

<b>Local Plan Panel Meeting</b>	
<b>Meeting Date</b>	8 September 2021
<b>Report Title</b>	Swale Local Development Scheme
<b>Cabinet Member</b>	Cllr Mike Baldock, Cabinet Member for Planning
<b>SMT Lead</b>	Emma Wiggins
<b>Head of Service</b>	James Freeman
<b>Lead Officer</b>	Jill Peet
<b>Key Decision</b>	No
<b>Classification</b>	<b>Open</b>
<b>Recommendations</b>	1. The Local Development Scheme (LDS) at Appendix I to this item be recommended to Cabinet for adoption as the current programme for the Swale Borough Local Plan Review

## **1 Purpose of Report and Executive Summary**

- 1.1 The Council has been working to the timetable for delivering the Local Plan Review (LPR) that is set out in the Local Development Scheme of 2020. It has recently undertaken Regulation 19 consultation that concluded in the spring.
- 1.2 As promised, the Council has been reviewing the comments made in response to the Regulation 19 consultation on the draft submission LPR document. It is using this as an opportunity to take stock, before deciding whether to submit it to the Planning Inspectorate for independent examination.
- 1.3 Whilst there is considerable support for the Local Plan Review (LPR) in its form as presented under Regulation 19, there is criticism from some communities that they have not had an adequate opportunity to participate in the process and a view that some of the information presented to support the plan is not detailed enough. In addition, the government has published a revision to the NPPF, that will need to be taken into account in any plan making.
- 1.4 The Council is committed to preparing a local plan review in as fair and transparent a way as possible. It believes this has been done but it is faced with a choice. On balance, a further Regulation 18 Issues and Options consultation could be carried out to take account of the revised NPPF, consider the potential repercussions of the covid pandemic and provide an additional opportunity for participation. This would then need to be followed by a further Regulation 19 stage prior to submission to the Secretary of State. This approach allows the Council to respond proactively to the representations made earlier in the year on the February 2021 version of the LPR and to address other factors that are beyond the control of the Council, that could in themselves cause delay to the plan's progress.

- 1.5 This report sets out a revised programme for the LPR in light of these factors to support the continued preparation of a sound plan.

## 2 Background

- 2.1 The Council is required by Section 15 of the Planning and Compulsory Purchase Act (2004) (as amended) to maintain an up to date Local Development Scheme (LDS). The current LDS was approved in 2020. The revised LDS is attached in appendix I and sets out a new programme for the LPR that now includes a further Regulation 18 Issues & Options consultation in the autumn of 2021 and a further Regulation 19 consultation on the draft submission plan in early 2022.
- 2.2 The programme set out in the 2020 LDS sought for the Council to proceed to submission in August 2021, following the Regulation 19 stage earlier in the year. As part of the discussion that took place around the recent Regulation 19 consultation, it was confirmed a 'take stock' exercise would be undertaken once the representations had been reviewed in the light of what has been said and of any other relevant circumstances that may have arisen in the meantime. The summary of the main issues raised are set out in a separate report to this meeting.
- 2.3 On 20 July 2021, the government published a revised National Planning Policy Framework (NPPF). These revisions apply to the consideration of the LPR. The transitional provisions only enable plans that have already been submitted for examination to continue to proceed without doing so. The new timetable set out in the proposed LDS will allow the opportunity to take into consideration these revised elements of the new NPPF and to ensure the plan is compliant. The changes to the NPPF are largely around design standards and design codes. They also add greater detail regarding how to address the impacts of climate change and a reference to the impacts of flooding from all sources, and the need for further sustainable transport measures aimed at encouraging modal shift to reduce congestion and air pollution.
- 2.4 Of particular concern is the new requirement to look at a longer timescale when new larger-scale developments are being considered. Paragraph 22 of the new NPPF states "*strategic policies should look ahead over a minimum 15 year period from adoption, to anticipate and respond to long-term requirements and opportunities, such as those arising from major improvements in infrastructure. Where larger scale developments such as new settlements or significant extensions to existing villages and towns form part of the strategy for the area, policies should be set within a vision that looks further ahead (at least 30 years), to take into account the likely timescale for delivery*". It is understood that the Government will be publishing further planning policy guidance shortly to clarify what they expect from local planning authorities to demonstrate they have undertaken this task appropriately, and this can be taken into account in the new Regulation 18 consultation and in drafting the further Regulation 19 LPR document. The plan period for the LPR has been looking currently at 2022 to 2038. As a result of this new paragraph in the NPPF, the vision for the LPR will

have to be reviewed, as regards larger scale developments, and it will be required to extend to at least 2052.

- 2.5 A developer with an interest in developing a strategic site in the borough has submitted a Judicial Review against the Council concerning the approach set out in the 2020 LDS (Quinn Estate Limited, case ref CO/977/2021). Permission to proceed has been granted by the Planning Court and a hearing date has now been set for the end of November. The Claimant is challenging the decision not to carry out a further round of regulation 18 consultation before proceeding to the regulation 19 stage this year, as well as the quality of some of the evidence published in support of the draft submission plan document. Whilst the Council is confident that it has a strong case to quash the JR, it is sensible to consider the impacts on the LPR programme should that decision not go in our favour. Ultimately, it would result in a greater delay and risk to the LPR programme than proceeding to undertake a Regulation 18 Issues and Options as part of a new programme that can be undertaken now.
- 2.6 The impacts of the coronavirus pandemic are beginning to bed down. There is no doubt it has had a significant impact on town centres and the retail and leisure sectors in particular, as well as certain employment sectors and the office market. A further Regulation 18 consultation would allow the opportunity to present ideas and invite suggestions on how the LPR can respond to these unique challenges.
- 2.7 Members may be interested to note that within the wider Kent context, local plan progress is challenging. Two local plans in west Kent have failed at examination while other plans are facing delay as they grapple with challenges that impact on their timetables. In taking stock of where we are and learning lessons from our neighbours and from local planning authorities further afield, the proposed programme is recommended as a way to reduce risks to the soundness of the LPR and to address concerns raised at the recent consultation without having too significant an impact on the programme.

### **3 Proposals**

- 3.1 The proposed new LDS and the programme to achieve the delivery of the LPR is set out in appendix I. The Panel are asked to recommend to Cabinet that it be adopted for the purposes of guiding and monitoring progress on the Local Plan Review. The date it becomes effective will be the date of the relevant Cabinet decision and Minute to adopt it.
- 3.2 The revised programme puts forward a timeline for the consultation on Issues & Options (with a preferred option) in October/November 2021 and draft Local Plan (Reg 19) in early 2022. Examination would commence on submission to the Secretary of State in May 2022. Adoption is anticipated to be in early 2023 although the examination timescales are beyond the control of the Council.
- 3.3 In addition, the revised LDS includes references to three Supplementary Planning Documents which are intended to support the LPR:

- Sittingbourne Town Centre SPD
- Sustainable Design and Constructions SPD
- Housing SPD

As they are SPDs, they are not development plan documents that must be set out as part of the official LDS programme. The indicative programme for the production of these SPDs is included in appendix (ii) of the LDS for information.

## 4 Alternative Options

- 4.1 Production and maintenance of an up to date LDS is a statutory requirement and compliance with it is a measure of a local plan’s legal compliance and soundness at examination. Without it, the LPR will fail. The other option is to keep the LDS as it is, and to proceed with the regulation 19 version of the LPR that was the subject of the consultation earlier this year. For the reasons set out above, this is not considered to be a realistic alternative.

## 5 Consultation Undertaken or Proposed

- 5.1 The Local Plan itself is subject to public engagement or consultation at several points in the process. The LDS programme indicates when these are expected to take place. There is no requirement for the LDS itself to be subject to consultation. However, it is reasonable to take account of the consultation responses that have been received so far, as part of the LPR process to date, as part of the consideration of what the LDS programme should be.

## 6 Implications

Issue	Implications
Corporate Plan	This Local Plan supports the priority of the Council to build the right homes in the right places and supporting quality jobs for all.
Financial, Resource and Property	The costs for the production of the Local Plan can be met from existing budgets
Legal, Statutory and Procurement	A Local Development Scheme is required under section 15 of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act 2011) and a Council minute confirming its adoption will be needed.
Crime and Disorder	None identified at this stage
Environment and Climate/Ecological Emergency	The Local Plan will be supported by its own Sustainability Appraisal and Habitats Regulation Assessment at each key stage in decision making.

Health and Wellbeing	None identified at this stage
Safeguarding of Children, Young People and Vulnerable Adults	None identified at this stage
Risk Management and Health and Safety	None identified at this stage
Equality and Diversity	None identified at this stage, although the Local Plan Review itself will be subject to equality impact assessments at key stages as advised by the policy team.
Privacy and Data Protection	None identified at this stage

## 7 Appendices

7.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Swale Borough Local Development Scheme September 2021

## 8 Background Papers

LPP Report: Summary of main issues raised in respect of the Swale Borough Local Plan Review (Regulation 19) Pre-submission Consultation. 8<sup>th</sup> September 2021.