made available for public consultation alongside the Publication Local Plan.
- 1.15 Unlike the SA Report, the HRA Report is a relatively short document and is attached as Appendix C to this report.
- 1.16 The findings of the HRA Report are discussed below in paragraphs 1.28 to 1.31.

SA Report findings

- 1.17 The SA Report considers the Local Plan in its component parts, namely:
- vision and objectives;
 - the development requirements in terms of the amount and broad location of growth;
 - strategic site allocations;
 - smaller scale (local) land allocations; and
 - plan policies.
- 1.18 In doing so, the Non-Technical Summary (Appendix A) outlines its assessment for each part and this is discussed below.
- 1.19 Regarding the vision and objectives, the SA Report recognises that these have been refined in light of earlier SA feedback and that the version in the Publication Local Plan "has been assessed as being compatible with the majority of the SA objectives and broadly supportive of them.Where possible incompatibilities have been identified, tensions between the objectives can be resolved if development takes place in accordance with all of the Publication Local Plan objectives. As such, an incompatibility is not necessarily an insurmountable issue."
- 1.20 Regarding the amount and broad location of growth, i.e. the key strategic parts of the plan, the SA Report identifies that the planned scale of housing and employment land provision will have significant positive effects in respect of housing, the economy and regeneration but negative effects are expected with regard to (inter alia) biodiversity, air quality, climate change and resource use. However, given that the Local Plan seeks to mitigate adverse effects through its site selection and policy approach, for

example by protecting Local Wildlife Sites from development, negative impacts are expected to be avoided where possible or, where adverse effects do occur, managed.

- 1.21 For the broad location of growth, the SA Report identifies that the Local Plan will have significant positive effects identified in respect of housing, the economy and regeneration but negative effects expected in respect of biodiversity, air quality, climate change and resource use
- 1.22 These preferred strategic options have been considered against identified reasonable alternatives and this is discussed in Section 5.3 of the full SA Report (Appendix B). However, based on the assessment in the SA Report, the preferred strategic options are identified as representing the best performing options.
- 1.23 Regarding the strategic site allocations, the SA Report concludes that “together, the three strategic sites would deliver a substantial proportion of the District’s housing requirement and employment land over the plan period alongside community facilities and services including educational facilities. There is also the potential for significant additional housing or employment floorspace within Bolsover District resulting from the Former Coalite Chemical Works if the site were to be developed within the Plan period. In consequence, the strategic allocations have been assessed as having a cumulative significant positive effect on housing, the economy, education, regeneration and health and wellbeing, although the anticipated pressure on community facilities and services arising from new development could result in adverse effects on a number of these objectives”. This last point arises should the strategic sites not deliver their planned significant improvements to local infrastructure, but based on detailed testing of the strategic sites this is not expected.
- 1.24 These preferred strategic site allocations have been considered in light of the preferred strategic options, against each other and given the high levels of growth planned in Bolsover and Clowne against possible alternative broad locations for growth and this is discussed in Section 5.4 of the full SA Report (Appendix B). However, based on the assessment in the SA Report, the preferred strategic site allocations are identified as representing the best performing options.
- 1.25 Regarding the smaller scale (local) land allocations for residential, employment, retail and gypsy, traveller and travelling showpeople uses, the SA Report advises that the majority of:
 - proposed housing allocations have been assessed as having a positive, and in some cases significant positive, effect on SA objectives relating to the economy, education, regeneration and health and wellbeing. This reflects the close proximity of the proposed site allocations to employment centres and key services and facilities, although cumulatively there is the potential for development to result in increased pressure on existing infrastructure such as schools and GP surgeries. In addition, certain allocations have specific negative impacts, for example where allotment land is being used, but this negative impact will be offset through other land being provided for allotment use;
 - proposed employment allocations have been assessed as having a positive effect on education, regeneration and health and wellbeing in view of their proximity to key services and facilities as well as population centres. In three instances a negative effects on health and wellbeing has been identified due to either their proximity to potentially unsuitable neighbouring uses or loss of open space;

- proposed retail allocations have been assessed as having a significant positive on the economy due to their scale. The sites in Bolsover and Shirebrook also benefit from access to range of facilities and amenities in these towns and as such promote regeneration in accessible locations. A significant negative has been identified with regard to health and wellbeing as a result of the anticipated loss of a playground and informal recreation land whilst all of the retail allocations have been assessed as having a significant negative effect on water, predominantly due to wastewater treatment capacity constraints. Effects on the remaining SA objectives are minor or neutral;
- proposed gypsy, traveller and travelling showpeople allocations have been assessed as having a positive effect on housing and as having either a neutral or positive effect on SA objectives relating to the economy, education, regeneration and health and wellbeing. This reflects the close proximity of the proposed site allocations to employment centres and key services and facilities, although cumulatively there is the potential for development to result in increased pressure on existing infrastructure such as schools and GP surgeries.

1.26 These smaller scale land allocations have been considered against identified reasonable alternatives and this is discussed in Section 5.5 of the full SA Report (Appendix B). However, based on the assessment in the SA Report, the preferred smaller scale land allocations are identified as representing well performing options to draw upon when delivering the Local Plan's strategic requirements.

1.27 Regarding the plan policies, the SA Report concludes that the implementation of the proposed policies contained in the Publication Local Plan is anticipated to have positive effects across all of the SA objectives. Despite the overall positive cumulative effects associated with the implementation of the Publication Local Plan policies, cumulative negative effects on the SA objectives have also been identified against some SA objectives. However, where negative effects have been identified, it is expected that those policies of the Publication Local Plan which seek to conserve and enhance the District's natural and built environment and protect its resources will help to minimise adverse effects. The exception is the anticipated loss of greenfield land associated with new development which has been assessed as having a cumulative (mixed) significant negative effect on land use.

HRA Report findings

1.28 The HRA has demonstrated that the vast majority of the Local Plan policies and proposals will have 'no effect' on any European sites, typically because they are policy types that do not make provision for changes. The assessment process has identified the following:

- there are no European sites in or near Bolsover District and so effects are generally likely to be weak or absent and none of the proposed Local Plan site allocations are likely to result in significant effects alone;
- all of the European sites within the study area for the HRA are beyond the distance that significant effects due to visitor pressure would be expected, although the Local Plan may make a small contribution to 'in combination' visitor pressure effects at the sites (i.e. with other local plans);
- the growth supported by the Local Plan has the potential to contribute to 'in combination' air quality effects on sensitive sites (i.e. with other local plans);

- other potential mechanisms for sites to be affected, notably through changes in water resource permissions, or water quality changes, will not occur due to the absence of reasonable impact pathways.

1.29 Air quality and visitor pressure effects have been subject to more detailed assessment. This is to ensure that proposals coming forward under the Local Plan either avoid affecting designated sites entirely (no significant effect) or will not adversely affect site integrity where potential effect pathways remain.

1.30 In summary:

- recreational pressures: taking into account the distance of proposed site allocations from the nearest European sites and the strong policy framework provided for the protection and enhancement of green networks and the provision and protection of green space, it is expected that proposals coming forward under the Local Plan will either avoid affecting European sites entirely (no significant effect) or will not adversely affect site integrity where potential effect pathways remain;
- air quality: the HRA indicates that the Local Plan will not have a significant or significant adverse effect on any European sites due to consequential changes in air quality, with the 'in combination' contribution of the Local Plan considered to be too small to be 'significant'.

1.31 Overall, the HRA of the Publication Draft Local Plan has concluded that most aspects of the plan will have no significant effects on any European sites, alone or in combination. Where residual effect pathways remain, appropriate policy-based mitigation measures have been incorporated into the plan policies to ensure that proposals coming forward under the Local Plan either avoid affecting European sites entirely (no significant effect) or will have no adverse effect on site integrity.

2 Conclusions and Reasons for Recommendation

2.1 The received Sustainability Appraisal Report and Habitats Regulations Assessment are considered to provide the Council with an informed understanding of the performance of its Publication Local Plan in such a way that should satisfy the Examination's legal and soundness tests.

2.2 Therefore, it is recommended that the Planning Committee notes the findings of the Sustainability Appraisal Report and Habitats Regulations Assessment.

3 Consultation and Equality Impact

3.1 Other Officers involved in the preparation of this report were: Planning Policy Manager, Principal Planning Officers and the Senior Planner.

3.2 Members consulted during the preparation of the report: Members of the Local Plan Steering Group.

3.3 An Equality Impact Assessment is being prepared for the Publication Local Plan.

4 Alternative Options and Reasons for Rejection

4.1 The Council could decide to not note the findings of the Sustainability Appraisal Report and Habitats Regulations Assessment. However, this would introduce a potential legal flaw to the Council's plan making which would increase the risk of the Publication Local Plan failing at the Examination and therefore this alternative option is rejected.

5 Implications

Finance and Risk Implications

a. None. This is part of the existing work plan and is budgeted for.

Legal Implications including Data Protection

b. The Council has a statutory duty to make undertake Sustainability Appraisal and Habitats Regulations Assessment for the Local Plan for Bolsover District.

Human Resources Implications

c. None.

6 Recommendations

6.1 That the Planning Committee notes the findings of the Sustainability Appraisal and Habitats Regulations Assessment for the Local Plan for Bolsover District.

7 Decision Information

<p>Is the decision a Key Decision? A Key Decision is an executive decision which has a significant impact on two or more District wards or which results in income or expenditure to the Council above the following thresholds: BDC: Revenue - £75,000 <input type="checkbox"/> Capital - £150,000 <input type="checkbox"/> NEDDC: Revenue - £100,000 <input type="checkbox"/> Capital - £250,000 <input type="checkbox"/> <input type="checkbox"/> Please indicate which threshold applies</p>	No
District Wards Affected	All

Links to Corporate Plan priorities or Policy Framework	<p>The new Local Plan will identify suitable areas for development to help to deliver the Council's Growth Agenda. It will assist both developers and local residents by providing certainty about the way the district will develop over the Plan period. It therefore contributes to the following Corporate Aims and their identified priority actions:</p> <ul style="list-style-type: none"> • Unlocking Our Growth Potential (main aim); • Supporting Our Communities to be Healthier, Safer, Cleaner and Greener.
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8 Document Information

Appendix No	Title
Yes	A – Sustainability Appraisal Report: Non-Technical Summary B – Sustainability Appraisal Report C – Habitats Regulations Assessment
Background Papers (These are unpublished works which have been relied on to a material extent when preparing the report. They must be listed in the section below. If the report is going to Cabinet (NEDDC) or Executive (BDC) you must provide copies of the background papers)	
Report Author	
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