

<b>Planning &amp; Transportation Policy Working Group</b>	
<b>Meeting Date</b>	6 October 2022
<b>Report Title</b>	Local Plan Review Update & Next Steps
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<b>Head of Service</b>	Flo Churchill, Interim Head of Planning
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<b>Classification</b>	<b>Open</b>
<b>Recommendations</b>	1. To recommend to Policy & Resources committee the published LDS is suspended and Regulation 19 consultation paused until the LURB gains Royal Assent

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

- 1.1 The purpose of this report is to set out the risks associated with progressing the Local Plan Review in light of recent changes in central government personnel and delays with expected policy guidance at the national level. The prospectus of proposed changes to national policy and guidance was expected in July but has not been published and there is no date for publication in the public domain. The Levelling Up and Regeneration Bill (LURB) is progressing but there is uncertainty around 'direction of travel' as the new Prime Minister and Planning Minister set out their positions on planning and infrastructure.
- 1.2 The published LDS states the council will proceed to Reg 19 consultation in October/ November/ December 2022. Had the prospectus of changes been published as expected, officers would have been able to take into consideration the impacts of these changes to national guidance on the content of the emerging plan document (Reg 19). A new minister for Levelling Up was appointed on 6 September (the third one this year) and on 21 September the Housing and Planning Minister was confirmed as Lee Rowley. Given the changes to key personnel, the likelihood of the prospectus being published before the end of the year is looking unrealistic.
- 1.3 In order to avoid abortive work and undertake consultation that would then have to be repeated, it is right that the council take stock of the situation in light of this considerable uncertainty. This is particularly relevant because of recent discourse from government ministers where they have commented on housing numbers and greenfield developments with the implication that change to government policy is coming. Despite these comments, the change of direction of policy has not yet been forthcoming. The Planning Inspectorate (PINS) maintains the view that government policy requires local planning authorities to deliver their full Local Housing Need (LHN) as determined by the standard method approach *unless there are exceptional circumstances*. To date, officers

have not been able to identify a single example of where a sound plan with a number below the LHN has been delivered.

- 1.4 Given the significant risks associated with progressing to Regulation 19 consultation as per the published LDS, the recommendation is to pause formal stages of the Local Plan Review until the LURB gains Royal Assent.

## **2 Background**

- 2.1 The government sought to introduce a complete overhaul of the planning system. Measures were set out in the White Paper: Planning for the Future in August 2020. This was accompanied by proposals to change existing national policy and guidance that would see, amongst other things, the introduction of First Homes as an affordable housing product and amendments to the standard method calculation that resulted in yet another significant uplift to housing numbers for most local planning authorities in Kent.
- 2.2 The proposed uplift to housing numbers in August 2020, nicknamed the ‘mutant algorithm’ was subsequently withdrawn. However, the current method is still based on the 2014 based Household Projections. Some of the proposed changes to the planning system have been introduced through amendments to existing regulations and through the enactment of the Environment Act. Further changes are expected (as should be set out in the prospectus) and the Levelling Up and Regeneration Bill (LURB) includes further proposals. The LURB has now had its second reading and is at committee stage.
- 2.3 The council has always expressed concern about its ability to deliver the housing numbers required for Swale through the ‘standard method’ approach. Government ministers have confirmed it is for local authorities to determine the housing numbers for their local plan. It is clear there is a disconnect between the idea of local planning authorities determining their own housing number and the reality of regulation and legislation. The National Planning Policy Framework (NPPF) is very clear that the number of homes needed should be informed by a local housing need assessment using the standard method *unless exceptional circumstances justify an alternative approach*. The council has not been able to demonstrate “exceptional circumstances” in this regard. Although around 60% of this borough is subject to high level constraints, the expectation is that the remaining 40% can shoulder the burden of housing development pressure. There are simply no easy choices and much of the remaining 40% is subject to local level constraints where development is discouraged unless there are no realistic alternatives.
- 2.4 As part of the LPR process, the council has looked at several strategic growth options and to date has supported a more dispersed pattern of development overall. In delivering the needs of the current local plan and the numbers required for the Review, the way to deliver a more dispersed pattern of development sees a focus at the eastern end of the borough. The western end of the borough (Sittingbourne and Newington), along with the Isle of Sheppey at Minster has long been the focus for growth, being part of the ‘Thames Gateway’

area. There is a number of strategic sites at Sittingbourne, Iwade and Minster with planning permission and/or are under construction. Further strategic development allocations in and around Sittingbourne are likely to be problematic. Planning permission has been granted for around 2,800 dwellings at Iwade, north-east Sittingbourne and south-west Sittingbourne. Historically, viability at the Sittingbourne end of the borough has been finely balanced and while there are a significant number of dwellings in the pipeline in this general location, additional allocations to the west of Sittingbourne is likely to overheat the market, impact viability and subsequently, impact delivery. This is on top of transport and traffic issues that would need to be resolved with considerable investment as the road network capacity at both Grovehurst and M2 J5 (including planning improvements) are designed to meet requirements of the adopted local plan only. There continues to be issues with air quality on the A2 at Newington and Keycol that would be exacerbated by additional development without significant mitigation. Where small individual sites on their own in this broad location may not severely impact air quality, collectively, they would be highly significant and is a cross-boundary issue with Medway.

- 2.5 Traffic capacity and air quality issues between Sittingbourne and Faversham also limit development opportunities which would again require significant infrastructure investment both in terms of the highways network and to support active travel, noting the existing of an Air Quality Management Area (AQMA) on the A2 at Teynham. With this in mind, the council has, to date, focussed potential allocations (in line with a dispersed strategy) at the most sustainable locations and looked at areas where development could yield benefits for both new and existing communities by providing additional infrastructure and greater opportunities for more active travel to move away from reliance on the private car. These have been in areas where the investment of new development would provide a boost to existing centres with train stations.
- 2.6 Development allocations to the east of the borough, particularly at Faversham have the potential to achieve these aims with the delivery of a sustainable urban extension to the south and south east of the town. The quantum of development proposed would yield additional community infrastructure including for education, health, open space and walking and cycling routes into the town. However, the capacity issues at M2 J7 Brenley Corner are well documented and although this scheme features in RIS3 (the government's Road Investment Strategy), there are no firm proposals for the required improvements. This, in turn impacts delivery timescales for development at Faversham and at Canterbury. This uncertainty also impacts on the council's ability to deliver a sound plan as this much needed improvement is entirely within the control of central government.
- 2.7 LPR consultation confirms there is no consensus from our communities about where development should go. There is considerable concern around existing infrastructure capacity in particular. While a key benefit of new development is the infrastructure that it brings with it, it cannot make up for existing deficiencies. A common response to our consultations has been the number of new homes required of Swale is simply too great.

- 2.8 Significant change to national policy is on its way. This is coming in the form of the LURB and further changes to current regulations, policy and guidance. This was expected in July, in the form of a prospectus but with a new prime minister and minister for Levelling Up it is likely they will need some time to consider the direction of travel before continuing with the programme of reforms. With all of this uncertainty, there is no benefit to progressing to Reg 19 in what is, a policy vacuum. Given the forthcoming changes to the NPPF there is a strong likelihood that a draft plan would need to be amended to respond to that. This would result in the need for changes to be made to the document and for a further consultation to be undertaken before submission to the Secretary of State.
- 2.9 There is an obligation under regulation 10A of the Local Plan Regulations for reviews of a plan to be completed within 5 years of adoption. The PPG provides additional guidance in this respect at ID: 61-062-20190315. However, taking those points into account does not preclude the Council from decision to delay progression of the LPR until the LURB receives Royal Assent.
- 2.10 The evidence to demonstrate a plan number lower than the standard method has not yet been secured in existing evidence because the government will, under current policy, allow development to take place in areas that are cherished by our communities despite emphasising the planning system is about good 'place making' and not a 'numbers game'.
- 2.11 Any Reg 19 consultation that takes place during the next 12 months or so is likely to need to be redone to take into account any revisions to national policy. It is also unlikely that any draft plan that is acceptable to Members and meets the 'soundness' tests of the NPPF could be achieved at this point in time.
- 2.12 Undoubtedly, it is far from ideal to delay having an up-to-date local plan. However, this must be weighed up against other risks including progressing with a plan that is not sound or cannot deliver the right development for the borough. An out-of-date plan risks speculative applications for development, but the council is already inundated, and any new plan should be the right plan. Speculative development proposals are still required to meet the objectives of delivering sustainable development and comply with local policies compliant with the NPPF.
- 2.13 The Council has not been able to demonstrate a five year housing land supply since February 2019 but the gap is narrowing as delayed schemes start to come forward. The latest published figure (July 2022) is 4.8 years for the monitoring year 2020/21. The survey work for the most recent monitoring year, 2021/22 is now completed and demonstrates delivery of 1050 dwellings against the local plan target of 776 dwellings for that year. While the calculations for determining housing land supply take into consideration a number of other, complex factors, the completions number demonstrates the general direction of travel. The necessary analysis work is underway and a new Housing Land Supply Position Statement will be published in draft later this year. It cannot be finalised until the Housing Delivery Test is published in early 2023 to finalise the buffer to be applied (5% or 20%).

- 2.14 Local plan preparation should be done in accordance with the published Local Development Scheme (LDS). Clearly, should the proposed approach be agreed, this would not be the case. However, given the lack of necessary information and detail required, it is not possible at this time to prepare a revised LDS. It would be prudent to add an explanatory note to the relevant webpages to explain our approach, i.e. that the Regulation 19 consultation is paused for approximately 12 months. A revised LDS would then be prepared as soon as practicable to set out the new timetable.
- 2.15 During the pause, there is still much to do. The planning policy team will continue to work on the evidence base, making sure it is up-to-date and proportionate to support a sound plan. Work is already underway to assess the policies and proposals of the adopted local plan, Bearing Fruits for compliance with the NPPF. This is an important exercise because it helps to establish how much weight should be given to existing policies in determining planning applications. This is particularly important now that the adopted local plan is five years old.
- 2.16 Work on refining emerging policies and proposals will continue to secure delivery of sustainable growth, wider health and wellbeing benefits and respond to mitigating the impacts of climate change as well as securing required new infrastructure. It will be essential to continue keeping a close eye on the LURB and other national policy changes (including secondary legislation forthcoming from the Environment Act) so that when the time comes, a revised LDS can be prepared and consultation and submission of the LPR can take place during the transitional period which is usually six months from the date of Royal Assent.

### **3 Proposals**

- 3.1 The proposal is for the published LDS to be suspended and Regulation 19 consultation paused until the LURB gains Royal Assent.

### **4 Alternative Options**

- 4.1 The alternative option is to progress as planned under the LDS but this approach carries significant risk and is unlikely to result in a sound plan for the reasons set out above. Therefore, there are no realistic alternatives.

### **5 Consultation Undertaken or Proposed**

- 5.1 The local plan review itself has been subject to public consultation. The discussion at this Working Group meeting will be summarised and tabled as part of the report to be presented to the Policy & Resources committee on 16 October 2022.

## 6 Implications

Issue	Implications
Corporate Plan	The LPR is responsible for delivering the spatial elements of the corporate plan, i.e. Objectives 1, 2 and 3.
Financial, Resource and Property	The LPR is prepared in line with existing resources.
Legal, Statutory and Procurement	Preparation of a local plan is a statutory requirement, prepared under a national
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
Privacy and Data Protection	None identified at this stage

## 7 Appendices

7.1 None

## 8 Background Papers

None