

<b>Planning and Transportation Policy Working Group</b>	
<b>Meeting Date</b>	14 March 2024
<b>Report Title</b>	<b>Local Plan Review consultation timetable options</b>
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<b>Classification</b>	<b>Open</b>
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. Members of PTPWG are asked to recommend to Policy and Resource committee the Local Plan Review consultation approach option 2 that includes a Regulation 18 draft Plan consultation in quarter 4 of this year and a Regulation 19 pre submission Plan consultation in quarter 1 of 2025.</li> <li>2. Members of PTPWG are asked to recommend to Policy and Resources committee that the updated Local Development Scheme at Appendix A be agreed and recommended for publication on the Council's website.</li> </ol>

## **1 Introduction**

- 1.1 The purpose of this report is to set out the consultation timetable options that can be considered as part of the Council's Local Plan Review.
- 1.2 On 15<sup>th</sup> November 2023 Full Council agreed the recommendation of the Policy and Resources Committee – to defer a decision as to a timescale for the future stages of the Local Plan Review until such time as the national planning landscape is clearer, but independent of this process, to proceed to develop the evidence base regarding local development need and potential, with this process to be wholly reflective of local circumstance rather than central targets.
- 1.3 Since the Full Council decision, the National Planning Policy Framework (NPPF) landscape has become clearer with both a revised NPPF and accompanying written ministerial statement (WMS) published on 19<sup>th</sup> December 2023. The WMS sets out that a directive has been issued to 7 of the worst performing Plan-making Local Authorities requiring them to publish an updated Local Plan timetable within 12 weeks or that the Secretary of State (SoS) will consider further intervention. The

WMS goes on to state that the SoS may also act with other authorities who do not publish updated timetables within the same time frame.

- 1.4 This means that Local Authorities with an out of date Local Plan (more than 5 years old) must within 12 weeks of 19<sup>th</sup> December 2023 publish and supply the SoS an up to date Local Development Scheme setting out the timetable for their Local Plan. The Council's latest Local Plan "Bearing Fruits 2017" became out of date (see sections 2.2 and 2.3) in July 2022. As a result the Council must update its timetable for Plan making or risk the possibility of intervention by the SoS.
- 1.5 The Planning and Transportation Policy working group at its meeting on the 25<sup>th</sup> January 2024 noted that the Full Council decision of the 15<sup>th</sup> November 2023 set a mandate to update the Councils timetable for the Local Plan Review now that the National Planning Policy Framework landscape had become clearer.
- 1.6 Members of PTPWG are now asked to recommend to Policy and Resources Committee the Local Plan Review timetable for consultation option 2, and the updated Local Development Scheme at Appendix A that reflects this option.

## **2 Background**

### ***Out of date Local Plans***

- 2.1 Both recent changes to the NPPF and the Written Ministerial Statement make clear the priority for Local Authorities is to have an up to date Local Plan. The WMS emphasises the purpose of planning is to plan for homes and to keep Local Plans up to date. To that effect the Secretary of State (SoS) expects that all Local Authorities with an out of date Local Plan must within 12 weeks of 19<sup>th</sup> December 2023 publish and supply to the SoS an up to date Local Development Scheme setting out the timetable for their Local Plan.
- 2.2 In terms of a Local Plan being considered as out of date the NPPF paragraph 33 sets out 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 taking into account changing circumstances affecting the area, or any relevant changes in national policy.
- 2.3 The Council's latest Local Plan "Bearing Fruits 2017" became out of date in July 2022. However, this does not mean that automatically all the policies contained within the Local Plan are out of date. For planning decision making the Policies within the Local Plan are instead assessed on a case by case basis that includes their current conformity with the National Planning Policy Framework individually and taken as a whole.
- 2.4 Of most significance for Plan making and decision making, the Local Plan "Bearing Fruits" Policy ST2 Development targets for jobs and homes 2014-2031 and is out of date. This is due to the Council's housing need being much higher than the existing Local Plan target when calculated using the Government Standard Method

introduced in 2019, which is the starting point for determining housing need. This results in a number of other Policies in the Local Plan including settlement strategy and economic growth needing to be reassessed against a higher housing target.

- 2.5 To incentivise Local Authorities to get an up to date Local Plan the Government in its changes to the NPPF in December 2023 has allowed for a transition period of two years to submit a Plan for examination before a wholesale change to the Plan making system. Part of the incentive has included the reduction in a 5 years housing land supply requirement to 4 years where a Local Authority has produced a Regulation 18, 19 and submitted a Plan for examination that contains Policies and site allocations to meet a housing need.
- 2.6 Whilst the Council's most recent Local Plan Review consultation was undertaken in late Autumn 2021, the consultation only sought views on matters concerning different options for distributing future development and possible alternative or additional approaches in certain policy areas. This consultation did not contain site allocations to meet an identified housing need and as a result does not allow the Council to apply the use of a 4 year housing land supply position.

### ***Consultation process and timetabling***

- 2.7 Planning legislation requires that two levels of consultation known as Regulation 18 and 19 (Reg 18, Reg 19) are to be undertaken in the drafting of a Local Plan before it can be submitted for examination by the Planning Inspectorate.
- 2.8 A Reg 18 is set out in law and is a consultation that must as a minimum consider the main issues of development need within a local authority area and the options (strategic) considered to address those needs. There is no specified number of consultations or time period of consultation at Reg 18, so consultation at this stage can go beyond issues and options and can range from a detailed draft Plan with Policies and site allocations to a more focused consultation on specific groups of Policies or revisions to those previously consulted upon.
- 2.9 A Reg 19 is set out in law and is a consultation on a draft of a Local Plan that is considered sound enough to be submitted for examination after the consultation closes. This means that all Policies and site allocations within the Plan must be robustly evidenced and tested against Habitats Regulations and sustainability criteria. Only Reg 19 consultation responses are considered by a examining Planning Inspector.
- 2.10 A Reg 19 consultation must be for a minimum of 6 weeks and questions asked and responses received must be focused on whether the Plan complies with legal requirements and whether the Plan meets the 'tests of soundness'. Examples of tests of soundness questions are:
  - whether the Plan has been positively prepared? The Plan should be based on a strategy that looks to meet identified development need and sufficient infrastructure should be provided;

- whether the Plan is justified? The Plan should be the most appropriate strategy, when considered against the reasonable alternatives;
- whether the Plan is effective? The Plan should be deliverable during the Plan period; and,
- whether the Plan is consistent with national planning policy?

2.11 In preparation for either stage of consultation evidence will need to be developed to inform the process. The later the stage of consultation the completer and more robust the evidence will need to be to meet the legal requirements. Appendix B sets out all evidence that has been completed for the Local Plan Review, those not started and those in the process of drafting.

### 3. Consultation timetable options for consideration

3.1 Within the context of the changes made to the NPPF in December 2023, the identified options for consultation starting points are 1. Reg 18 issues and options, 2. Reg 18 draft plan and 3. Regulation 19. Option 1 has been split into a and b options to reflect different consultation routes open to this starting point. Figure 1 below sets out the indicative timetables for the consultation options:

**Option 1. Regulation 18 issues and options** – This is the simplest form of consultation starting point setting out the development needs for the Borough and options to address them and would meet the minimum Regulation 18 requirements. However, this approach would be the most time and resource intensive from beginning to end as the first consultation would not contain site allocations or development management policies and would not in the first instance provide the opportunity to engage on strategic approaches to plan making with stakeholders. This approach also would not benefit from the 4 year housing land supply transitional arrangement which would only take effect at either a draft Plan Regulation 18 consultation or Regulation 19 consultation.

**Option 2. Regulation 18 draft Local Plan** – This starting point is more detailed, including the issues and options matters and would be dependent on a number of draft evidence documents produced to demonstrate mitigation for the levels of development proposed. This approach would provide an early opportunity to engage with stakeholders and the public on the strategic approach of the Plan including draft site allocations and DM policies. This approach can also allow for significant alterations to the Plan and re consultation before producing a Regulation 19 and would benefit from the 4 years housing land supply transitional arrangement. This approach would still require a Regulation 19 consultation.

**Option 3. Regulation 19 pre submission Local Plan** – This consultation starting point sets out a version of the Local Plan considered sound enough to successfully pass examination by the Planning Inspectorate and would be the most expedient route for progressing a Local Plan. However, the Council must be confident enough that the minimum requirements for Regulation 18 have already been met. Further, the Local Plan's strategy

and evidence needs to be robust enough to not raise significant issues at consultation and pass examination. Failure at this stage to identify issues with the Local Plan can lead to abortive costs or the need to reconsult on the Local Plan before submission. This approach would benefit from the 4 year housing land supply arrangement.

3.2 The following diagram provides an indicative set of timetables based on the consultation options open to the Council. The timetable assumptions below are based on the current Planning Policy team being fully staffed,

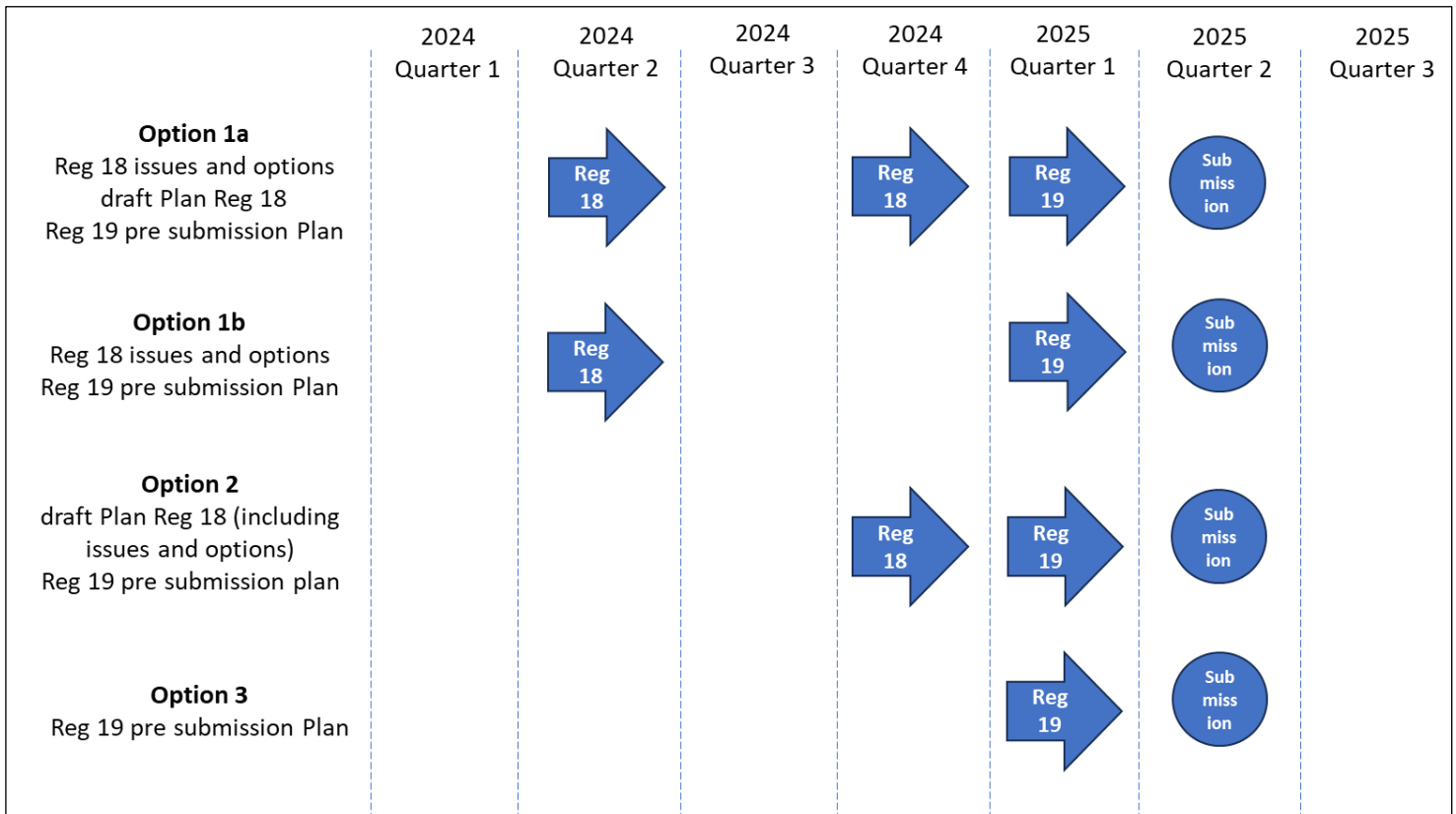


Figure 1. Timetable options for LPR consultation

#### 4. Proposals

4.1 When balancing the priorities of the 2 years timeframe to submit a Plan for examination under the NPPF transitional arrangements, costs of Plan production and robustness of Plan drafting, officers consider option 2 to be the best approach to support member aspirations for the Local Plan Review.

4.2 Members of PTPWG are asked to recommend to Policy and Resource committee the Local Plan Review timetable for consultation option 2 that includes a Regulation 18 draft Plan consultation in quarter 4 of this year and a Regulation 19 pre submission Plan consultation in quarter 1 of 2025 and to recommend to Policy and

Resources Committee that the updated Local Development Scheme at Appendix A be agreed and recommended for publication on the Council's website.

## **5. Alternative Options Considered and Rejected**

- 5.1 There are four consultation options presented in this report. The proposed option 2 is a pragmatic approach in that a draft Plan consultation including evidence to support it will be produced this year allowing for earlier consultation with statutory stakeholders and members of the public. This option will ensure a robust Local Plan drafting process and enable the Council to take advantage of the 4 years housing land supply transitional arrangement.
- 5.2 Option 1a has not been recommended due to it being the most consultation and resource intensive approach and it would not benefit from the 4 years housing land supply transitional arrangement until the second Regulation 18 consultation. Further, the Regulation 18 issues and options and draft Plan consultations could be combined as one making a considerable time and resource saving and would reduce the potential for timetable slippages.
- 5.3 Option 1b whilst having 1 less consultation than Option 1a has not been recommended. Whilst this approach has an early Regulation 18 consultation, the consultation would be for issues and options only and would not benefit from the 4 years housing land supply transitional arrangement. Further as no strategic approach or sites are presented in this type of consultation any responses from statutory stakeholders will be of limited value. Proceeding from that consultation to a Regulation 19 consultation will not provide a formal opportunity from both statutory stakeholders and members of the public to comment and provide input on drafting of the Plan. This approach may then result in substantive matters that could impact on the Plans soundness for examination not being identified until after the Regulation 19 consultation. This could result in abortive or additional costs from evidence needing to be revised and a further Regulation 19 consultation being a possibility.
- 5.4 The final consultation approach option 3 whilst having the least numbers of consultation and overall resource requirements would have no opportunity for any engagement with statutory stakeholders and members of the public until Regulation 19 consultation. This option would have the highest possibility of substantive matters being identified after a Regulation 19 consultation that could impact on the Plans soundness as discussed under Option 1b above.

## **6. Consultation Undertaken or Proposed**

- 6.1 The timescales for Local Plan production and the timetable for consultation are a matter for the Council's Local Development Scheme (LDS). The LDS which is contained in Appendix A has been updated to reflect option 2 of this report and members are asked to recommend to Policy and Resources Committee that this LDS be agreed and published on the Council's website.

## 7. Implications

Issue	Implications
Corporate Plan	The LPR is responsible for delivering the spatial elements of the Corporate Plan.
Financial, Resource and Property	The LPR is typically prepared in line with existing resources. Some of the above options would require the engagement of interim staff to bridge the gap to the permanent planning structure currently being implemented. The time pressures created by the transitional arrangements may lead to periodic requirements for temporary staff support to manage peaks in workload. These may exceed the revenue / reserve budget available, and if so this would need to be addressed through the budget setting process for 25-26 onwards.
Legal, Statutory and Procurement	Preparation of a Local Plan is carried out under a national legislative and regulatory framework.
Crime and Disorder	None identified at this stage.
Environment and Climate/Ecological Emergency	<p>The Local Plan will be supported by its own Sustainability Appraisal and Habitats Regulation Assessment at each key stage in decision making.</p> <p>The sustainability appraisal process appraises the social, environmental and economic effects of a plan from the outset. In doing so it helps ensure that Plan making decisions are made that contribute to achieving sustainable development.</p> <p>Habitats regulations assessment, to test if a Plan and the site allocations and policies within it could significantly harm the designated features of a site or sites protected by the Conservation of Habitats and Species Regulations 2017</p> <p>From the assessment's outcome, a decision can be made whether to proceed with a Plan through to adoption or not.</p> <p>Drafting of the Plan and its Policies will also be considerate of the Councils Climate and Ecological Emergency Action Plan.</p>
Health and Wellbeing	None identified at this stage
Safeguarding of Children, Young	None identified at this stage.

People and Vulnerable Adults	
Risk Management and Health and Safety	<p>There is a considerable risk that SBC may not be able to recruit or retain the required full complement of permanent staff to deliver the Local Plan within the window of the transitional arrangements.</p> <p>The new permanent Planning Service structure indicates the appointment of 2.5FTE staff within Planning Policy in addition to those currently employed, representing two vacancies and a 0.5FTE additional post.</p> <p>There is an identified national shortage of skilled planners, and many Local Authorities will be seeking similar skills at a similar period of time.</p>
Equality and Diversity	None identified at this stage.
Privacy and Data Protection	None identified at this stage.

## **8. Appendices**

- 8.1 Appendix A Local Development Scheme 2024
- 8.2 Appendix B Local Plan Review Evidence Base list

## **9. Background Papers**

- 9.1 None



