

**TONBRIDGE & MALLING BOROUGH COUNCIL**  
**HOUSING AND PLANNING SCRUTINY SELECT COMMITTEE**

**06 December 2022**

**Report of the Director of Planning, Housing and Environmental Health**

**Part 1- Public**

**Matters for Recommendation to Cabinet - Key Decision**

**1 REGULATION 18 LOCAL PLAN: INITIAL OUTPUTS**

**1.1 Background**

- 1.1.1 The Council has recently concluded the consultation on its Regulation 18 Local Plan and the Interim Sustainability Appraisal of the Local Plan. The consultation took place between 22 September and 3 November 2022.
- 1.1.2 The consultation took place in accordance with Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). It was the first of two prescribed consultation processes and sought a wide range of views from communities and stakeholders on what the new local plan should contain.
- 1.1.3 Consultation on the Interim Sustainability Appraisal is not required to take place at the same time as the Regulation 18 consultation, but it is best practice to do so. The consultation on this document took place under the Environmental Assessment of Plans and Programmes Regulations, 2004 on the Interim draft Sustainability Appraisal (SA).
- 1.1.4 Due to tight timescales this report includes high-level summaries and statistics of responses received, and key themes identified. It does not include full summaries or council responses. The full response is proposed to be brought to the HPSSC meeting in March 2023, alongside other initial recommendations.
- 1.1.5 This report seeks a HPSSC recommendation to Cabinet to note the initial outcomes of the consultation and to agree the proposed timetable for bringing further conclusions and key decisions before members.

**1.2 Consultation approach**

- 1.2.1 The consultation was publicised in accordance with the above regulations which included making the consultation documents publicly available in hard copy at the council's main office, the website and on the INOVEM [consultation portal](#). All contacts on the local plan consultation database were directly informed of the consultation by email, including a link to the relevant part of the council website. A social media strategy was also adopted to promote the consultation, the results

being that the local plan consultation page was the sixth most visited page in the period.

1.2.2 Below is a breakdown of the responses received.

INOVEM consultation portal <sup>1</sup>	1158 separate questionnaire responses 1643 other comments relating to paragraph or sections of the plan
Email	Approximately 2000 individual responses
Post	Approximately 500 individual responses

1.2.3 By way of comparison Maidstone Borough Council received 550 responses at the first Regulation 18 consultation but over 3000 at the second, and Tunbridge Wells received 551 responses at Regulation 18.

1.2.4 This included 11 responses from statutory consultees, including Natural England, Historic England, the Environment Agency, 4 neighbouring authorities and Kent County Council. Responses were also received from 26 of the 27 parish councils. A majority of the comments were in response to the local plan rather than the interim sustainability appraisal, and key matters raised by the statutory bodies are set out in **Annex 1**. A list landowners, developers and other key bodies who responded to the consultation is also included in **Annex 2**.

1.2.5 The breakdown of the responses could influence the detail of the results. For example, those who submitted comments via the portal were directed to apportion their comment to a particular section or paragraph of the plan and/or answer the specific question. Whereas responses received by email were less structured. However, officers are currently entering email and postal responses into the portal and attributing them to a section or paragraph, or assigning to a 'general' section of the portal. This is to allow the consultation software to be used for further in-depth analysis and to effectively collate responses.

### 1.3 Early conclusions

1.3.1 Due to the high number of consultation responses received it is only possible at this stage to provide some high-level outputs for the results submitted within the consultation portal. This includes those submitting answers to the specific questions posed and any additional comments, which totals 2801 responses.

1.3.2 As above there were 1158 questionnaire responses through the consultation portal, which is approximately 22% of total responses. These are subject to the

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<sup>1</sup> Subject to verification

detailed statistical analysis included in **Annex 3**. The bullets below are percentages of those that answered those particular questions, highlighting:

- A clear preference for Spatial Strategy Option 1 -68% of questionnaire responses) – A focus on settlements outside the Greenbelt and the AONB boundaries
- Disagreement with the strategic case for exceptional circumstances in relation to Greenbelt release (82%)
- A clear preference for meeting Objectively Assessed Needs only (as opposed to OAN+10%)- 92%
- Agreement with the windfall allowance methodology (60%)
- Clear support for the strategy option 1 for Tonbridge (optimising capacity within development sites in the town) (93%)
- 91% disagreed with the conclusions of the Sustainability Appraisal site assessments
- Agreement that the local plan should allocate of mix of site types (small, medium, large) (72%) and provide for a specific mix of housing types (80%)
- Support for requiring more than 10% biodiversity net gain (if viable)- (93%)

1.3.3 It is possible to provide some high-level breakdown of some of these messages by location of respondent, as included in **Annex 3**. This shows that a large proportion of those responding came from Tonbridge. Those from the west of the borough were also more likely to prefer Option 1 to those in the east (although Option 1 was still the preferred strategy). The consultation also included voluntary questions on equalities. This information is also included in **Annex 3**.

1.3.4 As highlighted above an additional 1643 comments were received through the consultation portal relating to particular sections or paragraph numbers of the Regulation 18 Plan. Around 40% of these comments received were made in reference to a particular site identified within Appendix B to the Local Plan. This was the list of sites identified in the previous Call for Sites process, the Urban Capacity Study and the former proposed allocations within the withdrawn local plan. This totalled 664 responses, and a breakdown is provided in **Annex 3** by ward.

1.3.5 It is not yet possible to analyse the results of the emailed or paper responses which relate to over 50% of returns due to the significant resource requirement in reviewing and uploading these to the consultation software. However a significant proportion of these are also in relation to the sites identified within Appendix B, including through adding names and addresses to standard proformas developed

within the community. There were three proformas which were submitted by a significant number of individuals as below:

- Objections to particular sites within King's Hill (8), Downs and Mereworth (1), East Malling (3), West Malling (1) and Wateringbury (3)- it is estimated this accounted for over 1,500 responses
- 'Stop Borough Green City'- including standard answers to a select number of the consultation questions in the context of Borough Green- it is estimated this accounted for around 100 responses
- Comments in relation to King's Hill and extracts of each site proposed within Appendix B with comments inserted- it is estimated this accounted for around 20 responses

1.3.6 As explained at the HPSSC meeting of September 2022, the Call for Sites process was also reopened alongside the Regulation 18 consultation a result of which 65 new sites were submitted. These additional sites are now being considered against the suitability criteria set out within the Placemaker software as well as the sustainability objectives within the Sustainability Appraisal. Legal advice will be sought to be able to ensure that these are considered in a proper and timely manner and to ensure there is opportunity for these sites to be consulted upon.

1.3.7 In addition to the above members of the team attended a TMBC Youth Forum to promote the local plan consultation. Further feedback was sought from attendee's peers through their schools, and the main comments were:

- The majority supported development, conditional on protecting greenfield land
- The countryside and woodlands around the borough are well liked but very few like Tonbridge town centre.
- Many identified a need for a cinema, cafes and restaurants, and parks and gardens,
- Traffic and air pollution are the greatest concerns about the future of the borough, followed by the loss of natural habitats and wildlife.

1.3.8 The above information is high-level analysis of the online questionnaire responses and key comments on sites. It is likely that the email responses reflect similar sentiments, but this cannot be confirmed, or full outcomes known until all emailed and postal responses have been fully logged. The full analysis will be brought to members, including an officer-level response for March 2023, which will effectively form the full Regulation 18 summary.

## **GDPR implications**

- 1.3.9 Some comments have also been received regarding the appropriateness of the consultation and engagement methods, including the reasoning why all households were not directly informed of the consultation process. As at section 1.2.1, emails were sent to those individuals who had directly registered on the local plan consultation portal. Advice was taken prior to the start of the consultation period on whether other council contacts could also be utilised and added to the consultation database, however this was restricted by the privacy notice.
- 1.3.10 Legal advice was also provided on the broader issue of data handling and GDPR in July 2019 following issues which arose at the local plan examination. This highlights that the 'processing of personal data' should only be progressed if it cannot be fulfilled by other means. On this basis utilising personal data collected for council tax purposes cannot be used for local plan purposes. However, other options are being explored, including how information on the Local Plan and encouraging registration can be disseminated with other council communications such as within the council tax information provided in early 2023.

## **Progress towards Regulation 19**

- 1.3.11 The planning policy team are currently processing the representations received. This includes entering emailed or postal responses into the consultation portal. Due to the high level of response, it will not be possible to assign ID numbers to respondents until this process has been concluded.
- 1.3.12 The team are also conducting more in-depth analysis of results of the Regulation 18 consultation. These full outputs of the consultation will be brought back to the HPSSC meeting of March 2023. This information will also be included within the consultation statement to be published alongside the Regulation 19 local plan in due course. The outcomes of the sustainability appraisal consultation are being passed onto the consultants to be separately analysed for reflection within the sustainability appraisal report.
- 1.3.13 The team are also currently assessing each identified site for suitability and availability. This is being undertaken through a range of methods including meeting with parties who submitted sites or are promoting formerly proposed allocations, and further consideration of site constraints. This process will also include engagement with owners of all of the sites identified in the Urban Capacity Study. This will be fed into a Housing and Employment Land Availability Assessment (HELAA) to identify land availability over the plan period. This will be used alongside the consultation results and other evidence to identify an appropriate spatial strategy, which will be tested within other pieces of evidence. Members will be engaged regarding the spatial strategy as it begins to emerge, via informal and confidential sessions in early 2023. These sessions require confidentiality so that the production of a spatial strategy or early thinking around

site suitability outcomes are not made public until an appropriate time. If made public before key decisions have been made this could require a significant injection of officer resource to manage.

- 1.3.14 Other new and emerging pieces of work which have or are currently being considered include transport modelling, a whole plan Viability Assessment, Landscape Study, Open Space, Playspace and Recreation Study and Greenbelt Study- part 2.
- 1.3.15 The current [Local Development Scheme](#) has Regulation 19 programmed for between August and October 2023.
- 1.3.16 However, this is an ambitious timetable. As highlighted above, ongoing legal advice will be sought on risk management, next steps and timetabling once the full outcomes of the consultation responses, site submissions and resources are known.
- 1.3.17 The next consultation stage will be on the Regulation 19 version of the Local Plan, currently anticipated for Autumn 2023. This will be the plan which the council considers to be 'sound', which will then be submitted to the Secretary of State, via the Planning Inspectorate. To be able to swiftly move between Regulation 19 and Regulation 22 (submission of a local plan) a revised approach to the current consultation portal is likely to be required, including how responses are analysed in an effective and timely manner.

## **1.4 Duty to Cooperate**

- 1.4.1 The planning policy team liaises with neighbouring boroughs on an ongoing basis, updating the Duty to Cooperate grid on a regular basis. Officers conducted bespoke officer and member-level duty to cooperate meetings on the Regulation 18 local plan whilst it was out to consultation. The latest version of this grid is available on member request. **Annex 1** contains a summary of the representations received from neighbouring authorities which will form the subject of the next conversations with each borough.

## **1.5 Legal Implications**

- 1.5.1 Local Planning Authorities are required to prepare and keep up to date development plan for their area. The Planning and Compulsory Purchase 2004 (as amended) and the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) set out the requirements and the statutory process for the preparation of a Local Plan.
- 1.5.2 General Data Protection Regulations set out particular requirements in relation to the processing of data. All individual responses will be redacted when outputs are published and no personal data will be shared with outside bodies.

## 1.6 Financial and Value for Money Considerations

- 1.6.1 There will be direct financial and value for money considerations associated with the commissioning of work and responding to issues raised through the consultation. These costs will be met from existing budgets, which are kept under regular review due to considerations including Member requirements on evidence base and inflationary cost increases for consultancy advice.

## 1.7 Risk Assessment

- 1.7.1 The preparation of the new local plan will provide the council with an up-to-date Local Plan on adoption (anticipated 2025). This will alleviate the current risks associated with not having an up-to-date development plan in place. There are reputational risks should the local plan programme not be delivered on time.

## 1.8 Equality Impact Assessment

- 1.8.1 The decisions recommended through this report have relevance to the substance of the Equality Act 2010. The equalities data collected within the Regulation 18 consultation has been processed in accordance with the GDPR and the local plan privacy notice. An Equalities Impact Assessment will be undertaken alongside the preparation of the Regulation 19 Local Plan.

## 1.9 Recommendations

HPSSC is asked to recommend to Cabinet:

- 1.9.1 **NOTE** the initial outputs of the Regulation 18 consultation on the draft Local Plan and Interim Sustainability Appraisal.
- 1.9.2 **APPROVAL** of the programme for bringing more detailed outputs to members at the March 2023 meeting.
- 1.9.3 **NOTE** the approach to promoting the Local Plan through other council communications, subject to GDPR restrictions.

Background papers:

Annex 1 - Summary of responses from statutory consultees

Annex 2 - Responses from landowners, developers and other bodies

Annex 3 - Initial outcomes of the Regulation 18 consultation

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