

LEAD MEMBER FOR PLANNING AND INFRASTRUCTURE

18TH April 2023

Design and Sustainability DPD, Regulation 18 Preferred Approaches consultation document.

Timetable	
Meeting	Date
Planning and Infrastructure PAC	05/04/23
Lead Member on the Executive for Planning and Infrastructure	18/04/23

Will this be a Key Decision?	No
Urgency	Not Applicable
Final Decision-Maker	Lead Member for Planning and Infrastructure
Lead Head of Service	Phil Coyne, Interim Director (Local Plan Review)/Karen Britten, Head of Spatial Planning and Economic Development
Lead Officer and Report Author	Helen Garnett, Principal Planner (Strategic Planning)
Classification	Public
Wards affected	All

Executive Summary

This report introduces the second stage Regulation 18b Design and Sustainability Development Plan Document (DPD) for public consultation. The consultation document appended provide information on what the Local Planning Authority envisages to be the draft policies for the Development Plan Document. In addition to the draft DPD, a Sustainability Appraisal has considered the impact of the policies within the document.

This report explains the background to the DPD, its relationship with the Local Plan and Local Plan Review, and what this consultation is seeking to achieve.

The public consultations on the DPD and a separate consultation on the associated Sustainability Appraisal are scheduled for six weeks starting on 28 April 2023.

Purpose of Report

To provide background to the Design and Sustainability DPD and to outline the contents of the Preferred Approaches document.

The matters covered in this report are for decision.

This report makes the following recommendations to the Lead Member on the Executive for Planning and Infrastructure:

1. That the Maidstone Design and Sustainability DPD Regulation 18 preferred Approaches document in Appendix 1 and the Sustainability Appraisal of the DPD at Appendix 2 be agreed for public consultation starting at 4.00pm on Friday 28th April to run for six weeks to 5.00pm on 12th June.
 2. That the Interim Local Plan Review Director be given delegated authority to make minor graphical or presentational changes to the document prior to consideration by the Lead Member on the Executive for Planning and Infrastructure for their decision.
 3. That the evidence base documents at appendix 3-5 of this report are noted
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Design and Sustainability DPD, Regulation 18 Preferred Approaches consultation document.

1. CROSS-CUTTING ISSUES AND IMPLICATIONS

Issue	Implications	Sign-off
Impact on Corporate Priorities	<p>The four Strategic Plan objectives are:</p> <ul style="list-style-type: none"> • Embracing Growth and Enabling Infrastructure • Safe, Clean and Green • Homes and Communities • A Thriving Place • Accepting the recommendations will materially improve the Council's ability to achieve corporate priorities. We set out the reasons other choices will be less effective in section 2 [available alternatives]. 	Phil Coyne, Interim Director (Local Plan Review)
Cross Cutting Objectives	<p>The four cross-cutting objectives are:</p> <ul style="list-style-type: none"> • Heritage is Respected • Health Inequalities are Addressed and Reduced • Deprivation and Social Mobility is Improved • Biodiversity and Environmental Sustainability is respected <p>The report recommendation(s) supports the achievement(s) of the cross cutting objectives by delivering sustainable growth.</p>	Phil Coyne, Interim Director (Local Plan Review)
Risk Management	This is the first iteration of the Design and Sustainability DPD. There is a legal requirement to undertake consultation during the Regulation 18 stage of an emerging Development Plan Document.	Phil Coyne, Interim Director (Local Plan Review)
Financial	The proposals for consultation as set out in the recommendation are all within already approved budgetary headings and so need no new funding. The impact of the proposals in the DPD, if implemented, on the Council's own	Director of Finance, Resources and Business Improvement

	development programme will be addressed as part of the investment appraisal process.	
Staffing	We will deliver the recommendations with our current staffing.	Phil Coyne, Interim Director (Local Plan Review)
Legal	Acting on the recommendations is within the Council's powers as set out in the Planning and Compulsory Purchase Act 2004 and The Town & Country Planning (Local Planning) (England) Regulations 2012 (as amended). The Council will also need to comply with the Local Development Scheme and the Statement of Community Involvement.	Cheryl Parks Mid Kent Legal Service (Planning), Mid Kent Legal Services
Information Governance	The recommendations will impact personal information (as defined in UK GDPR and Data Protection Act 2018) the Council processes. The Information Governance Team will review the processing of personal data affected and the associated documentation will be updated accordingly.	Georgia Harvey (Information Governance Officer)
Equalities	Accepting the recommendations will ensure that an inclusive approach is taken to consultation on the Design and Sustainability DPD in line with the Statement of Community Involvement. It is important that the consultation process is accessible to all communities including seldom heard groups. A separate, equalities impact assessment will be undertaken for the DPD.	Nicola Toulson, Equalities and Communities Officer
Public Health	Comments can be reviewed following the consultation but aim to improve resident health and wellbeing across the borough	Housing and Inclusion Team Leader
Crime and Disorder	The recommendations will have a potentially positive impact by reducing the potential for Crime and Disorder.	Phil Coyne, Interim Director (Local Plan Review)
Procurement	Committee to be updated once comments are received	Phil Coyne, Interim Director (Local Plan Review)

Biodiversity and Climate Change	The implications of this report on biodiversity and climate change have been considered and align with the actions set out in the biodiversity and climate change action plan.	James Wilderspin, Biodiversity and Climate Change Manager
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2. INTRODUCTION AND BACKGROUND

- 2.1 At its meeting in September 2021 the Strategic Planning and Infrastructure Committee agreed to undertake work to strengthen the Council's 'non-spatial' planning policy framework in order to achieve higher quality and more sustainable design across the Borough, reinforce Development Management decisions, and provide a stronger defence to planning appeals. Since that resolution, the council has commissioned consultants Arup to work with officers to undertake the production of the Design and Sustainability Development Plan Document ("DPD").
- 2.2 The DPD will form part of the Development Plan for the Borough, and will sit alongside and build upon the contents of the forthcoming Local Plan Review. The appended document explains the background to the DPD, its relationship with the Local Plan and Local Plan Review. The DPD is required to be in compliance with the National Planning Policy Framework including the tests of soundness, and will need also to comply with appropriate legal obligations such as the Duty to Cooperate. It will need to respond to, and help deliver, the relevant aspects of other associated strategies and action plans adopted by the Council, such as the Strategic Plan and Biodiversity and Climate Change Action Plan.
- 2.3 It is a non-spatial policy document, that is it does not seek to allocate new sites or define a strategic direction for growth in the borough. Rather, the policies, which will be informed by the necessary evidence base and detail required to promote policies to support the negotiation of high-quality design, greater levels of biodiversity and more sustainable development. It responds to the greater emphasis being placed at national policy level to require a higher standard of design and greater sustainability in new development.

Content and Structure of the Consultation Document

- 2.4 The Council consulted on the Regulation 18a Scoping, Themes and Issues document from October to December 2022. Feedback from that consultation has been fed into the draft policies contained within this version of the DPD.
- 2.5 The council received a range of comments on the Regulation 18a, primarily from statutory consultees and stakeholders. In addition to the formal consultation, the Council also ran a mapping exercise to enable the public to drop pins on areas of the borough and make comment about their specific likes and dislikes about the built environment. Whilst not formally part of the planning consultation, this exercise added important contextual information from which Arup could shape the DPD document.
- 2.6 During that consultation, the council also undertook a series of meetings with prescribed bodies in accordance with its obligations under the Duty to

Cooperate. This provided valuable feedback from those bodies with a particular interest in design and sustainability issues, for example Kent County Council.

2.7 Comments received at consultation were broadly supportive of the aims of the DPD, key themes to emerge from the comments related to:

- Identification of ways that the document can contribute to wider biodiversity networks that might extend beyond the borough's boundaries.
- The DPD needs to ensure sustainable and walkable communities.
- Historic environment and its context should be embedded in new development.
- New development should seek to bring benefits to existing communities.
- The need for off street parking in new development.
- Consideration of waste generation in the development phase of new build.
- The DPD should take a holistic and integrated approach to tackling climate change.
- Landscape setting in rural areas should be an important consideration for new development.

2.8 Following consideration of consultation comments received against the Regulation 18a, in addition to the emerging evidence base, in February and March 2023 a draft of this Regulation 18b document was presented for discussion across a range of stakeholders. These included the Development Management team, the Biodiversity and Climate Change Manager, Heritage Conservation officers and other council teams such as Housing and Environmental Health, the Planning Committee members, and finally an all-member workshop was held on the 08 March.

2.9 These workshops and discussions provided substantial, detailed and invaluable feedback to the consultants, and comments and suggestions made have been incorporated into the document where feasible.

2.10 Turning to the layout of the document, the DPD opens with a forward and introduction. Chapter 2 then sets out the approach to design and sustainability in Maidstone and how this is framed by national guidance and existing evidence. Chapter 3 then provides a characterisation of the places in Maidstone, from the town centre, through garden settlements, to the villages. These characterisations define the high-level setting and key features that define the character of these location, in order to inform proposals that will come forward.

2.11 Chapter 4 starts by setting sets the Overarching Design & Sustainability Principles for the borough. It then goes on to set out the specific policies contained within the DPD. These are arranged under the following headings:

- Placemaking
- Streets and Buildings
- Open Space and Nature
- Movement
- Sustainable Buildings
- Design Quality

- 2.12 Policies on Placemaking set out the requirements for the way in which new development should seek to create an environment that fosters high quality places that occupants and visitors enjoy living and working in. These policies set out overarching principles of design, in addition to addressing specific placemaking requirements of the town centre.
- 2.13 The section on Streets and Buildings addresses how buildings in new development should seek to create environments with a sense of place and which encourage, and which contribute to well-being and sustainable transport. It has policies addressing on street parking and refuse, as well as distinctiveness and streetscene.
- 2.14 Open Spaces and Nature policies concern matters of natural and built landscape, including vegetation, topography, building materials. This section contains policies that seek to set in place how development should respond to landscape and townscape characteristics.
- 2.15 Policies within the Movement section seek to align matters relating to the built environment and people/vehicle movement. It requires new development to promote social interaction and active travel through the use of route and building layout.
- 2.16 Sustainable Buildings deals with the specific design of buildings and how these can incorporate measures to reduce carbon emissions in both construction and operation. Policies in this section require buildings to be constructed in a way that adopts the fabric first approach, uses passive design, minimises waste, and makes provision for renewable energy production.
- 2.17 Finally, the Design section provides a design code at borough level for development to be considered against. These policies require new development to adopt a design-led approach. It contains specific requirements regarding how major development proposals should be masterplanned using design codes, maintenance of design quality through the lifetime of the build, incorporation of local distinctiveness, materials and overall standards. It also addresses design expectations for smaller developments.
- 2.18 The table below provides a list of policies contained within the draft DPD.

Chapter	Policy
Placemaking	PM1: Placemaking
Placemaking	PM2: Maidstone Town Centre
Streets and Buildings	S1: Built Form
Streets and Buildings	S2: Tall Buildings
Streets and Buildings	S3: Optimising Density
Streets and Buildings	S4: Mixed Uses and Local Centres
Streets and Buildings	S5: High Quality Public Realm and Streetscene
Streets and Buildings	S6: Off-Street Parking
Streets and Buildings	S7: On-Street Parking
Streets and Buildings	S8: Settlement Edges
Streets and Buildings	S9: Servicing layout and access
Streets and Buildings	S10: Integrating refuse and recycling storage

Open space and nature	ON1: Landscape and the Setting of Places
Open space and nature	ON2: Open Spaces
Open space and nature	ON3: Biodiversity, Geodiversity and Nature Recovery
Open space and nature	ON4: Biodiversity Net Gain
Open space and nature	ON5: Sustainable Drainage Systems (SuDs)
Open space and nature	ON6: Green Infrastructure
Open space and nature	ON7: Protection of Dark Skies
Open space and nature	ON8: Building on Sloping sites
Open space and nature	ON9: Providing External Amenity Space for All Homes
Movement	MO1: Layout and Movement
Movement	MO2: Design for All
Movement	MO3: Plan for cyclists
Sustainable Buildings	SB1: Sustainable Design and Construction
	SB2: Minimising Greenhouse Gas emissions in New Development
Sustainable Buildings	SB3: Passive Design of Buildings
Sustainable Buildings	DQ1: Design led approach
Design Quality	DQ2: Masterplanning
Design Quality	DQ3: Form Based Design Codes
Design Quality	DQ4: Maintaining Design Quality
Design Quality	DQ5: Materials and Detailing
Design Quality	DQ6: Modern Methods of Construction
Design Quality	DQ7: Houses in Multiple Occupation
Design Quality	DQ8: Mixed Communities

Sustainability Appraisal

- 2.19 Local plans should be informed throughout their preparation by a Sustainability Appraisal that meets the relevant legal requirements. This should demonstrate how the plan has addressed relevant economic, social and environmental objectives (including opportunities for net gains). Significant adverse impacts on these objectives should be avoided and, wherever possible, alternative options which reduce or eliminate such impacts should be pursued. Where significant adverse impacts are unavoidable, suitable mitigation measures should be proposed (or, where this is not possible, compensatory measures should be considered).
- 2.20 The Sustainability Appraisal (which incorporates a Strategic Environmental Assessment) of the DPD seeks to inform and support the conclusions in the DPD at each main stage for the duration of the process.
- 2.21 The Regulation 18b Sustainability Appraisal assesses this stage of the draft plan against the Sustainability Appraisal objectives.
- 2.22 Where the sustainability of the strategy, individual policies or site allocations could be improved then the Sustainability Appraisal makes recommendations to achieve this. There is a Sustainability Appraisal consultation that is intended to run concurrently with the Regulation 18b documents consultation. The purpose of this consultation will be to seek views on the 'Sustainability Appraisal of the DPD: Regulation 18b' document. This is attached to this report as Appendix 2 of this report.

Evidence Base

- 2.23 The DPD is informed by a robust evidence base, including studies and strategies that have already been published both within the authority and elsewhere, as well as additional topic papers and an Equalities Impact Assessment.
- 2.24 The Council is no longer required to undertake Equality Impact Assessments (EqIAs). However, we do assess and analyse the effect of our policies and practices in this regard, as well as how we further the equality aims – EqIAs still provide a useful method to do this.
- 2.25 The EqIA will be undertaken throughout the production of the DPD, having particular regard to the main consultation milestones. The DPD will be assessed at each consultation stage, prior to and following public consultations to take into consideration those with protected characteristics.
- 2.26 The appended EqIA considers the impact of policies in the draft plan and consultations that have taken place so far on those with protected characteristics.
- 2.27 Two additional topic papers have informed the evidence base. The first is a technical note exploring possible approaches for the scope of policy DPD in setting requirements on Biodiversity Net Gain. The second topic paper explores possible approaches for the scope of policy in the Design and Sustainability DPD in setting requirements on climate change and sustainable buildings. These topic papers are appended to this report.
- 2.28 The evidence base documents will be published alongside the DPD so that they can be referred to.

Public Consultation

- 2.29 Public consultation is programmed to commence at 4.00pm on Friday 28th April and will run for six weeks to 5.00pm on 12th June, in accordance with Regulatory requirements and the adopted Local Development Scheme.
- 2.30 We are working closely with the Council's Communications Team to prepare for the consultation and associated publicity. The consultation arrangements will comply with the Council's adopted Statement of Community Involvement and legal requirements and will include:
- publication of Regulation 18b draft documents on Maidstone Borough Council's website, along with the evidence base documents
 - consultation portal for the submission of on-line comments
 - notifying statutory bodies, stakeholders and everyone on our consultation database
 - public notice in the local newspaper
 - press release/s
 - use of social media to publicise the consultation.
 - Copies of the documents will be places in libraries and key council offices.

- 2.31 Following consultation and associated analysis, the Council will consider comments made and revise the DPD in preparation for consultation on the pre-submission draft (Regulation 19).
- 2.32 In summary, the Design and Sustainability DPD will help to embed the Council's commitment to achieving high quality design and sustainability in new development. This iteration of the document presents the first draft of the policies for consultation, with feedback later informing the submission draft of the DPD.
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3. AVAILABLE OPTIONS

Recommendation 1

- 3.1 Option 1A - Proceed with consultation on the draft Regulation 18b Design and Sustainability DPD and Sustainability Appraisal starting at 4.00pm on Friday 28th April to run for six weeks to 5.00pm on 12th June.
This will meet requirements of Local Development Scheme ("LDS"), and the SCI and Regulatory requirements. This is the preferred option.
- 3.2 Option 1B – Agree the consultation but request significant changes to policy components of the DPD prior to consultation starting at 4.00pm on Friday 28th April to run for six weeks to 5.00pm on 12th June.
Whilst minor changes would be dealt with through an update/addendum to the document, where significant changes are proposed (for example to policy), there may be a potential delay to the process, including commencement of the consultation. This will have a knock-on effect for the LDS, meaning a new LDS would have to be produced in order to address changes. The consultation would then take place in accordance with the new timetable as approved by full council.
- 3.3 Option 1C – Do not consult
The council has committed to undertaking a consultation at this stage of the documents production by way of the LDS. Should members choose to not go ahead with the consultation, this would be contrary to the current LDS requirements. In this scenario, proposals will then need to be established for the production of this DPD which would allow engagement with relevant bodies or persons to take place at appropriate stages, in order to meet regulatory requirements. This would also require a new LDS to be created. A new SCI would also need to be produced to accommodate the changes in engagement process.

Recommendation 2:

- 3.4 Option 2A - That the Interim Local Plan Review Director be given delegated authority to finalise the format of Design and Sustainability DPD; Regulation 18b Document for presentation to the Lead Member for Planning and Infrastructure, including any corrections required. This will ensure that the consultation document is published and consulted on having been subject to a final review of typographical, grammatical and minor graphic matters.

- 3.4 Option 2B – That Members don't give members delegated authority to finalise the format. This would mean that these minor changes will need to go through a reporting process, most likely resulting in the need to delay the consultation and the production of a new LDS.
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4. PREFERRED OPTION AND REASONS FOR RECOMMENDATIONS

- 4.1 Options 1A and 2A are recommended. This will ensure that the Design and Sustainability DPD proceeds in accordance with the timetable set out in the approved LDS, and in accordance with the SCI and relevant Regulations.
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5. RISK

- 5.1 The risks associated with these proposals, including the risks if the Council does not act as recommended, have been considered in line with the Council's Risk Management Framework. We are satisfied that the risks associated area within the Council's risk appetite and will be managed as per the Policy.

6. CONSULTATION RESULTS AND PREVIOUS COMMITTEE FEEDBACK

- 6.1 Previous consultation held in November-December 2022, as outlined in the main body of the report. Significant feedback has also been received from internal stakeholders in the run-up to this consultation.
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7. NEXT STEPS: COMMUNICATION AND IMPLEMENTATION OF THE DECISION

- 7.1 Following consideration by the PAC, the report will be sent to the Lead Member for Planning and Infrastructure for decision. This issue was considered by the Planning and Infrastructure Policy Advisory Committee on 5 April 2023, with the committee supporting the recommendations of this report. The Minutes of the meeting will be available to the Lead Member ahead of the meeting on the 18 April.
- 7.2 If agreed, the consultation will commence at the end of April.
- 7.3 There may be minor work, such as graphics, layout, spelling and grammatical changes required to the consultation documents, and it is intended for these will be undertaken prior to commencement of the consultation in accordance with the above recommendation.
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8. REPORT APPENDICES

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

- Appendix 1: Draft Design and Sustainability DPD Regulation 18b draft.
 - Appendix 2: Sustainability Appraisal of the Design and Sustainability DPD Regulation 18b draft.
 - Appendix 3: Equalities Impact Assessment of the Design and Sustainability DPD Regulation 18b draft.
 - Appendix 4: Biodiversity Net Gain Topic Paper.
 - Appendix 5: Climate Change and Sustainable Buildings Topic Paper.
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