

Council Report

Ward(s) affected: All

Report of Strategic Services Director

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## **Submission of Local Plan: Development Management Policies**

### **Executive Summary**

The Local Plan: Development Management Policies (hereafter referred to as 'the Submission Local Plan') is the second part of Guildford's Local Plan. Once adopted it will, together with the adopted Local Plan: Strategy and Sites document (LPSS), fully supersede the existing Local Plan 2003 and become part of the Council's Development Plan. The Submission Local Plan provides the more detailed policies to be used by Development Management in the determination of planning applications. It should be noted that the LPSS includes a small number of development management policies where these were necessary in implementing the strategic policies, for examples in relation to Green Belt, employment and retail.

The structure of the Submission Local Plan is consistent with that contained in the LPSS. The chapters therefore consist of: Housing, Protecting, Economy, Design, and Infrastructure and Delivery.

A Regulation 18 consultation on 'issues, options and preferred options' was carried out in June/July 2020. This was followed by a 'Regulation 19 'proposed submission' consultation in January/February 2022. All the responses to this consultation have been analysed and no 'main modifications' are considered necessary. This report seeks approval to submit the Submission Local Plan to the Secretary of State for Examination by an independent Planning Inspector.

The Regulation 19 version of the Submission Local Plan will be submitted alongside another version containing minor corrections and suggested minor amendments as tracked changes to enable the Inspector to consider these as part of the Examination process. In examining the plan, the Inspector will be requested to recommend any main modifications that they consider are necessary to make the plan sound. This would be subject to further consultation.

It is proposed to submit this plan to the Secretary of State within two weeks of the Full Council decision.

This matter was considered by both the Joint Executive Advisory Board (JEAB) at its meeting on 10 May 2022, and the Executive on 26 May 2022. The JEAB's comments are summarised in Appendix 5 to this report. The Executive endorsed the recommendation below.

**Recommendation to Council:**

- (1) That the Submission Local Plan: Development Management Policies (Appendix 1), together with all relevant associated documentation referred to in Appendix 2 to this report, be approved for submission to the Secretary of State for the purpose of proceeding to and through the Examination in Public process.
- (2) That the Lead Councillor with portfolio responsibility for Strategic Planning be authorised, in consultation with the Strategic Services Director, to make such minor alterations to improve the clarity of the submission documents as they may deem necessary.

Reasons for Recommendation:

- (1) To enable the Submission Local Plan: Development Management Policies document to be submitted for Examination in Public in line with the adopted Local Development Scheme.
- (2) To enable an Inspector to test the plan in terms of its legal compliance and 'soundness' which will allow the Council to move a step closer to adopting an up-to-date second part of its Local Plan.

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

## **1. Purpose of Report**

- 1.1 An Examination in Public is the final stage in the process of producing a Local Plan prior to adoption. This report seeks authority to submit the Submission Local Plan document (see Appendix 1) to the Secretary of State and to allow for any minor amendments or typographical changes to be made following this extraordinary meeting of the Council.

## **2. Strategic Priorities**

- 2.1 The production of the Local Plan is a statutory requirement and will help the Council meet its strategic priorities. The Local plan, consisting of the LPSS and the Local Plan: Development Management Policies (once adopted) enables the Council to mitigate and adapt to Climate Change as well as provide for the needs of the community whilst enhancing the economy, and protecting the borough's special built and natural environment.
- 2.2 The Submission Local Plan is based upon thirteen strategic objectives, which are framed within one of the following four core themes: society, environment, economy and infrastructure. These strategic objectives are the same as those that underpinned the LPSS and build upon the fundamental themes identified in the Council's Strategic Framework.

### **3. Background**

- 3.1 Planning decisions must be taken in line with the 'development plan' unless material considerations indicate otherwise. The development plan for an area is made up of the combination of strategic policies (which address the priorities for an area) and non-strategic policies (which deal with more detailed matters). The extant policies in the Guildford Borough Local Plan 2003 and the policies in the adopted Local Plan: Strategy and Sites 2019 (LPSS) form part of Guildford's current development plan. Policies from the Local Plan 2003 were saved for development management purposes pursuant to the transitional provisions set out in the Planning and Compulsory Purchase Act 2004 (the 2004 Act). A number of these were superseded by the LPSS (listed in Appendix 8 of the LPSS) and those remaining (listed in Appendix D of the Submission Local Plan) will be fully superseded by the Local Plan: Development Management Policies when adopted.
- 3.2 The policies in the Submission Local Plan have been prepared in accordance with the National Planning Policy Framework (NPPF) and the statutory framework prescribed in the 2004 Act, and the Local Planning Regulations (including the Duty to Cooperate). The National Planning Practice Guidance (NPPG) has also been used to inform the plan-making process.

### **4. The Local Plan Process**

- 4.1 A Regulation 18 consultation is the first of two statutory consultations that must be undertaken prior to the submission of the Submission Local Plan to the Secretary of State for Examination. The second consultation is known as the Regulation 19 consultation.
- 4.2 A Regulation 18 consultation on 'issues, options and preferred options' was carried out in June/July 2020. This document did not contain any policies but identified the issues relevant to Guildford the preferred policy approach to dealing with these. In light of the representations received it was considered appropriate to progress to a Regulation 19 document that provided the specific wording to the policies together with an introduction, relevant definitions, a reasoned justification, key evidence base and a monitoring indicator for each policy.
- 4.3 The Regulation 19 'proposed submission' consultation was carried out in January/February 2022. All the responses to this consultation have been analysed and no 'main modifications' to any of the policies is considered necessary. Main modifications are significant changes that would alter the direction of a policy. If main modifications had been necessary, then a further targeted Regulation 19 consultation would have been required in order to consult on these major changes. This would have significantly delayed the potential adoption of the Local Plan.
- 4.4 It is however possible to suggest 'minor modifications' that the Inspector can consider as part of the Examination process. These should comprise changes that do not impact upon the direction or application of the policy and include edits that improve the clarity of the document or represent factual updates. The schedule of proposed minor modifications is contained in Appendix 3 which will form part of the submission documents.

- 4.5 Once the Submission Local Plan and all relevant associated documentation referred to in Appendix 2 are submitted to the Secretary of State, an independent Planning Inspector will be appointed to undertake the Examination in Public. As part of this process the Inspector will assess whether the Submission Local Plan has been prepared in accordance with legal and procedural requirements, and whether they are sound. The NPPF (para 35) sets out the tests of soundness. These are:
- a. Positively prepared
  - b. Justified
  - c. Effective
  - d. Consistent with national policy
- 4.6 The Examination process comprises a mixture of written and verbal evidence. As part of this process the Inspector is likely to recommend main modifications that are necessary in their mind to make the plan sound. These main modifications will be subject to further consultation although these responses will be considered by the Inspector rather than the Council. The Inspector will then write their report identifying which main modifications are necessary in order for the plan to be found sound and be capable of being adopted by the Council. Adoption of the Local Plan will be a Full Council decision.
- 4.7 Once the LPDMP is submitted then the examination process is in the hands of the appointed Inspector. It is therefore difficult to determine the timetable with any certainty as this will be clarified by the Inspector once they have had a chance to understand the main issues to consider. However, an indicative timetable is included below. This timetable has been discussed with the Planning Inspectorate who agree that whilst it is very tight, given the nature of the document, it is not unrealistic.

<b>Milestone</b>	<b>Date</b>
Submission to Secretary of State	Mid-June 2022
Appointment of Inspector	July 2022
Hearings	Oct 2022
Main Modifications consultation	Nov – Dec 2022
Inspector's Report	Feb 2023
Adoption	March 2023

## **5. Regulation 19 consultation results**

- 5.1 The Regulation 19 consultation ran for six weeks between 7 January and 18 February 2022. During this period, a total of 449 comments were made on the Regulation 19 Proposed Submission Local Plan from a total 73 respondents. The below table provides a breakdown of this by stakeholder group. The number of respondents is significantly less than that received during the preparation of the LPSS. This was to be expected given its largely technical and non-geographical nature. Whilst the number of responses were smaller in scale, many raised a number of detailed comments that required careful consideration.

Group	Number	% of total
Developer/landowner/planning consultant	16	22
Statutory/prescribed body (e.g. Surrey County Council, Environment Agency, Surrey Local Nature Partnership, service providers, etc)	10	13
Local organisation/parish council/resident's association/political party	26	35
Member of the public	22	30
Total	74	100

- 5.2 Officers consider that none of the responses raise any issues affecting the soundness of the plan and the Regulation 19 Local Plan should therefore progress to Submission and Examination stage. Importantly none of the prescribed bodies (such as Natural England, Environment Agency, etc) with which the Council has a legal Duty to Cooperate have raised any objections. All main issues raised as part of the Regulation 19 consultation have been identified and responded to in the Consultation Statement (Appendix 4). The responses given either rebut the comment and provide an explanation as to why it does not go to the soundness of the plan or identify a minor modification that seeks to address the issue raised if it is considered to improve the plan.
- 5.3 The responses broadly fell at the two ends of the spectrum – some considering the plan was too onerous and resulted in a disproportionate burden on development whilst others considered that the plan did not go far enough in terms of its requirements and standards for new development. This is not unexpected as we take a position based on the available evidence and wider practicalities of delivering a robust, viable and sound plan whilst respondents, depending on their overall objectives, position themselves either wanting more or less onerous policies. This has the effect of leaving the Council in the middle.
- 5.4 The majority of the responses were of a very detailed nature, seeking specific wording changes across all the policy topics. As a result, it is not easy to summarise the majority of the responses. However, there are a couple themes that can be drawn out. The first is in relation to the overall viability implications of the Submission Local Plan when considered alongside the requirements of the LPSS. Numerous comments from the development industry raised concerns in relation to this, questioning the assumptions of certain costs in the Local Plan Viability Study and the thresholds and standards included within the Submission Local Plan.
- 5.5 A further theme that emerged was in relation to how prescriptive the policies themselves should be. Some respondents sought to have a greater degree of prescriptiveness with more quantifiable 'rules' that development proposals would need to meet to be considered acceptable such as maximum heights of buildings or densities. Whilst the Submission Local Plan does contain a number of these, for example minimum balcony size in Policy D5 and provision of a minimum 10m buffer along main rivers in Policy P12, it is not considered appropriate in all instances. The inclusion of a standard limits the ability of the decision maker to consider wider factors/context which in some circumstances may result in a higher or lower figure being found acceptable. The setting of standards in these instances

can therefore result in a one size fits all approach significantly reducing the opportunity for the decision maker to evaluate each application within its own specific context and individual merits.

## **6. Submission Documents**

- 6.1 The Submission documents are defined in the planning regulations and are those documents that must be formally submitted to the Secretary of State to begin the Examination process. They comprise the Submission Local Plan itself, the Submission Policies Map (also contained in Appendix A of the Submission Local Plan), the Sustainability Appraisal, the Consultation Statement covering all aspects of the consultation process and a summary of the main issues raised and how those issues have been addressed, a copy of the representations themselves and 'such supporting documents as in the opinion of the local planning authority are relevant to the preparation of the local plan.'
- 6.2 A list of the documents the Council intends to submit is contained in Appendix 2. Included within this list are four Topic Papers covering a variety of policy areas designed to explain the evolution of some of the more complex policies and the reasoning behind the approach taken. These were published in draft form at the Regulation 19 stage to inform the consultation responses but will be finalised as part of the submission.

## **7. Internal Consultations**

- 7.1 In producing the draft Local Plan, the Planning Policy team has worked closely with the Development Management team (DM) in seeking to understand issues that have arisen in the regular use of the 2003 policies and to identify any gaps in the policy framework that need to be filled. DM officers have been an integral part of the final drafting of policies to ensure that they are effective in the decision-making process. A significant role has also been played by officers within the Council including Housing, Parks, Climate Change and Regulatory Services.
- 7.2 Officers have also undertaken an extensive series of Local Plan Panel meetings over the entire course of plan preparation. The Panel comprises cross party representation of members and is designed to act as a sounding board in the development of the Local Plan. These meetings have facilitated discussion between officers and members regarding the scope of the document and the wording of policies within the Submission Local Plan.
- 7.3 The document has also been considered by the Joint Executive Advisory Board at its meeting on 10 May 2022.
- 7.4 This report seeks authority to submit the Submission Local Plan to the Secretary of State for Examination by an independent Planning Inspector.

## **8. Key Risks**

- 8.1 Planning decisions should be based on up-to-date Local Plans. Delays in completing the second part of the Guildford Borough Local Plan would mean

decision makers still being reliant on the extant policies contained in the 2003 Local Plan.

- 8.2 Adopting a new set of development management policies provides an opportunity of securing higher quality sustainable development in the borough and an opportunity to contribute positively to the climate change emergency (see Climate Change/sustainability below).

## **9. Financial Implications**

- 9.1 There is an existing Local Plan consultancy budget of £111,000 which will cover any additional consultant support that is required as part of the examination process. There is sufficient budget to cover this cost together with any other consultancy work that might be required during this financial year. There is a separate Inspector budget of £50,000 which is expected to fully cover the costs associated with both the independent Planning Inspector and the Programme Officer.

## **10. Legal Implications**

- 10.1 After submission to the Secretary of State, the Submission Local Plan will be examined by an independent planning inspector. The inspector will consider whether we have fulfilled our legal Duty to Cooperate and whether the plan meets the tests of soundness set out in paragraph 35 of the NPPF. It is essential that we can show that we have observed the procedural steps and requirements set out in the relevant regulations. These include not only the Town and Country Planning (Local Planning) (England) Regulations 2012, but also the Environmental Assessment of Plans and Programme Regulations 2004 and possibly also the Conservation of Habitats and Species Regulations 2010 (as amended).
- 10.2 We will need to show that we have observed the current NPPF and the newer NPPG, as well as creating and maintaining an up to date and proportionate evidence base to inform its policy decisions.
- 10.3 The failure to adopt a new local plan and the reliance on a dated plan makes the borough council less able to achieve high quality development especially in terms of its impact on climate change through improved design standards and biodiversity net gain.
- 10.4 The Town and Country Planning Act 1990 places a duty on local planning authorities to produce and adopt a Local Plan. The Plan will ultimately replace the current Guildford Borough Local Plan adopted in 2003.
- 10.5 Under the Council's Constitution and in accordance with the statutory provisions contained the Local Authorities (Functions and Responsibilities) (England) Regulations 2000, full Council has the power to make decisions in relation to the preparation and adoption of the Development Plan.

## **11. Human Resource Implications**

- 11.1 There are no HR implications associated with submitting the Plan to the Secretary of State. However, the Examination itself that will follow a few months later will result in a significant workload for the planning policy team and for the legal support team. There also may be a role for Development Management officers in producing written responses and appearing at the Examination hearing sessions.

## **12. Equality and Diversity Implications**

- 12.1 All public authorities are required by the Equality Act 2010 to specifically consider the likely impact of their policy, procedure or practice on certain groups in society.
- 12.2 It is our responsibility to ensure that our policies, procedures and service delivery do not discriminate, including indirectly, on any sector of society. Council policies, procedures and service delivery may have differential impacts on certain groups with protected characteristics, and these will be highlighted in the Equalities Impact Assessment (EqIA) screening. Likely differential impacts must be highlighted, and described, as some may be positive. Where likely significant adverse differential impacts are identified, consideration should be given to opportunities to reduce or mitigate this through a full equalities impact assessment.
- 12.3 An EqIA screening was carried out for the Regulation 19 Draft Local Plan. It was not considered necessary to carry out a full EqIA. This document was published on the Council's web site alongside the Regulation 19 consultation document. This was revisited in advance of proposed submission of the Plan. As a result of assessment at this point, it is concluded that the proposed Submission Local Plan policies will not have a negative impact on those with protected characteristics, neither does it reflect the potential for discrimination. The opportunity to foster greater equality and positive impacts for protected groups has been sought and incorporated within policies where appropriate. Accordingly, it is considered that the Council is acting in accordance with the public sector equality duty contained in section 149 of the Equality Act 2010.

## **13. Climate Change/Sustainability Implications**

- 13.1 The timely adoption of the Local Plan: Development Management Policies will enable the policies proposed to carry full weight as part of the development plan. The emerging policies in the Submission Local Plan supplement those in the LPSS and provide further detailed requirements. The proposed suite of policies covers a range of topics that will all contribute towards the achievement of Climate Change objectives and sustainable development.
- 13.2 The policies proposed in the Submission Local Plan will have a positive impact in helping to secure sustainable and low impact development, Climate Change resilient development, and renewable and low carbon energy schemes. It will also contribute towards securing improvements in air and water quality, and biodiversity.
- 13.3 The Submission Local Plan is accompanied by a Sustainability Appraisal (SA). The SA is an iterative process that is prepared to accompany each version of the



Local Plan. It incorporates the requirement for Strategic Environmental Assessment (SEA) and assesses each policy against environmental, social and economic objectives. The Council has also produced a SA Scoping Report. This identifies the scope and level of detail of the information to be included in the sustainability appraisal report. It sets out the context, objectives and approach of the assessment; and identifies relevant environmental, economic and social issues and objectives.

- 13.4 A Habitats Regulations Assessment (HRA) has also been prepared. This ensures that the Submission Local Plan conforms with the Habitats Regulations and will not adversely affect any European protected habitats or species.

#### **14. Executive Advisory Board comments**

- 14.1 The Joint Executive Advisory Board (JEAB) was invited to consider the Submission Local Plan: Development Management Policies at its meeting held on 10 May 2022. Having discussed the Plan, the JEAB was not minded to seek significant modifications to the policies within the Plan, which would require a further Regulation 19 public consultation delaying adoption and implementation of the Plan. The JEAB agreed to an approach to suggest minor amendments as improvements to the Plan, which could be submitted to officers and the Inspector for consideration without incurring the need for a further public consultation exercise.

- 14.2 A summary of JEAB comments is included as Appendix 5 to this report, along with a reflection of further officer consideration, as relevant.

#### **15. Conclusion**

- 15.1 Submitting the Submission Local Plan to the Secretary of State is a key stage of the Local Plan making process and will enable the Local Plan to progress towards full adoption following an Examination in Public carried out by a Planning Inspector.
- 15.2 Completing and adopting this document will result in a fully up to date local plan and enable decision makers to assess planning applications against policies designed to achieve high standards of design and levels of sustainability contributing positively to the Council's climate change emergency declaration.

#### **16. Background Papers**

None.

#### **17. Appendices**

Appendix 1: Submission Local Plan

Appendix 2: A draft list of documents intended to be submitted to the Secretary of State

Appendix 3: Draft proposed minor modifications for the Secretary of State

Appendix 4: Draft Consultation Statement

Appendix 5: Submission Local Plan: Development Management Policies – Summary of JEAB Comments