



## Department for Levelling Up, Housing & Communities

**Rt Hon Michael Gove MP**

*Secretary of State for Levelling Up, Housing & Communities*

*Minister for Intergovernmental Relations*

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Cllr Chris Emmas-Williams  
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19 December 2023

Dear Cllr Emmas-Williams,

### **s. 15 Planning and Compulsory Purchase Act 2004 intervention in the Amber Valley Borough Council Local Plan**

In my role as Secretary of State for Levelling up, Housing and Communities I have been consistently clear that local plans are at the heart of the planning system. The Planning and Compulsory Purchase Act 2004 (the 2004 Act) in section 19 requires that each Local Planning Authority (LPA) must identify the strategic priorities for the development and use of land in the authority's area, and policies to address those priorities must be set out in the LPA's development plan documents, such as the local plan.

Following the publication of the revised National Planning Policy Framework (NPPF) today, I have emphasised the importance of planning for the development our communities need and that having an up-to-date local plan is a priority to meet this objective.

Amber Valley Borough Council is one of only 12 LPAs who have failed to adopt a local plan prepared in accordance with the 2004 Act and one of only seven who are not currently taking their draft plan through the examination process. Your Council's persistent failure to adopt a plan has left your communities vulnerable to speculative development and has risked not delivering the economic growth and infrastructure they need.

The deadline for the submission of plans in the current system is 30 June 2025, and there is limited time remaining in the current plan-making system for the submission of a draft plan. Given the poor progress your authority has made towards adopting a plan over the last 19 years, I have considered whether I am justified in using my powers of intervention to ensure that your authority has an up-to-date timetable, which indicates whether you will submit a draft plan in the current system.

LPAs are required to publish and maintain a Local Development Scheme (LDS), as set out in section 15(1) of the 2004 Act. Following the publication of the revised NPPF, and having considered your limited progress towards submitting a draft plan and slippage against your current timetable, I have considered using my powers of direction under section 15 (8)(b) of the 2004 Act.

The relevant provisions of the legislation are as follows;

The local planning authority must revise their local development scheme—

(b) when directed to do so by the Secretary of State

I have considered whether I am justified in taking intervention action in relation to the statutory test set out in section 15(8AA)(a) of the 2004 Act. This requires that the person giving the direction thinks that revision of the scheme is necessary for the purpose of ensuring full and effective coverage (both geographically and with regard to subject matter) of the authority's area by the development plan documents (taken as a whole) for that area.

Amber Valley Borough Council last adopted a plan in 2006 and withdrew its last draft submitted plan in 2019. Your most recent LDS for your draft emerging plan indicates that the submission date of the draft plan has slipped from April 2022 to September 2023. Regulation 19 consultation was due to take place in June 2023 and has not taken place. Your current LDS dated April 2023 is no longer up to date and you have already missed your milestone for submission.

In order to ensure full and effective coverage of Amber Valley by a development plan, it is justified to direct Amber Valley Borough Council to revise its LDS, given the length of time since you last had an up-to-date plan for your area, and the delays to progress with your draft plan against your current and past LDS milestones.

**I have concluded that to ensure full and effective coverage of Amber Valley Borough Council area by a development plan, I am justified in using my powers in section 15(8)(b) of the 2004 Act and I am directing Amber Valley Borough Council to revise their Local Development Scheme within 12 weeks of the publication of the revised NPPF.**

I will be asking Departmental officials to liaise with you on this matter on a regular basis and to provide me with updates on your progress. Should you fail to comply with the direction in this letter, or should you delay progress of your emerging draft plan in relation to your LDS milestones, I will consider whether I need to take any further intervention action.

I can reconsider my decision to direct your Council at any time if I consider this is justified. If you consider there are reasons why intervention is not appropriate in your case, please advise me of these as soon as possible and no later than 12 January 2024.

I look forward to hearing from you regarding your revised Local Development Scheme.



**RT HON MICHAEL GOVE MP**  
Secretary of State for Levelling Up, Housing and Communities  
Minister for Intergovernmental Relations