

Report for: ACTION



Contains Confidential or Exempt Information	NO - Part I
Title	Draft Borough Local Plan Consultation
Responsible Officer(s)	Russell O'Keefe, Strategic Director of Corporate and Community Services
Contact officer, job title and phone number	Jeni Jackson, Head of Planning, 01628 796042.
Member reporting	Clr Derek Wilson, Lead Member for Planning
For Consideration By	Cabinet
Date to be Considered	24 November 2016
Implementation Date if Not Called In	Immediately
Affected Wards	All

REPORT SUMMARY

1. The purpose of this report is to seek Cabinet approval for a further round of public consultation on the draft Borough Local Plan (BLP) under Regulation 18 of the Local Planning Regulations 2012.
2. The report follows on from the Cabinet decision on 29 September 2016 to undertake further consultation following legal advice received regarding the legal compliance and soundness of the draft BLP.
3. No further budget provision is required as additional funds for the work have already been approved prior to this proposed consultation.

If recommendations are adopted, how will residents benefit?

Benefits to residents and reasons why they will benefit	Dates by which residents can expect to notice a difference
1. Adoption of the BLP will provide residents with an increased degree of certainty about what development will be needed and where it should be located within the Royal Borough over the Plan period to 2032.	December 2017
2. The further consultation proposed will give residents	December 2016

and other interested parties the opportunity to comment on the full draft BLP and will also improve the prospect of the BLP being found sound and legally compliant when submitted for independent examination.	
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1. DETAILS OF RECOMMENDATIONS

RECOMMENDATION: That Cabinet:

- I. Approve the plan period from 2013 to 2033 to require a total of 14,240 dwellings and adjust the draft Borough Local Plan to reflect this change as necessary;**
- II. Approve the Draft Borough Local Plan and associated Sustainability Appraisal (including SA/SEA/HRA) for public consultation under Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012 for a six-week period from 2 December 2016 to 13 January 2017; and**
- III. Delegate authority to the Strategic Director of Corporate and Community Services in consultation with the Lead Member for Planning to make any final editorial and formatting amendments to the Draft Borough Local Plan and accompanying documents without altering the meaning of the Plan before consultation.**

2. REASON FOR RECOMMENDATION(S) AND OPTIONS CONSIDERED

- 2.1 The Borough Local Plan (BLP) is a key corporate priority and over the last few years the Council has been preparing a new BLP that will provide the development plan framework to guide the future development of the Borough. It is important that the Council has an up-to-date Local Plan that has been prepared and adopted in accordance with the National Planning Policy Framework (NPPF), published in March 2012.
- 2.2 The Secretary of State for Communities and Local Government has identified as a key priority the requirement for all local planning authorities to prepare and adopt a NPPF compliant Local Plan without further delay.
- 2.3 To that end, the Government has also set a target for all local planning authorities to have submitted a draft Local Plan to the Secretary of State for independent examination by early 2017 (no exact date has been set), failing which the Secretary of State may utilise the statutory powers to intervene in the plan-making process under Part 2 of the Planning and Compulsory Purchase Act 2004, which have recently been extended by the enactment of the Housing and Planning Act 2016. In practical terms, this means that the Government could take control over plan-making in the Royal Borough.
- 2.4 As Members know, the June 2016 draft version of the BLP was the subject of a legal compliance review undertaken by specialist planning Counsel, Mark Beard

of 6 Pump Court Chambers. The review concentrated on the legal compliance of the draft Plan and the prospects of it being found to be sound when submitted for examination.

- 2.5 A number of issues of non-compliance were identified by Counsel, including a Regulation 18 consultation being undertaken in 2015 without a Sustainability Appraisal/Strategic Environmental Assessment (SA/SEA) and the adequacy of record-keeping relating to the Council's compliance with the Duty to Co-operate in the preparation of the BLP.
- 2.6 As a result, significant amendments have been made to strengthen the draft BLP which is attached as Appendix A. Cabinet's approval is sought to publish this draft BLP and associated Sustainability Appraisal for a six-week public consultation period commencing on 2 December 2016. In addition, a programme of meetings is progressing to ensure the Duty to Co-operate requirements are fulfilled.
- 2.7 The updated draft BLP has been recently been subject to two external reviews. Firstly, the specialist Counsel has reviewed it again and his overall view is that it is a remarkable improvement and now ready for Regulation 18.
- 2.8 Secondly, an advisory review was carried out by the Planning Inspectorate who will ultimately assess and determine the BLP at examination. Their overall view on the content of the strengthened BLP was equally positive. However, they have strongly recommended that the Council change elements within the timetable. This will not change the overall timetable in which the BLP is expected to be adopted which remains the end of 2017. However, it does change some of the stages within it. The Inspectorate has requested that for every representation the Council receive during consultation that the Council write and submit to them an individual response and supporting topic papers rather than a summary of representations received and responses. Whilst this is not a requirement or needed legally they have strongly advised that it will significantly help the examination process. Given that the Council is likely to receive well over 30,000 responses this means considerable extra work and time to prepare which will mean the Council will submit the plan to the Inspectorate later. However, the Inspectorate has confirmed it will then schedule the Examination in Public approximately 10 weeks later which means that the overall timetable for adoption remains unchanged. Were the Council not to do this the Inspectorate has indicated that the timetable from submission to getting to Examination would be very considerable and that the extra work it has asked the Council to do would be carried out by the Planning Inspectorate and billed to the Council. This approach has been discussed with CLG and they have agreed this is the best way forward. The updated stages in the timetable are shown in section 15 and the Local Development Scheme will be amended accordingly.
- 2.9 Government policy requires the Council to illustrate the expected rate of housing delivery through a housing trajectory for the plan period. Throughout the plan period the Council is required to demonstrate a rolling five year supply of housing. In meeting this requirement and following the advice from the Planning Inspector it is recommended that the plan period is extended by one year to run for 20 years from 2013 to 2033. The consequent effect of doing so brings the total number of dwellings to be delivered over the plan period to 14,240. However, as the plan now seeks to meet 100% of housing need there is no requirement for a non

delivery buffer. What was the non delivery buffer plus a further year from windfalls equates to an additional year of provision.

- 2.10 The BLP must be prepared in consultation with the local community and other stakeholders. This further Regulation 18 consultation will enable residents to make their views known and for those comments to be taken into account in shaping the Regulation 19 Publication version of the Plan.

Option	Comments
Approve the attached Draft BLP for public consultation (Recommended)	This will help to ensure the early adoption of an up-to-date, sound and legally compliant BLP – to ensure the appropriate planning of the area to guide future development management decision-making and to provide the necessary information and links for Neighbourhood Plans.
Not to approve the draft BLP for consultation (Not recommended)	Progress will not be made towards the adoption of a sound and compliant BLP and there is a very significant risk of Government intervention in the local plan-making process.

3. KEY IMPLICATIONS

Defined Outcomes	Unmet	Met	Exceeded	Significantly Exceeded	Date they should be delivered by
Borough Local Plan published for public consultation at Regulation 18 on 2 Dec 2016	BLP published after 2 Dec 2016	BLP published on 2 Dec 2016	Not applicable	Not applicable	2 December 2016

4. FINANCIAL DETAILS

Financial impact on the budget

- 4.1 Additional budget for specialist assistance for the work to strengthen the BLP has already been agreed and this work will be funded from that allocation. In addition a capital bid for the monies to fund the Examination in Public in 2017 is being

progressed separately to this report through the capital programme process for 2017/18

	2015/16	2016/17	2017/18
	Revenue	Revenue	Revenue
Addition	£0	£0	£0
Reduction	£0	£0	£0

	2015/16	2016/17	2017/18
	Capital	Capital	Capital
Addition	£0	£0	£0
Reduction	£0	£0	£0

5. LEGAL IMPLICATIONS

- 5.1 The BLP must be prepared and adopted in accordance with the provisions within Part 2 (Local Planning) of the 2004 Act (as amended) and the related Town and Country (Local Planning) (England) Regulations 2012 (as amended) and must be consistent with national planning policy.
- 5.2 The Council must also demonstrate that it has complied with the Duty to Co-operate with other local planning authorities and other prescribed bodies in the preparation of the BLP in accordance section 33A of the 2004 Act, otherwise known as the Duty to Cooperate.

6. VALUE FOR MONEY

- 6.1 None.

7. SUSTAINABILITY APPRAISAL

- 7.1 A Sustainability Appraisal (SA) of the draft BLP must be undertaken at each key stage of its preparation. The SA incorporates a Strategic Environmental Assessment (SEA) and a Habitats Regulations Assessment (HRA) informing the preparation of draft Plan by identifying and assessing reasonable plan-making alternatives (see also paragraphs 17.2 to 17.3 below). An Interim SA report incorporating the SEA/HRA of the draft BLP will be published alongside the attached Regulation 18 draft BLP for public consultation.

8. RISK MANAGEMENT

Risks	Uncontrolled Risk	Controls	Controlled Risk
A decision to submit the draft BLP for independent examination without	Very high	Actions set out in the recommendation	Low

Risks	Uncontrolled Risk	Controls	Controlled Risk
further consultation would be unlawful			
Inspector appointed to carry out the Independent Examination of the BLP concluding that the Council has failed to comply with the Duty to Cooperate necessitating withdrawal of submitted BLP	Very high	Actions set out in the recommendation	Low
Inspector appointed to carry out the Independent Examination of the BLP concluding that the submitted BLP is not sound and/or not legally compliant	Very high	Actions set out in the recommendation	Low
The Government intervenes in the plan-making process	High	Actions set out in the recommendation	Low

9. LINKS TO STRATEGIC OBJECTIVES

9.1 The BLP will help to achieve putting residents first through encouraging healthy people and lifestyles, improvement of the environment, economy and lifestyles and working for safer and stronger communities. It would also support the priority to work together by strengthening partnerships and value for money by investing in the future.

10. EQUALITIES, HUMAN RIGHTS AND COMMUNITY COHESION

10.1 An Equality Impact Assessment (EqIA) has been developed and the assessment concludes that the BLP will not unlawfully discriminate against any group or individual or provide any grounds for such discrimination.

11. STAFFING/WORKFORCE AND ACCOMMODATION IMPLICATIONS

11.1 None

12. PROPERTY AND ASSETS

12.1 The draft BLP includes proposed site allocations that are owned by the Council.

13. ANY OTHER IMPLICATIONS

13.1 None

14. CONSULTATION

14.1 In addition to the Regulation 18 consultation and continuing the work involved in meeting the Duty to Cooperate, there will also be consultation with Local Plans Working Group and other stakeholders. The Council's Statement of Community Involvement includes further information on the requirements for public consultation on draft Development Plan Documents.

15. TIMETABLE FOR IMPLEMENTATION

Timescale	Details	Target Date
2 December 2016 - 13 January 2017	Regulation 18 Consultation and further Duty to Co-operate engagement	13 January 2017
3 December – 14 April 2017	Process and consider all Regulation 18 consultation responses (as they are received) including developing written responses to inform the preparation of the draft Regulation 19 Publication version of the BLP. Make any proposed modifications to the Local Plan arising from consultation responses.	14 April 2017
25 April 2017	Council approve Regulation 19 Publication version of the BLP.	25 April 2017
26 April – 7 June 2017	Regulation 19 Publication and six-week period for making representations under Regulation 20.	26 April 2017
26 April - 31 July 2017	Collate Regulation 20 representations (as they are received) and prepare written responses and topic papers. Consider any further minor modifications. Submission of the draft BLP to Secretary of State for Independent Examination together with representations and any proposed minor modifications..	31 July 2017
October 2017	Expected date for public hearing on BLP	October 2017
December 2017	Expected date for adoption of BLP	December 2017

16. APPENDICES

- A. Draft Borough Local Plan – the Policies Map will be on display at the meeting.
- B. Habitat Regulations Assessment.
- C. Sustainability Appraisal SA/SEA Headlines Regulation 18 report.

17. BACKGROUND INFORMATION

- 17.1 To inform the policies in the draft Borough Local Plan and the site allocations being consulted upon, appropriate and proportionate evidence is essential for producing a sound Local Plan. Paragraphs 158 to 177 of the National Planning Policy Framework set out the type of evidence that may be required, subject to local circumstances. In accordance with Planning Practice Guidance (PPG) the Council has published the documents that form part of the evidence base as they have been completed, rather than waiting until options are published for consultation under Regulation 18, or publication of the Local Plan for representations under Regulation 19. The evidence base has informed the preparation and content of the draft BLP.
- 17.2 The draft BLP must be informed and accompanied by a Sustainability Appraisal. This systematically allows the potential environmental, economic and social impacts of the proposals to be taken into account, and has played a key role throughout the plan-making process. The Sustainability Appraisal plays an important part in demonstrating that the Local Plan reflects sustainability objectives and has considered reasonable alternatives. The Sustainability Appraisal which has been carried out to inform this draft BLP for Regulation 18 consultation incorporates a Strategic Environmental Assessment to meet the statutory requirement for certain plans and programmes to be subject to a process of 'environmental assessment'. The SA/SEA is a background paper; appended to this report is a Headlines Regulation 18 report (Appendix C).
- 17.3 The Local Plan also require a Habitats Regulation Assessment, as set out in the Conservation of Habitats and Species Regulations 2010 (as amended) as it is considered that the planned development in the BLP, either alone or in combination with other plans or projects, is likely to have significant effects on the integrity of European sites designated for the protections of habitats or species, located in the area or in its vicinity, for example, the Thames Basin Heaths Special Protection Area. The HRA is appended at Appendix B.
- 17.4 Whilst the Local Plan is an opportunity to set out a positive vision for the area, guidance is clear that the Plan should also be realistic about what can be achieved and when (including in relation to infrastructure). This means paying careful attention to providing an adequate supply of land, identifying what infrastructure is required and how it can be funded and brought on stream at the appropriate time; and ensuring that the requirements of the Plan as a whole will not prejudice the viability of development. The Council is involved in ongoing discussion with infrastructure and service providers in order to make clear what infrastructure is required, who is going to fund and provide it, and how it relates to the anticipated rate and phasing of development. The Infrastructure Delivery Plan (IDP) which accompanies the Council's CIL Charging Schedule is being updated to have regard to the requirements based on the sites that might be brought forward in the final version of the BLP. This is work in progress, it is likely that an

amended Regulation 123 List will be brought forward with the Regulation 19 Plan and accompanying IDP.

17.5 Spatial Vision: this sets out what the Borough will look like following the implementation of the Plan as remaining a place where everyone can thrive in a safe, healthy and sustainable environment. The varied characteristics of the Borough are recognised and the distinct and different values of Windsor and Maidenhead are valued in terms of the contribution they make to the success of the Borough. The particular and special characteristics in terms of the countryside and open spaces, Green Belt, historic environment, River Thames, woodland and parking, remain part of the heritage that continues to be valued, enhanced and protected.

17.6 The objectives of the Plan are

- i) To conserve and enhance the special qualities of the Borough's built and natural environments; and
- ii) To meet the varied housing needs of residents in an appropriate way whilst steering development to the most sustainable locations; and
- iii) To enable the continued success and evolution of the Borough's distinct visitor economy; and
- iv) To enable the evolution and growth of the local business economy; and
- v) To promote the vitality and viability of our town centres so they are at the heart of our communities; and
- vi) To increase the opportunities available for people who wish to remain living in their own homes as they grow older or infirm; and
- vii) To minimise the impact of flooding and any impact attributable to climate change; and
- viii) To seek to retain, improve and provide new facilities and other infrastructure to ensure a high quality of life for residents of all ages.

17.6 Housing: Of crucial importance to the draft Borough Local Plan is the evidence which determines the Boroughs full objectively assessed need for housing, including affordable housing. The principal source of evidence is the Strategic Housing Market Assessment (February 2016) (SHMA) which was commissioned by the Thames Valley Berkshire LEP on behalf of the Berkshire local authorities and South Bucks District Council. The Borough sits within the Eastern Housing Market Area comprising this Council's administrative area, Slough Borough Council and South Bucks District Council. The SHMA identified the objectively assessed need (OAN) for housing in the Borough as 712 dwellings per annum for the Plan period.

17.7 Using the evidence in the Sustainability Appraisal/SEA, HELAA and the Edge of Settlement work together with other evidence base sites have been identified for the purposes of consultation which would meet 100% of the OAN for the Plan period. These sites are shown on the draft policies map and included as allocations in the draft Borough Local Plan which accompanies this report. This includes the significant contribution made to meeting OAN through completions, commitments, small sites (less than 10 units) and windfall sites. It also includes urban sites, sites on the edge of settlements and sites currently within the Green Belt. It should be noted that the Strategic Flood Risk Assessment and strategic

transport modelling work is currently being concluded, the latter will inform the ongoing infrastructure planning work to be contained in the IDP.

- 17.7 **Employment:** It is important to achieve a balance between sustainable housing and employment growth in the Borough to ensure that there are enough houses to accommodate the economically active workforce required to fill new jobs. There is a substantial evidence base to support the identification of economic development needs. The Thames Valley Berkshire LEP, in conjunction with the six Berkshire authorities, has jointly commissioned an Economic Development Needs Assessment (EDNA).
- 17.8 Three separate Functional Economic Market Areas (FEMA) have been identified with Windsor and Maidenhead split between the Central Berkshire FEMA which includes Bracknell Forest, Reading and Wokingham and then the Eastern Berkshire FEMA comprising Slough, this Borough and South Bucks. Studies have then been carried out in accordance with the Planning Practice Guidance to provide an assessment of future business needs and requirements for employment land and floor space within each FEMA, focusing on the group of B class uses which broadly cover office and industrial land uses. The local labour supply scenario is demonstrably out of kilter with the trend for delivery of employment floor space and therefore not considered to be appropriate for the local circumstances of this Borough. On this basis the Plan seeks to meet the trend based figure by providing 7.8 hectares of land for employment use. Three sites have been promoted for residential use that are currently in employment use, these are well located for housing being close to Maidenhead Town Centre and Railway Station. Consequently allocations are required to take up that reduction and to intensify employment use where appropriate and therefore the draft BLP allocates a single large site for mixed use to provide employment and residential use.

18. CONSULTATION (MANDATORY)

Name of consultee	Post held and Department	Date sent	Date received	See comments in paragraph:
Internal				
Cllr Derek Willson	Lead Member for Planning	20/10/16		
Russell O'Keefe	Strategic Director Corporate and Community Services	20/10/16	25/10/16	Throughout the report
Alison Alexander	Managing Director/ Strategic Director Adults, Children and Health	20/10/16		

Name of consultee	Post held and Department	Date sent	Date received	See comments in paragraph:
Simon Fletcher	Strategic Director Operations and Customer Services	20/10/16		
Rob Stubbs	Head of Finance	20/10/16		
David Scott	Monitoring Officer	20/10/16	20/10/16	Throughout the report
External				

REPORT HISTORY

Decision type:	Urgency item?
Key decision	No

Full name of report author	Job title	Full contact no:
Chris Berry	Interim Planning Policy Manager	01628 796298

Stages in the life of the report (not all will apply)	Date to complete
1. Officer writes report (in consultation with Lead Member)	
2. Report goes for review to head of service or DMT	
3. To specialist departments: eg, legal, finance, HR (in parallel)	
4. To lead member	
5. To CMT	
6. To the leader	
7. To overview or scrutiny, if a cabinet report	
8. To cabinet	

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