

Council Report

Ward(s) affected: All

Report of Strategic Services Director

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Approach to the review and potential update to the Local Plan: strategy and sites (2019)

Executive Summary

This report outlines the Council's approach to the Local Plan: strategy and sites 2019 (LPSS) review and potential update process in light of the expert independent legal opinion that was recently provided. It concludes that in line with the external advice provided and given the high degree of uncertainty, including in relation to the government's intended changes to the way in which housing need is to be calculated and to the plan making system as a whole, it is considered prudent to not undertake an early Formal Review of the LPSS but instead carry out the Formal Review towards the end of the statutory 5 year period within which the plan must be formally reviewed.

The report confirms ongoing work in progressing and adopting the emerging Local Plan: Development Management Policies (LPDMP) and progressing a Green Belt Supplementary Planning Document (SPD). These documents will play a vital role in securing good quality development within the borough over the plan period. It also notes ongoing work to support the Shaping Guildford's Future programme and its evidence base, including for this work to inform the preparation of a formal planning document.

Recommendation to Council

- 1) That the Council notes the independent expert legal advice of a potential Local Plan Review at Appendix 1 to this report.
- 2) That the Council endorses the approach proposed to not conclude a Formal Review of the Local Plan: strategy and sites (LPSS) at this stage but instead undertake it towards the end of the statutory five year period unless circumstances change in such a way that means that undertaking an earlier review would be advantageous to the Council.

- 3) That the Executive be updated on the outcomes of the review of the transport evidence base currently underway and any other significant changes in circumstance that may impact on considerations regarding the timing of the Formal Review of the LPSS.
- 4) That priority be given to the production of a Green Belt Supplementary Planning Document alongside the emerging Local Plan: Development Management Policies.

Reason for Recommendation:

To update Council on progress on the Council resolution [see minute CO102] which was agreed on 13 April 2021.

Is the report (or part of it) exempt from publication? No.

1. Purpose of Report

- 1.1 This report seeks to secure Council approval in relation to the approach outlined in reviewing the LPSS.

2. Strategic Priorities

- 2.1 Ensuring an up-to-date Local Plan assists in achieving a range of the Council's corporate priorities such as ensuring residents having access to the homes and jobs they need, as well as protecting our environment.

3. Background

Legal and policy framework for review and update of Local Plans

- 3.1 Paragraph 33 of the National Planning Policy Framework (NPPF) indicates that policies in local plans should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary. Reviews at least every five years are a legal requirement for all local plans (Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012). Further, it adds that reviews 'should be completed no later than five years from the adoption date of a plan, and should take into account changing circumstances affecting the area, or any relevant changes in national policy'. The Planning Practice Guidance acknowledges that there will be occasions where there are significant changes in circumstances which may mean it is necessary to review the relevant strategic policies earlier than the statutory minimum of 5 years. It is important to appreciate that the Formal Review i.e. consideration and identification of which, if any, policies in the plan are considered no longer up to date is subject to the statutory deadline of 5 years whilst any necessary and subsequent actual update or changes to the plan is not.
- 3.2 Based on this framework, it is considered that there are several components to the process of review and update of a Local Plan and that these would follow sequentially. Broadly, they would include:

- (a) Preparatory work including gathering a proportionate and relevant evidence base to understand any changed circumstances affecting the borough.
- (b) Consideration of the evidence / changed circumstances against the policies in the Local Plan (effectively undertaking a Formal Review of the Plan) in order to reach a conclusion regarding whether individual policies (or the plan as a whole) need to be updated, or alternatively whether they/it remain/s relevant and need not be updated, and/or that other actions should be taken. This would culminate in the conclusion of such a review being tabled before Council for a decision. Planning Advisory Service (PAS) guidance provides a useful toolkit and format for undertaking and presenting the conclusion of such a review.
- (c) Assuming that the agreed conclusion of the review is to update the LPSS either in full or in part, the formal process of undertaking this work would follow, including gathering the relevant evidence, undertaking Regulation 18 and 19 consultations, submission to the Secretary of State, examination by an independent planning inspector, and ultimately if found sound by the Inspector, adoption by the Council.

When to review the Guildford Local Plan?

- 3.3 Following consideration of a motion on notice at its meeting on 13 April 2021, the Council agreed the work needed to define an appropriate route for the review and potential update to the LPSS. The Council resolved:

‘To continue to plan the review of the Local Plan and evidence base, to obtain expert independent assessment of the new issues and changed circumstances, to advise on the appropriate route to review the Local Plan, update the Plan’s Evidence Base and then update the Local Plan in order to secure the best outcomes for our community and borough’ (see Minute No. CO102)

- 3.4 Expert independent legal advice was sought and has been provided by leading planning barrister Mary Cook Partner of planning law firm Town Legal LLP. The advice note is appended to this report but in summary her advice concludes that:
- (a) The housing requirement under NPPF 2021, applying the Standard Method, is higher in Guildford Borough’s administrative area than the current local plan requirement figure.
 - (b) I am unaware of any specific factors which suggest that there are “exceptional local circumstances that justify deviating from the standard method” which justify treating this part of Surrey differently and so deviating from the Standard Method.
 - (c) In my view any attempt to review the housing requirement figure will result in a higher housing requirement figure for the Borough’s housing needs applying the new standard methodology.
 - (d) I do not see any realistic prospect of unpicking the strategic allocations of sites that were once, but are no longer, in the Green Belt.
 - (e) I can see absolutely no realistic prospect of the Council ever being able to alter boundaries to put land outside the GB back into it.
 - (f) Whilst these issues [effect of National Highway’s decision on the A3] are very likely to lead to delays in delivering strategic sites, it’s quite another

matter to speculate on any deallocation of strategic sites in any later local plan review.

- (g) It is simply not feasible to imagine that inset villages can simply be put back into the Green Belt.
- (h) For all these reasons it would be counterproductive to seek to review the LPSS now in advance of the statutory deadline.

3.5 A briefing for all councillors was held on 9 March 2022 which provided councillors with the opportunity to question Ms Cook in relation to the reasoning behind her conclusions.

3.6 In light of both the risks highlighted by the advice and the considerable uncertainty, including in relation to the government's intended changes to the way housing numbers are calculated and indeed the plan making system in general, this report recommends that it is prudent to not conclude an early review of the LPSS at this stage. Instead, it is considered appropriate to plan to undertake any Formal Review of the LPSS towards the end of the 5 year period within which the plan must be reviewed i.e. before 25 April 2024. Should circumstances change in any significant way in terms of government guidance or indeed precedence within the plan making process then, if it is considered advantageous to the Council, this approach will be revisited immediately.

The review process and next steps

3.7 Whilst the Formal Review would not be carried out now, work will continue to be undertaken in terms of updating the relevant parts of the evidence base and this new evidence will be used to help inform the review. This will enable us to respond flexibly to changing circumstances and avoids the risk of undertaking abortive work in relation to an early Formal Review. The transport evidence base is at present being reviewed with the help of SCC and National Highways. Consultants will be procured to update both the Retail and Leisure Needs Assessment and the Employment Land Needs Assessment.

3.8 The Formal Review will use the templates created by the Planning Advisory Service. The toolkit will be used to inform the decision on whether or not the local plan policies need to be updated. Firstly, we will need to consider whether the development plan still meets current NPPF requirements. It is worth noting that the LPSS was prepared and examined under the NPPF 2012. Completing the matrix will help us understand which policies may be out of date for the purposes of decision making or where circumstances may have changed and whether or not the policy / policies in the plan continue to be effective in addressing the specific local issues that are identified in the plan. This in turn will then help us to focus on whether and to what extent, an update of particular policies is required.

3.9 Justification will be required for the conclusions reached with reference to relevant sources of evidence where appropriate and available. This will include the latest Authority Monitoring Report, Housing Delivery Test results, 5 year housing land supply position and the national policy on the standard method housing needs information at that time. The conclusions will also rely on other

sources of evidence e.g. Retail and Employment needs, but a proportionate approach needs to be taken in this regard as it is likely that further updates will be necessary during the plan-making process. It should be noted that any decision not to update any policies in the local plan will need to be clearly evidenced and justified.

- 3.10 The decision to partially, or fully, update the LPSS rests with the Council alone. This decision will be taken by Full Council. Any update would need to follow the plan making requirements including a minimum of two sets of consultation in line with Regulations 18 and 19 and a formal examination carried out by the Secretary of State.

Ongoing work in support of an up-to-date Development Plan

- 3.11 The emerging LPDMP is being progressed and once adopted will form part of the Council's Development Plan and replace the extant policies of the 2003 Local Plan. This Plan is viewed as a priority for the Council as it will enable decision makers to assess planning applications against new policies designed to achieve high design standards and levels of sustainability. Comments submitted as part of the recent Regulation 19 consultation are being considered with the intention to submit the LPDMP to the Secretary of State for independent examination in line with the Council's LDS (May/June 2022).
- 3.12 Further, work has been initiated on a Green Belt SPD, recognising the importance of further guidance to ensure planning applications and decision-making in Guildford borough are in line with the national and local policy protections offered to these areas. This is in addition to the Parking SPD that was the subject of consultation in January and February.
- 3.13 The Shaping Guildford's Future programme, including masterplanning for the Town Centre, offers significant opportunities for regeneration of the town. Work is progressing in relation to the evidence base for this work, including considering the options for progressing this, such that it may support incorporation of proposals within a formal planning document.

4. Key Risks

- 4.1 No risks have been identified associated with the recommended approach of not undertaking an early review of the LPSS at this stage.

5. Financial Implications

- 5.1 There are no financial implications arising from this report.

6. Legal Implications

- 6.1 These are contained in paragraph 3.1 above and Appendix 1 containing Legal Advice from Town Legal LLP.

7. Human Resource Implications

- 7.1 Delaying the review will not require further resources. However, progressing some of the evidence base in order to inform the Formal Review of the plan will require additional planning resources.

8. Equality and Diversity Implications

- 8.1 This duty has been considered in the context of this report and it has been concluded that there are no equality and diversity implications arising directly from this report.

9. Climate Change/Sustainability Implications

- 9.1 Not undertaking an early Formal Review increases the opportunity for a more sustainable plan to emerge.

10. Summary of Options

- 10.1 The principal option is an alternate decision to conclude an early review of the LPSS instead of the recommended approach to not conclude a Formal Review of the LPSS at this stage. There are however risks associated with undertaking an early Formal Review of the LPSS should it conclude that there is a need to update to the plan. If a decision were taken in the short term it would of necessity be based on a high degree of uncertainty in relation to government intentions on the planning system itself and the calculation of the standard method in relation to housing need. This could result in abortive work being commenced should the national policy framework substantially change. Relevant evidence base would also not be in place e.g. retail and employment need. The intention is to in any case progress with these evidence base studies in the short term as part of the Shaping Guildford's Future programme. Commencing an update of the plan early would also accelerate the spend associated with this process.

11. Conclusion

- 11.1 In line with the expert independent legal opinion provided, the risks highlighted and given the high degree of uncertainty including in relation to the government's intended changes to the way in which housing need is to be calculated and to the plan making system as a whole, it is considered prudent to not undertake and conclude early review of the LPSS but instead carry out the Formal Review towards the end of the statutory 5 year period within which the plan must be reviewed i.e. before 25 April 2024.

12. Background Papers

None

13. Appendices

Appendix 1: independent expert legal advice of a potential Local Plan Review.