

## **Cabinet**

**17 December 2024**

### **Local Development Scheme**

Portfolio Holder: Councillor Simon Curry, Portfolio Holder for Climate Change and Strategic Regeneration

Report from: Adam Bryan, Director of Place

Authors: Dave Harris, Chief Planning Officer  
Catherine Smith, Head of Planning Policy

#### **Summary**

This report sets out an updated programme and timetable for the preparation of the new Medway Local Plan in a Local Development Scheme. The report considers the options and risks to inform the approach to securing a robust Local Plan to manage Medway's growth to 2041.

#### **1. Recommendations**

1.1. The Cabinet is requested to approve the Local Development Scheme as set out at Appendix 1 to the report, as an updated programme for the preparation of the Medway Local Plan.

#### **2. Suggested reasons for decision**

2.1. To provide certainty on the timetable for the production of the new Medway Local Plan.

#### **3. Budget and policy framework**

3.1. The Medway Local Plan forms part of the statutory development plan for the area. The development plan is part of the Council's Policy Framework. The Council is preparing a new Local Plan, which on adoption will replace the current Medway Local Plan, 2003. The Local Plan is being produced in conformity with the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended).

3.2. Whilst approval of the Medway Local Plan will be a matter for Full Council because it forms part of the Council's Policy Framework, approval of preparatory matters, including approval of documents such as the Local Development Scheme, is a matter for Cabinet.

- 3.3. The costs of preparing the Local Plan are met within the Planning Service budget. As part of the budget for 2024/25 the Planning Service annual budget was increased by £320,000 to cover the anticipated cost for the preparation of the Local Plan, any expenditure in excess of this in any single financial year would represent a pressure on the annual budget for that financial year.

## 4. Background

- 4.1. The Medway Local Plan provides a strategy and policies to guide growth and achieve sustainable development. It contributes to wider ambitions for Medway – to improve the health of our communities, to care for our environment, to strengthen the economy and to provide the housing and services needed for our area. The current Local Plan was adopted in 2003, and the preparation of the new Local Plan has faced a number of challenges, resulting in delays to the adoption of the plan.
- 4.2. The Council carried out a high level consultation on the vision and strategic objectives for the new Local Plan in a 'Regulation 18' document in Autumn 2023. There was a further detailed Regulation 18 consultation this summer. This second round of consultation provided details of proposed policies and options for Medway's spatial strategy and potential site allocations. The Council also published a range of evidence based documents with the consultation, including a Landscape Character Assessment, Open Space Assessment, Gypsy and Traveller Accommodation Needs, and strategic transport work.
- 4.3. The Local Development Scheme (LDS) is a statutory document that sets out the proposed development plan documents and the timetable for their preparation and revision. The current Scheme was published in February 2024. Following the close of the Regulation 18 consultation in September 2024, and the review of the work programme leading into the publication of the draft plan at Regulation 19, officers have identified that it is appropriate to update the LDS. Government encourages local planning authorities to keep these Schemes updated, to provide accurate and transparent information to stakeholders with an interest in the preparation of the Local Plan.
- 4.4. Following correspondence from the former Secretary of State for Levelling Up, Housing and Communities, the Council has been liaising with officers at the Ministry of Housing, Communities and Local Government (MHCLG) on the progress of the Medway Local Plan. The Council provides monthly updates on the Local Plan and key issues to officers at MHCLG.
- 4.5. This report represents the Planning Service's work in reviewing the Local Plan programme, considering the outcomes of the Regulation 18 consultation, evidence base work and an assessment of the wider risks to the programme.

## 5. Options

- 5.1. In considering a revision to the LDS, two main options have been identified:
- continue working to the programme set out in the LDS, February 2024;
  - update the LDS to extend the programme leading to Regulation 19 stage.
- 5.2. The current LDS schedules the publication of the Draft Plan in January 2025. With the delay to the planned start of the Regulation 18 consultation this summer, this resulted in a shorter time between the close of the consultation and finalising the content for the draft plan. There is ongoing work on the evidence base and legal documents supporting the new Local Plan, which will not be completed to support the publication of the plan in January 2025. It is important that a full evidence base and supporting documents are available to view with the draft plan. These are key to the tests of soundness and legal compliance for the plan, and in providing transparency in the plan making process.
- 5.3. It is considered appropriate to extend the time in the work programme leading up to Regulation 19, to allow for the completion of key evidence base documents, including the Strategic Transport Assessment, Infrastructure Delivery Plan and Viability Assessment. This will provide a more robust basis to the draft plan and avoid risks of the plan failing to meet test of soundness and legal compliance. It also allows for better stakeholder engagement in the preparation of the plan.
- 5.4. The draft plan should provide certainty on the development proposals, and the evidence base should demonstrate that the growth strategy is appropriate and deliverable, and major constraints can be mitigated. The draft plan is published for representations, which are forwarded to the Local Plan Inspector for consideration during the Examination process. The Council cannot make major changes to the draft plan without further consultation.

## 6. Advice and analysis

- 6.1. It is considered appropriate to update the LDS to provide clarity on the Local Plan programme. In preparing the current LDS, the Council had to work within the context of government policy that plans prepared under the current plan making system had to be submitted for Examination no later than 30 June 2025. There are clear benefits to Medway in submitting the plan under the current system. This deadline under the previous government put pressure on Medway Council, and many other local planning authorities to seek to meet the 30 June 2025 deadline. The new government has reviewed this position and has indicated that this deadline be extended to December 2026. Medway Council does not wish to delay getting the new Local Plan in place but welcomes the additional flexibility in submission dates for Examination. The current government is introducing further reforms to Planning, including an update to the National Planning Policy Framework (NPPF) anticipated in late December. There are a number of implications for the Council and other local planning authorities. There is a clear message from the Planning Minister and

the Planning Inspectorate that local planning authorities must not rely on deficiencies in draft plans being resolved at Examination. This is resulting in lengthy examinations. It is therefore increasingly important that the Council ensures that the publication of the Pre-Submission draft plan at Regulation 19 is informed by a full and robust evidence base. This places additional emphasis on the timing of the completion of the evidence base work on strategic transport, the Infrastructure Delivery Plan (IDP) and Viability Assessment.

- 6.2. The timing of the General Election on 4 July caused delay to the Regulation 18 consultation that had been planned for June and July. This was extended into mid-September. The Planning Service has reviewed the Local Plan work programme following the close of the Regulation 18 consultation. This has considered the work on the assessment of the 407 written representations made to the consultation, further work on the evidence base supporting the plan, and site assessment and policy development to finalise the preferred spatial strategy and policies to achieve sustainable development. Officers have discussed details of the evidence base and work programmes with all external consultants. The further work on the Strategic Transport Assessment (STA) to identify and cost mitigations needed to support sustainable development, is intrinsic to the critical path in finalising the draft plan. The next stage of work on the STA will be completed by Spring 2025, and outputs will be fed into the IDP and Viability Assessment before the content of the draft plan is finalised. The key evidence base documents will be published with the draft plan to support decision making. This will also support transparency in the plan making process.
- 6.3. A proposed timetable setting out key governance and consultation stages in the Local Plan is shown below in Figure 1. The next key stage will be the publication of the draft plan at Regulation 19. A special Full Council meeting will be held in June 2025 where Members will be requested to approve the draft plan and supporting information for publication. The Council will seek opportunities to achieve time savings in the programme where possible. Further details are provided in the LDS set out at Appendix 1 to the report.

<b>Stage</b>	<b>Date</b>
Regulation 18a – Setting the direction for Medway 2040	September - October 2023
Regulation 18b – Reasonable alternatives of the spatial strategy and draft policies	July - September 2024
Regulation 19 - Publication of the Pre-Submission draft local plan – report to Full Council	June 2025
Regulation 20 - Representations on the draft local plan	June - August 2025
Regulation 22 - Submission to the Secretary of State	November 2025
Adoption - determined on outcome of Examination	December 2026

*Figure 1: Local Plan key stages timetable*

6.4. The Local Plan is informed by iterative sustainability appraisals which consider the potential social, environmental and economic impacts of the draft proposals and policies. This forms part of the legal process for plan making. The content of the Local Plan will also be subject to a Diversity Impact Assessment (DIA). As a programme and timetable for the preparation of the Council's Development Plan, it is not appropriate to carry out a sustainability assessment or DIA on the LDS.

## 7. Risk management

7.1. The preparation of the Local Plan is subject to a large number of risks, including the impacts of external policies and developments, and internal resourcing issues. These are considered in the table below.

7.2. The Local Development Scheme will be subject to scrutiny, and progress closely monitored. The adoption of the Local Plan is a key corporate priority for the Council. There is also government interest in the progress of the new Local Plan. Officers provide monthly updates on plan preparation work and key issues to the Ministry of Housing, Communities and Local Government.

Risk	Description	Action to avoid or mitigate risk	Risk rating
Delays to plan adoption and slippage to LDS	Lack of certainty in managing Medway's growth and area open to speculative development.	Need robust and effective management of plan programme, and early identification of additional risks and seek mitigation. Publication of evidence base and details on preferred spatial strategy.	CII
Government intervention	The Secretary of State has powers to intervene in the Medway Local Plan, which could undermine local control of the appropriate strategy for Medway's growth	Ongoing engagement with MHCLG officers and on assessment of LDS and monitoring progress on monthly basis.	CII
Resources - financial	Budget pressures could constrain work on the evidence base and	Planning Service to provide clarity on projected budget needs for timely	CII

Risk	Description	Action to avoid or mitigate risk	Risk rating
	wider input to the local plan, potentially impacting on the quality of work, and opening up challenges to the plan.	consideration by senior management and Members.	
Insufficient resources – Planning Service	This includes the size of the Policy team, skills and experience, and competing commitments outside core Local Plan work. There is the risk of insufficient capacity to effectively carry out the necessary work.	The Policy team is now fully staffed, including a dedicated Programme Management officer. The Policy team will bring in support from the wider Planning Service and other corporate and external services, and consultants to progress work on the plan.	CII
Evidence base not effective for sound plan	A dated or incomplete evidence base could lead to challenges or failure at Examination.	Refresh of evidence base and independent review that it is fit for purpose. Identify additional work needed and present timely budget proposal to senior managers and Members.	CII
Defining the spatial strategy and site allocations	There are challenges to address, including mitigating environmental and infrastructure impacts, and viability.	Develop a robust approach to considering spatial development options and site assessment, clearly integrated with Sustainability Appraisal (SA) and the Habitats Regulation Assessment (HRA), and	CII

Risk	Description	Action to avoid or mitigate risk	Risk rating
		informed by the evidence base, particularly on transport and viability.	
Resourcing effective consultation	Formal consultation at Reg 18 has time and resource implications and may raise expectations that cannot be met. Assessment of consultation responses is a significant task.	Communications plan needs to be clear on purpose and scope of consultation. Use of bespoke consultation software, review of assessment processes, and seeking external support on analysis if necessary.	BIII
Successful legal challenges to plan	This could lead to failure at Examination. Key grounds of challenge are on the SA process and Duty to Cooperate.	Further work on SA and proposed additional Regulation 18 consultation will address areas of potential legal challenge. Ongoing work on Duty to Cooperate on cross border issues, and further work with neighbouring LPAs.	CII
Successful challenges to plan at Examination on soundness grounds	This could lead to failure at Examination. The main grounds of challenge are on proposals not being appropriately evidenced.	Critical role of the evidence base to inform decisions and need to use SA process to show how preferred policies and site allocations have been selected.	CII
Uncertainty on Lower Thames Crossing (LTC) and lack of mitigation for	The LTC is showing a significant impact on Medway and the local strategic	In the absence of certainty on the LTC, the Council is continuing to test two options in the	BII

Risk	Description	Action to avoid or mitigate risk	Risk rating
potential impacts on Medway and strategic road network.	road network, but the scheme does not deliver the wider mitigations needed. A different approach to the LTC transport modelling 'under-accounted' for Medway's planned growth needs. This could result in substantially reduced capacity to accommodate development, and a reduced housing allocation in the local plan on transport constraints. The uncertainty on the LTC – outcomes, timing and impacts – has a huge impact on the Local Plan.	Strategic Transport Assessment, and will use an additional Regulation 18 consultation to consider potential implications from the LTC on a strategy for the Local Plan.  This also needs to be recognised as a wider strategic matter with implications for LPAs across north and mid Kent.	
Engagement with statutory consultees, prescribed Duty to Cooperate bodies, and infrastructure providers	There are major challenges, particularly on transport infrastructure and the strategic road network, and objections from National Highways to development. The Council continues to liaise with Natural England on potential for impacts on designated sites. Delays in statutory consultees providing advice	In addition to ongoing engagement at officer level and specifying key interventions in work programmes shared with the key consultees, the scale of these matters may need to be addressed at a strategic and political level.	BIII



Risk	Description	Action to avoid or mitigate risk	Risk rating
	can impact on the wider plan programme.		
Strategic infrastructure mitigations not secured	There are specific risks identified for transport, but also issues for wider services. Lack of funding/certainty on delivery could be a barrier to demonstrating sustainable development.	Focus on an effective evidence base to inform the Infrastructure Delivery Plan, and production of a Viability Assessment to support the developer contribution policy and provide a basis for securing external funding. If key infrastructure dependencies can not be delivered, the plan may need to restrict development levels and review phasing.	BII
Cross border impacts of development proposals from neighbouring Councils	Neighbouring LPAs are considering/ proposing development on the borough boundary, which could have implications for Medway's spatial strategy.	Need to continue cross border engagement, with specific focus on Green Belt issues and cross border transport and infrastructure impacts, which would require mitigations to be delivered and funded in Medway.	All
Changes in national planning policy	Revisions to national policy could require significant changes to work on the Local Plan, which could delay progress and create further uncertainty.	Ongoing review on policy changes, including consideration of NPPF 2024 update, and further implementation of Levelling Up & Regeneration Act.	BIII

For risk rating, please refer to the following table (please **retain** table in final report):

<b>Likelihood</b>	<b>Impact:</b>
A Very likely	I Catastrophic
B Likely	II Major
C Unlikely	III Moderate
D Rare	IV Minor

## 8. Consultation

- 8.1. There is no requirement to consult on the Local Development Scheme. Comments received through the Regulation 18 consultation are available to view on the Council's website.

## 9. Climate change implications

- 9.1. The Local Development Scheme sets out a timetable for the preparation of the Council's development plan. This does not directly address climate change matters. However, there are specific considerations of climate change in the wider work in preparing the Local Plan and in the determination of planning applications. The new Local Plan will include objectives and policies to mitigate and adapt to climate change, such as sustainable transport, water management, and green infrastructure. The Local Plan will be informed by an iterative Sustainability Appraisal that includes an assessment of policies and potential site allocations against a range of criteria, including any positive or negative climate change/carbon emission implications. An interim Sustainability Appraisal report was published with the Regulation 18 consultation in July 2024, and a further update will be prepared for the publication of the draft plan.

## 10. Financial implications

- 10.1. The costs of preparing the Local Plan are met within the Planning Service budget. As part of the budget for 2024/25 the Planning Service annual budget was increased by £320,000 to cover the anticipated cost for the preparation of the Local Plan, any expenditure in excess of this in any single financial year would represent a pressure on the annual budget for that financial year.

## 11. Legal implications

- 11.1. The Local Plan forms part of the Council's policy framework and must be prepared in accordance with statutory processes. These include conformity with the Planning and Compulsory Purchase Act 2004 and the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended). A Local Development Scheme is required under section 15 (1) of the Planning and Compulsory Purchase Act 2004.

## Lead officer contact

Dave Harris  
Chief Planning Officer  
Gun Wharf  
Telephone: 01634 331575  
Email: [dave.harris@medway.gov.uk](mailto:dave.harris@medway.gov.uk)

Catherine Smith  
Head of Planning Policy  
Gun Wharf  
Telephone: 01634 331358  
Email: [catherine.smith@medway.gov.uk](mailto:catherine.smith@medway.gov.uk)

## Appendices

Appendix 1: Medway Local Development Scheme, December 2024

## Background papers

None