

Housing and Planning Scrutiny Select Committee

12 February 2025

Part 1 - Public

Matters for Cabinet - Key Decision



Cabinet Member	Cllr Mike Taylor – Cabinet Member for Planning
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Local Development Scheme (LDS)

1 Summary and Purpose of Report

- 1.1 This report seeks Member approval of a revised Local Development Scheme (LDS). The LDS has been updated to account for the delay of the Regulation 18 Local Plan consultation that was due to take place last year (2024). The delay was due to the Government's 'proposed reforms to the National Planning Policy Framework (NPPF) and other changes to the planning system' consultation and the implications of this for plan-making. Subsequently, a revised NPPF was published on 12th December 2024 and confirms the dates in which the Government require local authorities to submit a local plan to the Planning Inspectorate by having been confirmed as the 12th December 2026, for those at the Regulation 18 stage. The LDS has therefore been updated to account for the time required to produce a local plan under the revised NPPF and national guidance and the Government's local plan submission requirements. Separate committee reports are provided to consider the implications of the revised NPPF (December 2024) on Tonbridge and Malling Borough Council's plan-making process, an update on the Local Plan process and the proposed Local Plan budget. To note, the Government has provided a timeframe for local authorities to update their LDS's and to submit the timetable following the publication of the revised NPPF by 6th March 2025.

2 Corporate Strategy Priority Area

- 2.1 The Local Development Scheme (LDS) will contribute to the following corporate priorities:
- Efficient services for all our residents, maintaining an effective council.
 - Sustaining a borough which cares for the environment.

- Improving housing options for local people whilst protecting our outdoor areas of importance.
- Investing in our local economy to help support residents and businesses and foster sustainable growth.

2.2 The Local Plan once progressed to adoption will be the key planning document for TMBC, setting out the Council's strategy for land use. The LDS is a legislative requirement and detailing the timetable for producing the Local Plan.

3 Recommendations

HPSSC is asked to recommend to Cabinet the:

3.1 APPROVAL of the updated Local Development Scheme (February 2025).

4 Introduction and Background

4.1 The Council is required to prepare and regularly review a Local Development Scheme (LDS) under the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act 2011).

4.2 The LDS sets out the timetable for the Local Plan, setting out when the next stages in the plan process are expected. The updated LDS (February 2025) presents this accounting for the key stages in plan-making such as the second Regulation 18 consultation, the Regulation 19 consultation, submission, examination and adoption of the Local Plan. The LDS must also specify the documents which will comprise the development plan for the area. The LDS must be made available publicly and kept up to date to ensure that local communities and interested parties can keep track of progress. Local planning authorities must also publish the LDS on their websites.

4.3 Planning Practice Guidance re-iterates that Local Development Schemes must also be produced in compliance with any data standard for this purpose published by MHCLG and that it is expected to be reviewed and updated at least annually but may need updating more frequently if there are any significant changes in the timescales or the plans being prepared. Following the publication of the revised NPPF, the Government have stipulated for local authorities to update their LDS by 6th March 2025 and to submit the updated timetable.

4.4 The Planning Inspectorate maintains and publishes a list of the overall position for each Local Planning Authority and the date of publication and adoption is based on information provided in Local Development Schemes.

4.5 Local Planning Authorities are required to keep the Planning Inspectorate informed about when their plans are to be published, submitted and adopted, in order to ensure there are no delays in appointing an Inspector which would delay the examination process.

- 4.6 It must be noted that if a plan has not been progressed in accordance with its LDS then this could result in a legal compliance issue at examination.

5 Proposal

- 5.1 This report seeks Members approval of a revised Local Development Scheme (LDS) following the delay of the Regulation 18 consultation last year. The delay was due to the Government's 'proposed reforms to the National Planning Policy Framework (NPPF) and other changes to the planning system' consultation and the implications of this for plan-making. A revised NPPF was published on 12th December 2024 and confirms the dates in which the Government require local authorities to submit a local plan to the Planning Inspectorate by having been confirmed as the 12th December 2026, for those at the Regulation 18 stage. This is the stage that TMBC is currently at. The LDS has therefore been updated to account for the time required to produce a local plan under the revised NPPF and national guidance and to meet the Government's local plan submission requirements.
- 5.2 A separate committee paper has been prepared setting out the implications of the new NPPF for TMBC in its plan-making. In summary, the key implications relate to a higher housing need requirement, a requirement to review the Green Belt and a requirement to consider 'Grey Belt'. 70% of TMBC's administrative area is covered by the Green Belt, therefore much of the work that was prepared and progressed previously to inform a second Regulation 18 consultation will be required to be updated. In addition, significant progress was made on the Regulation 18 Local Plan consultation document prepared for consultation last year and given the extent of national policy changes will mean that many aspects of this work including its evidence base and other work streams will need to be reconsidered and progressed to ensure the emerging Local Plan aligns with national policy.

6 Local Plan timetable

- 6.1 The LDS proposes a timetable for a second stage Regulation 18 consultation to take place in Quarter 3 (starting in October) in 2025. In defining this date, several factors have been considered. This includes the time it will take to procure and progress the required evidence using external expert consultants, time to consider the evidence and progress policies and the spatial strategy, engagement with Members and with Officers internally, engaging with Duty to Cooperate partners and other stakeholders such as infrastructure providers, testing spatial options through highways modelling (and other infrastructure modelling as relevant), progressing the legislatively required Sustainability Appraisal and Habitats Regulations Assessment to support the Regulation 18 consultation. It also takes into account progressing the Local Plan consultation document including desktop publishing, setting up the consultation and the Council Committees/Cabinet approval process.

- 6.2 The next key stage in the process is the publication (Regulation 19) and consultation (Regulation 20) of the Council's Pre-Submission Local Plan. This is timetabled to take place in Quarter 2 in 2026 and will require the Plan to be progressed to the Regulation 19 stage within a 9 (minimum) to 11 (maximum) month period to provide time to prepare for and submit (Regulation 22) the Local plan to the Planning Inspector by 12th December 2026. This timeframe will require all Regulation 18 consultation responses to be considered, reported to Committees and will require further evidence to be obtained / progressed and updates to the Local Plan made for the Regulation 19 stage. It will also require Committees/Cabinet to approve the publication and consultation of the Local Plan, alongside ongoing engagement with relevant stakeholders.
- 6.3 Given the challenging timeframe between Regulation 18 and 19, it is proposed for the second Regulation 18 consultation Local Plan to include detailed draft policies and the Council's preferred spatial strategy and any other options that may require further testing to be identified with appropriate caveats that further testing will be required. A detailed Local Plan at the second Regulation 18 stage will provide an opportunity for communities and stakeholders to respond to a targeted consultation, whilst the Local Plan is still in its formative stage and the Council is in a position to respond. This is bearing in mind that at the Regulation 19 stage, it will not be possible for the Council to amend the plan prior to making the decision to submit the Local Plan to the Planning Inspectorate. In effect, the LDS is defined to frontload much of the local plan work and the second Regulation 18 consultation will provide an opportunity to test the Council's preferred strategy and policies.
- 6.4 To drive forward a new Local Plan that meets the latest NPPF requirements means that there will only be a short period of time between the consultation (Regulation 20) on the Regulation 19 Local Plan and the submission of the Local Plan (Regulation 22). To meet the Government's timescales of submission by 12th December 2026, agreement will be required by Full Council when the plan is approved for Regulation 19 consultation that the Local Plan can be submitted following the consultation. Only in the event that the Regulation 19 Local plan consultation uncovers any issues of soundness or legal compliance would the plan be brought back through the committee process, otherwise it will continue to submission without going through the Council's Committee/Cabinet process. This is possible as the Regulation 19 Local Plan will be the plan that we propose to submit for examination.
- 6.5 The LDS also identifies dates for the Independent Examination (Regulation 24), Publication of the Inspector's Final Report (Regulation 25) and the Adoption of the Local Plan. However, these dates are subject to the Planning Inspectorate. The LDS anticipates Local Plan adoption to be in Quarter 3 2027.

7 Other Options

- 7.1 The Council is required to prepare and regularly review an LDS under the provisions of the Planning and Compulsory Act 2004 as amended by the Localism Act 2011. An up-to-date LDS is an essential tool for the Council to effectively manage document production and for monitoring to take place. Members are therefore recommended to approve the adoption of the revised Local Development Scheme set out in Appendix 1.

8 Financial and Value for Money Considerations

- 8.1 There are no financial implications associated with the LDS per se. However, there will be direct financial and value for money considerations associated with local plan preparation. A separate Committee report is available (12th February HPSSC) that considers the Local Plan budget under a new NPPF, which takes into account the requirements of plan-making and the costs to deliver a Local Plan.

9 Risk Assessment

- 9.1 Appendix 2 in the LDS provides a risk assessment in relation to meeting the Council's Local Plan timeframe. The LDS sets out the Council's timetable for the preparation of the new local plan, which 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.
- 9.2 The Government are clear that it is unacceptable for LPAs to not make a local plan and the intervention criteria has been updated given the criticality of local plans to the Government's housing and economic development agenda. The Government are also clear that plans should continue to be progressed under the existing planning system without delay and have provided transitional arrangements to achieve this where all plans (using the current system) will need to be submitted no later than 12th December 2026.
- 9.3 The Government's updated intervention criteria is provided in Planning Practice Guidance¹ and will be used once the relevant provisions in the Levelling up and Regeneration Act 2023 are commenced. The update is provided to help ensure that future local plan intervention action is targeted, swift and proportionate where decisions on intervention will be taken in line with relevant legal tests and should have regard to plan progress and local development needs. Planning authorities will be invited to put forward any exceptional circumstances that they think that the Secretary of State should consider in relation to any plan-making intervention action.
- 9.4 A number of Corporate Risks are relevant including staffing challenges in planning services and a corporate risk directly associated with the Local Plan and any

¹ Planning Policy Guidance: <https://www.gov.uk/guidance/plan-making#local-plan-intervention>

delay in Local Plan delivery including the evidence base. The Local Plan risk Register is included at Annex 2. Whilst not directly associated with the Local Plan, an additional risk is that not having an up-to-date LDS could cause issues at examination, given that taking a Local Plan forward in accordance with an adopted LDS is a matter for consideration by a Planning Inspector.

9.5 To summarise, the risks that are currently considered to be high include the following:

- Change in political administration or direction from administration
- Sustainability Appraisal (SA)
- Evidence base studies in general but also specifically Green Belt evidence, transport modelling, Sustainability Appraisal,
- Amended or escalating costs of evidence base and the general overall increase in costs required to progress a local plan and additional / sufficient budget not being agreed
- Not meeting the transitional arrangements for plan making for submission no later than December 2026
- Increase in development needs following the new standard methodology as per the revised NPPF / PPG
- Devolution
- High response rate to the Regulation 18 Consultation and / or the consultation identifying a need for further evidence not factored in the work programme
- Lack of Member agreement over the Local Plan strategy, policies or content of the Plan.

10 Legal Implications

10.1 The Council is required to prepare and regularly review an LDS under the provisions of the Planning and Compulsory Act 2004 as amended by the Localism Act 2011.

11 Consultation and Communications

11.1 The LDS will be published on the Council's website.

12 Implementation

- 12.1 Local Plan work is ongoing and an update to the Local Plan and evidence base work programme is provided in a separate Committee Report brought before the 12th February 2025 HPSSC Committee.

13 Cross Cutting Issues

13.1 Climate Change and Biodiversity

- 13.1.1 Adaptation and resilience have not been considered.

- 13.1.2 Climate change advice has not been sought in the preparation of the options and recommendations in this report. This is a report that sets out the timetable for the new Local Plan.

13.2 Equalities and Diversity

- 13.2.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Background Papers	None
Annexes	Annex 1 – Local Development Scheme (February 2025) Annex 2 – Local Plan Risk Register (February 2025)