

Title: Net Zero Carbon Development Plan Document - Submission  
Lead Officer: Andrew Cornfoot, Business Manager - Planning Policy & Site Delivery  
Portfolio Holder: Councillor John Cooke (Planning & Place) & Councillor Alan Rhead (Climate Change)  
Wards of the District directly affected: All

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### Summary

This report presents the feedback and responses from the Regulation 19 consultation on the Net Zero Carbon Development Plan Document (the DPD) and asks the Cabinet to recommend to Council that the DPD is submitted to the Planning Inspectorate for Examination under regulation 22 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012, and that delegated authority is given to the Head of Development, in consultation with the Portfolio holders for Planning & Place and Climate Change to recommend any further changes to the DPD and the supporting evidence.

### Recommendation(s)

- (1) That the Cabinet note the draft report of public consultation set out in Appendix 1, including the recommended revisions to the Net Zero Carbon Development Plan Document.**
  - (2) That the Cabinet recommends to Council that the Net Zero Carbon Development Plan Document (as set out in Appendix 2) is submitted to the Secretary of State for Examination alongside a schedule of proposed revisions arising from the public consultation (as set out in Appendix 1).**
  - (3) That delegated authority is given to the Head of Development, in consultation with the Portfolio Holders for Planning & Place and Climate Change to recommend any further changes to the DPD report of public consultation set out in Appendix 1 and the supporting evidence, prior to submission to Council, and that any changes be detailed in the Council agenda.**
  - (4) That £95,000 is set aside from the Planning Appeals Reserve to cover the costs of extending the consultancy contract and the Examination (including the Programme Officer and Inspector's Costs).**
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## 1 Background/Information

- 1.1 At its meeting on 10<sup>th</sup> February 2022, the Cabinet agreed to commence a consultation under regulation 19 of the Town and Country Planning Act (Local

Planning) (England) Regulations 2012 for the publication draft of the DPD. The seven-week consultation commenced on 27<sup>th</sup> April 2022 and ran for six weeks until 8<sup>th</sup> June 2022. As a reminder, Regulation 19 consultations address two questions:

1. Has the plan been prepared in accordance with all legal and procedural requirements?
2. Does the plan meet the prescribed tests of soundness?

1.2 Since the consultation has ended, a draft report of public consultation has been prepared which captures the comments and objections raised during the consultation. This draft has had input from the consultants and Council officers but is subject to a final review. It will be finalised prior to consideration by Council in September. The draft report is set out in Appendix 1. It includes the proposed response to the comments and objections including those that need to be reflected in a schedule of revisions to the DPD for consideration by the Planning Inspector or in updated evidence. Recommendation 3 seeks delegated authority to enable Appendix 1, the schedule of revisions and evidence to be finalised ahead of the Council meeting.

1.3 The key issues raised through the consultation are:

- The Council should not be requiring a standard above the Future Homes Standard and ahead of the timetable set out by Government – the Council has not provided local justification for this
- Lack of evidence to justify the % for carbon reductions and energy efficiency uplift
- A lack of evidence to justify local circumstances to proceed faster than national standards with regard to sector readiness and deliverability issues (supply chain such as for heat pumps, capacity of electricity network)
- A lack of evidence to justify the proposed policies are locally achievable in Warwick
- The DPD does not meet its aims and objectives and those of the Climate Emergency Action Plan as it will not deliver net zero development
- The DPD purports to be cutting edge but that the other authorities are developing much more effective/progressive policies
- The DPD relies on poor calculation methods yet they are included within the policies
- The DPD indicates that policies requiring BREEAM will be superseded and this will no longer be a policy requirement
- Detailed comments on the title of the DPD and Definitions of Net Zero Carbon
- Offsetting
  - Justification for the carbon offsetting base price of £245 per tonne
  - Further detail on acceptable offsetting projects
- Embodied carbon
  - Further guidance needed on acceptable methodology
- Viability – particularly with regard to:
  - overall impact on residential typologies and Council approach to balancing affordable housing and net zero policies where viability marginal
  - Whether the cost uplift assumptions are justified
  - How carbon offsetting has been included within the viability assessment

- The viability sensitivity testing is out of date given recent build cost increases
  - With regard to the Sustainability Appraisal and Health Impact Assessment no areas of non-compliance were identified but a number of areas which would benefit from further consideration
  - Further Guidance is stated as needed with regard to:
    - What is to be included in an energy statement
    - Embodied Carbon
    - Acceptable Offsetting
- 1.4 Having given these matters due consideration, officers are recommending that a number of revisions are made to the DPD as set out in Appendix 1. These will be set out in the form of a schedule of revisions which will be presented to Council and to the Inspector as part of the Examination process. It will be for the Inspector to determine whether these alterations should or should not be incorporated in to the DPD ahead of adoption. Officers consider that none of the proposed revisions are of sufficient significance to warrant a further period of consultation and in any event, those who have made representations are expected to be able to make further representations through the Examination process.
- 1.5 The technical evidence that has supported the preparation of the DPD (such as the energy report, the Sustainability Appraisal and the viability report) has been subject to a number of representations. Despite these representations, officers consider all the technical evidence to be substantially robust. However, where necessary, amendments to the evidence will be considered along with implications for the final wording of the DPD. The delegations proposed in recommended 3 therefore extend to cover both necessary amendments to the evidence base and the resulting schedule of revisions to the wording of the DPD itself. The final and full evidence base and schedule of revisions will therefore be prepared and published ahead of the Council meeting.
- 1.6 To enable progression to Examination as quickly as possible, an additional Council meeting has been arranged for 7<sup>th</sup> September to consider the submission of the DPD. It is expected that the DPD and all supporting evidence will be submitted by the end of September. Thereafter, the process and timetable will be determined by the appointed Inspector. The Planning Inspectorate is aware of the Council's aspiration to submit the DPD and it is hoped the Inspector will be available to give attention to the DPD during the Autumn of 2022 with an Examination within 3-4 months of submission, although this will largely dependent on the Inspector's initial review of the submission documents and whether they feel further work is required before they can continue).
- 1.7 Recommendation 4 seeks approval for additional expenditure on the DPD. Initially a budget of £60,000 was set aside from the Climate Action Fund to cover the costs of the lead consultants for the DPD. In addition, £30,000 was set aside for the DPD as part of the LDS report to Cabinet on 27th May 2021. This latter element was expected to cover the costs of other elements of the evidence base (such as the viability assessment and sustainability appraisal).
- 1.8 To date approximately £52,000 has been spent on the lead consultants and £35,000 has been spent on other elements of the evidence base.
- 1.9 Looking ahead, it is expected that there will be further costs as follows:

- Ongoing support from the lead consultants and the viability consultation during the Examination process: £40,000
- Examination Programme Officer: £10,000
- Planning Inspector costs: £30,000
- Support for preparation of draft supplementary guidance to be in place on or shortly after adoption: £15,000

1.10 Recommendation 4 therefore seeks approval for a budget of £95,000 to be drawn down from the Planning Appeals Reserve.

## **2 Alternative Options available to Cabinet**

2.1 The Cabinet could choose not to recommend to Council that the DPD is submitted for Examination. This would be the right course to take if it is considered that the DPD is fundamentally flawed as set out. However, this course of action is not recommended as officers consider that, subject to the revisions arising from Appendix 1, the DPD is sound. Further, this course of action would lead to a delay in the adoption of the DPD as amendments to the DPD would need to be made and possibly further consultation undertaken and it would hamper the Council's ability to apply the carbon reduction standards the DPD requires to future development proposals.

2.2 The Cabinet could also choose not to recommend to Council that the DPD is submitted for Examination if it no longer wished to adopt additional planning policy on this topic. However, this would not be in harmony with the Council's Climate Emergency Action Programme and previous decisions taken to enable the DPD to progress. It would also prevent the Council from applying carbon reduction standards to future development proposals, until further policy is developed through the South Warwickshire Local Plan.

2.3 The Council could choose not to set aside the additional budget for consultants as set out in recommendation 4. However, this would require Council officers to lead the Examination work at a time where planning policy resources are over stretched. Further, the DPD is reliant in some highly technical and specialist expertise. It is unlikely that the Council's planning team would be able to cover all bases without drawing on further expertise. This would put the adoption of the plan at risk.

## **3 Consultation and Member's comments**

3.1 The DPD has been subject to a Regulation 18 consultation between July and September 2021 and a Regulation 19 consultation between April and June 2022.

3.2 The DPD has been discussed on several occasions at the Climate Emergency Programme Advisory Board. The PAB has, in principle, supported the progression of the DPD towards submission.

## **4 Implications of the proposal**

- 4.1 **Legal/Human Rights Implications:** The preparation of the DPD has been compliant with the Town and Country Planning Act (Local Planning) (England) Regulations 2012. The report asks Cabinet to recommend to Council that the DPD is submitted to the Secretary of State in compliance with the same regulations. The Regulation 18 and Regulation 19 consultations have been carried out in line with the Council's adopted Statement of Community Involvement and as such has ensured appropriate levels of fairness and transparency.
- 4.2 The Council's constitution (Scheme of Delegation) requires that DPDs are considered first by Cabinet ahead of submission, and that Cabinet recommends to the Council that the DPD is submitted for Examination. The final decision on whether to submit the DPD therefore lies with Council.
- 4.3 **Financial:**
- 4.3.1 Recommendation 4 seeks approval for additional expenditure on the DPD.
- 4.3.2 It is expected that there will be further costs, estimated as follows:
- Ongoing support from the lead consultants and the viability consultation during the Examination process: £40,000
  - Examination Programme Officer: £10,000
  - Planning Inspector costs: £30,000
  - Support for preparation of draft supplementary guidance to be in place on adoption: £15,000
- 4.3.3 Recommendation 4 therefore seeks approval for a budget of £95,000 to be drawn down from the Planning Appeals Reserve. The Planning Appeals Reserve has sufficient unallocated balance to accommodate this.
- 4.3.4 If the DPD is ultimately adopted it is very likely that additional specialist expertise will be required in the Development Management team to assess whether documentation submitted as part of planning applications demonstrates compliance with the policies of the DPD.
- 4.4 **Council Business Plan:** The adoption of net zero carbon policies will result in a demonstrable improvement in the energy efficiency and quality of homes in the District. Homes built to these standards should also reduce fuel costs for occupants thus bringing benefits to livelihoods. The policies will minimise any adverse impact that communities in Warwick District are having upon the local and global climate.
- 4.5 **Environmental/Climate Change Implications:** The NZC DPD is a response to the climate emergency. A key outcome of the Fit for the Future Green, Clean, Safe strand is achieving the Council's stated outcome of total carbon emissions within Warwick District being as close to zero as possible by 2030. The DPD, or equivalent policy, will be critical to achieving this stated outcome. The Council's Climate Change Action Programme (November 2021), commits to progressing the DPD to Examination. Planning policy has a critical role in delivering the Council's aims on climate change.
- 4.6 **Analysis of the effects on Equality:** As set out above, the consultations have been carried out in line with the Council's adopted Statement of Community Involvement. There are no further equality impacts associated with the proposals in this report.
- 4.7 **Data Protection:** There are no Data Protection implications associated with the

proposals in this report.

- 4.8 **Health and Wellbeing:** The proposed DPD policies, if adopted, will improve energy efficiency of homes and businesses and it is expected that they will help to minimise energy. This will be of significant benefit to residents and businesses as it will reduce costs and reduce the number of people suffering from fuel poverty. This has the potential to have a significant positive impact upon health and wellbeing of residents.

## **5 Risk Assessment**

- 5.1 Failure to develop and implement policies requiring new developments to be net zero carbon in operation (for the purposes of this DPD this relates to regulated operational energy resulting from fixed building services and fittings) will undermine the council's climate emergency declaration and furthermore will mean the council's stated ambitions on climate change would be undeliverable, in the absence of national policy being implemented.
- 5.2 Alternative options (see Section 2) identify risks associated with both adding delay into the process for the adoption of the DPD and with an approach that would result in the council not succeeding through the Examination.
- 5.3 A risk associated with proceeding with the adoption of the DPD is that the council may commit significant resources (finances and staff time) into the preparation and adoption of the plan only for measures to be implemented at the national level on a timescale earlier than currently anticipated, thus resulting in abortive work. However, based on current information the government's future homes standard is not expected to be fully introduced until 2025 at the earliest and therefore to not proceed with the DPD would potentially risk significant further development that does not already benefit from planning permission being built in the district to lower energy efficiency standards than the DPD will require. Furthermore, the work on preparing the DPD will be valuable in informing further work and emerging policies in the South Warwickshire Local Plan in the areas of net zero carbon buildings and tackling climate change more widely.
- 5.4 The Council, in developing a policy for net zero carbon buildings, is at the forefront of policy formulation in this subject area nationally and as such there are fewer examples to draw learning from. As a result, pursuing the adoption of this DPD will result in further costs from technical consultants supporting the authority through to adoption. As a result, additional resources are required as set above.
- 5.5 Overall, it is considered that the risks of not proceeding to submit the DPD for Examination and ultimately to adopt the DPD are greater than any risks associated with proceeding.

## **6 Conclusion/reasons for the recommendation**

- 6.1 This report presents the feedback and responses from the Regulation 19 consultation on the Net Zero Carbon Development Plan Document and asks the Cabinet to recommend to Council that the DPD is submitted to the Planning Inspectorate for Examination under Regulation 22 of the Town and Country Planning Act (Local Planning) (England) Regulations 2012. This is an essential step in the process to enable significant weight to be given to the policies of the

DPD in determining planning applications. Without an examination, the policies cannot be adopted as formal planning policies and cannot be given significant weight in planning decisions.

- 6.2 For the reasons set out in Section 1 above, it is also recommended that delegated authority be given to the Head of Development and the portfolio holders to assemble a schedule of revisions and the final evidence base ahead of consideration by Council. Further, additional budget is required for the Examination process, for the reasons set out on Section 1 above.

**Appendices to this report:**

Appendix 1 – Warwick Net Zero Carbon DPD Regulation 22 Consultation Report

Appendix 2 – Net Zero Carbon Development Plan Document, Submission Version, August 2022

**Background papers:**

Full schedule of representations this consultation

Report to Cabinet and Appendices, 10<sup>th</sup> February 2022

Report to Cabinet and Appendices, 8<sup>th</sup> July 2021

Local Development Scheme May 2021

Supporting documents for the DPD's Regulation 19 consultation: [Net zero carbon development plan document - Warwick District Council \(warwickdc.gov.uk\)](https://www.warwickdc.gov.uk/net-zero-carbon-development-plan-document)

### Report Information Sheet

Please complete and submit to Democratic Services with draft report

<b>Committee/Date</b>	10 <sup>th</sup> August 2022	
<b>Title of report</b>	Net Zero Carbon Development Plan Document Submission	
<b>Consultations undertaken</b>		
<b>Consultee *required</b>	<b>Date</b>	<b>Details of consultation /comments received</b>
<b>Ward Member(s)</b>		N/A The DPD relates to all Wards
<b>Portfolio Holder WDC &amp; SDC *</b>		Cllrs John Cooke and Alan Rhead
<b>Financial Services *</b>	19/7/22	Andrew Rollins
<b>Legal Services *</b>	19/7/22	Kathryn Tebbey
<b>Other Services</b>		N/A
<b>Chief Executive(s)</b>	19/7/22	Chris Elliott
<b>Head of Service(s)</b>	19/7/22	Philip Clarke
<b>Section 151 Officer</b>	19/7/22	Andrew Rollins
<b>Monitoring Officer</b>	19/7/22	Andrew Jones
<b>CMT (WDC)</b>	19/7/22	Chris Elliott Andrew Jones Dave Barber
<b>Leadership Co-ordination Group (WDC)</b>	25/7/22	
<b>Other organisations</b>		N/A
<b>Final decision by this Committee or rec to another Ctte/Council?</b>		Recommendation to: Council
<b>Contrary to Policy/Budget framework</b>		No
<b>Does this report contain exempt info/Confidential? If so, which paragraph(s)?</b>		No
<b>Does this report relate to a key decision (referred to in the Cabinet Forward Plan)?</b>		Yes, Forward Plan item – 1,295 scheduled for 10 <sup>th</sup> August 2022
<b>Accessibility Checked?</b>		Yes