

TONBRIDGE & MALLING BOROUGH COUNCIL
HOUSING AND PLANNING SCRUTINY SELECT COMMITTEE

07 June 2023

Report of the Director of Planning, Housing and Environmental Health

Part 1- Public

Matters for Recommendation to Cabinet - Key Decision

1 NEW LOCAL DEVELOPMENT SCHEME

1.1.1 This report sets out the new Local Development Scheme timetable for the preparation of the Local Plan and the associated budgets and costs of this work. It seeks recommendations of approval to Cabinet for both.

1.2 Background

1.2.1 At the 21 March 2023 meeting of this committee members recommended proceeding with the preparation of the local plan under the current legislative arrangements (Option 1) and the progression of a new Local Development Scheme (LDS) and timetable on this basis.

1.2.2 This report sets out the proposed timetable, to be able to meet the deadlines to be introduced within the Levelling up and Regeneration Bill (once enacted).

1.3 Local Plan progress to date

1.3.1 The Council consulted upon the Regulation 18 Local Plan between 22 September and 3 November 2022. This was accompanied by an evidence base, including topics such as housing and employment, and an interim Sustainability Appraisal. In total over 4,000 representations were received. This included the submission of a further 57 new sites.

1.3.2 Preparation of new evidence in support of the next stages of plan-making is also in progress including detailed transport modelling, a new Heritage Strategy and Strategic Flood Risk Assessment (Level 1). A new piece of evidence is also being prepared to review the Objectively Assessed Needs of the borough in the context of its known constraints. This is to reflect the proposed changes to the NPPF as consulted upon by the government earlier this year. A Stage 2 Green Belt Assessment will shortly be commissioned (pending approval) to assess parcels of land against the purposes of the Green Belt.

1.4 Key dates and transitional arrangements

- 1.4.1 The ‘Levelling up and Regeneration bill: planning reforms’ consultation which took place between December and March 2023 proposed some new processes for plan-making and associated transitional arrangements. Should these proposals and arrangements be finalised by the government this would mean that the new local plan timetable within the LDS needs to allow for submission and adoption by the deadline dates as set out within table 1 below. It is anticipated that these amendments are to be published in the coming months.

Table 1- Key dates

Existing arrangements	
30 June 2025	Submission cut-off date for old-style plans
31 December 2026	Latest date for any old-style plans to be adopted
31 December 2031	Latest date for a local planning authority to commence work on a new style plan (if previous plan adopted on 31 December 2026).

- 1.4.2 **Annex 1** to this report is the new Local Development Scheme which, once approved, will be placed on the council’s website. This will set the timetable for the preparation of the local plan, but also against which delivery will be measured against within the local plan examination. The Authority Monitoring Report (AMR) will also need to report against these deadlines. The key dates are also set out in Table 2 below.
- 1.4.3 This timetable has been developed with the deadlines in table 1 in mind. To be able to meet this timetable several assumptions have been made. That the team is fully staffed (i.e. that existing vacancies are filled), that an appropriate budget is made available to progress at this pace- see for full costings at **Annex 3**, and additional internal resources are available to assist the planning policy team, where required.

Table 2- LDS timetable

Stage	Date
Regulation 18 B- Consultation on draft local plan	April 2024 (at the latest)
Regulation 19 ‘Publication’ local plan	December/January 2024
Submission of the local plan to the Secretary of State (SoS) via the Planning Inspectorate	April 2025
Examination (inc. main modifications)	April 2025 to December 2025

Final Inspector's Report	January- March 2026
Adoption of the local plan	April 2026 onwards

1.4.4 Following submission, the timetable set out within table 2 will be a guide, as the timing and length of the examination process will be determined by PINS rather than the council. However, this is likely to include consultation on proposed main modifications following the receipt of the inspector's initial recommendations. The date of adoption will be determined by the date of the full council meeting.

1.5 Form of the local plan

1.5.1 The next stage in the preparation of the local plan will be a second round of Regulation 18 consultation on a draft local plan. This version of the plan will include draft policies and site allocations. This will build upon the consultation responses from the previous round of consultation (to be reported to members at the July meeting), new evidence base and assessment processes.

1.5.2 It is also proposed to continue the Local Plan member liaison meetings that have been held previously and to include the Leader, Cabinet Member for Planning, the Chair and Vice Chair of the Housing & Planning Scrutiny Select Committee and representatives from each of the political groups. The next meeting is proposed to be held after Cabinet in early July, should the recommendations from this report be approved tonight and confirmed at that meeting.

1.5.3 The following Regulation 19 plan will be a version of the plan which the council considers to be 'sound', to be consulted upon prior to submission to the SoS.

1.6 Financial and Value for Money Considerations

1.6.1 There will be direct financial and value for money considerations associated with local plan preparation. To be able to meet deadlines within the proposed transition period (set out within the government's consultation) for the preparation of the local plan this means that there will be increased spend over the next five years. There is also additional proposed spend associated with the government's expectations around design codes, which are also strengthened within the consultation.

1.6.2 The main new areas of spend relate to the following:

- Additional Regulation 18 consultation: this requires the purchase of a new, fit for purpose consultation portal, which would likely have been required in any case to efficiently progress the Regulation 19 consultation stage. The team is working across the council to ensure cost savings and a shared approach to minimise costs.

- External consultation analysis support: to be able to process consultation responses to meet the table it is essential to procure an external company to analyse these responses for us. This will be required for two consultation exercises.
- Additional evidence: including evidence to support an approach to housing numbers which could differ from the OAN, updating of the plan period to 2041 and scenarios relating to any proposed change in housing numbers.
- Software: continuation of the contract with Urban Intelligence after its end in September 2024 to cover the period to adoption in early 2026 (2 years).
- Design Codes: the new requirement to produce borough-wide design code/s

1.6.3 **Annex 3** provides more detail of the breakdown by category. Some of these costs are confirmed, while others are best and reasonable estimates based on officer experience of the cost of similar contracts, updated to reflect inflation. This means that the final costs could vary slightly from this. Commissioning of work will be undertaken in accordance with the council's procurement processes, to always reflect best value.

1.6.4 Members will be aware that Local Plan expenditure is funded from earmarked reserve. The balance on this reserve was £834,798 at 1 April 2023. The budgeted contribution to the reserve over the next five years is £400,000. The anticipated external spend over the period as shown in **Annex 3** is £1,394,821. In addition, a two-year temporary Principal Planning Officer (PPO) post costing £126,352 will need to be funded from the reserve. The anticipated reserve position is shown in the table below.

Table 3- Budget spends

	2023/24 £	2024/25 £	2025/26 £	2026/27 £	2027/28 £
Opening Balance	834,798	338,608	84,361	(231,000)	326,375
Contribution	80,000	80,000	80,000	80,000	80,000
External Spend	(513,794)	(270,291)	(395,362)	(175,375)	(40,000)
PPO	(62,396)	(63,956)	0	0	0
Closing Balance	338,608	84,361	(231,000)	(326,375)	(286,375)

1.6.5 Based on the forecast spend, the reserve will need a one-off injection of £330,000 to prevent it from going into the "red". This is in addition to the one-off injection of £750,000 made in 2021/22 following Council decision on 13 July 2021 to withdraw the current plan and review, refresh and resubmit the Local Plan.

1.6.6 As shown within **Annex 3**, a majority of the above additional spend (c.£300,000) relates to the new requirement to produce borough-wide design codes which were not costed within the 2021/22 budget but relates to spend 2025/26 onwards.

1.7 Legal Implications

- 1.7.1 Local Planning Authorities are required to prepare and keep an 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.
- 1.7.2 Local Planning Authority must also prepare and maintain a Local Development Scheme (section 15(1), PCPA 2004). The LDS is the starting point for the local community and stakeholders to find out about the status of the LPA's planning policy documents. LPAs are responsible for monitoring progress made in preparing their Local Development Documents against the timetable set out in the LDS. Progress will be reported every year in the LPA's monitoring report.

1.8 Risk Assessment

- 1.8.1 The preparation of the new local plan will provide the council with an up-to-date Local Plan on adoption. This will alleviate the current risks associated with not having an up-to-date development plan in place, however current government proposals within the Levelling Up and Regeneration Bill would mean that the penalties of not having a plan in place would be weakened. There are reputational risks should the local plan programme not be delivered on time.
- 1.8.2 A KCC-led audit took place in November-February 2023 with some key recommendations around the maintenance and update of risk and issues registers as well as other matters. **Annex 2** shows the local plan risks and issues.
- 1.8.3 The relevant corporate risk was updated in December 2022 and will be amended to reflect the potential implications of the NPPF consultation. The service level risk register is maintained and continually updated to reflect the latest position and relevant mitigations. The highest risks to the delivery of the local plan and the mitigation measures are as follows:
- Awaiting the results of the proposed planning reforms: this could involve a delay to the publication of the NPPF, or the final content being different to as proposed in the consultation. The programme as set out within the LDS is based upon the amendments to the NPPF coming forward as proposed within the next 2 months, with implications for housing numbers and Green Belt release, and the transition period. Should these amendments not come forward as envisaged, a new programme would need to be developed. The highest risk to the programme would be a scenario where the housing numbers and Green Belt amendments were not taken forward but the transition period were to remain. Under these circumstances it is not considered possible to progress under the current arrangements as a more detailed Green Belt Study would be required, with an estimated 3-month delay to the programme.

- Change in political direction or aspirations following local elections, or revised approach to LDS programme or associated budget
- Need to work alongside the Head of Legal to procure appropriate dedicated legal support for local plan preparation
- Internal staff resourcing issues- relating to the council being a 'host borough' for the Lower Thames Crossing, recruitment issues relating to vacant posts, and absence of dedicated in-house conservation or design support – these issues are mitigated as much as possible through use of contractor staff
- Delay to any 'critical path' evidence base studies, such as the Housing Constraints Assessment (commissioned), software approach for the Spatial Strategy, transport modelling, Sustainability Appraisal and Habitats Regulations requirements: utilising comprehensive project management programme and techniques to ensure the production keeps to time
- Duty to Cooperate issues- 'grid approach' adopted and maintained to minimise risk (can be made available to members on request).

1.8.4 At present no risks are within the 'high' risk category but should this occur the corporate risk escalation process will be triggered. To further assist in the mitigation of risk the costs at Annex 2 also include a Planning Advisory Service 'peer review' for Autumn 2023 to support the development of the Regulation 18B document.

1.8.5 In addition to the above identified risks, an issues register is also maintained. This is to record matters that have already occurred or are currently happening which needs to be addressed now to prevent them becoming future risks. The following are those currently set as 'high':

- Unknown content of the proposed National Development Management Policies- this may require a review of the proposed DM policies within the Regulation 18 local plan, which could have associated delays to the programme.
- Lack of comprehensive, up-to-date and modern monitoring systems- without which could result in delays to the collection of data inputs to the evidence base document. This would also have implications of demonstrating our five-year housing land supply for any submitted appeals. A dedicated workstream is underway to assist in mitigation.

1.9 Equality Impact Assessment

1.9.1 The decisions recommended through this report have relevance to the substance of the Equality Act 2010. The stages in plan preparation will be undertaken in accordance with the new Statement of Community Involvement which ensures

that planning policy consultations are accessible to all, irrespective of protected characteristics. An Equalities Impact Assessment is being undertaken alongside the preparation of the next stages of the Local Plan.

1.10 Recommendations

HPSSC is asked to recommend to Cabinet:

1.10.1 APPROVAL of the new Local Development Scheme

1.10.2 NOTE the additional budget requirements of the local plan and the need for further financial provision in future budget setting process.

Background papers:

Annex 1- Local Development Scheme

Annex 2- Known risks and issues

Annex 3- Full cost breakdown

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