

Executive Report

Delegated Decisions – 14 November 2023

PUBLICATION OF LOCAL DEVELOPMENT SCHEME

Name of Cabinet Member	Councillor Pete Marland Leader of the Council
Report sponsor	Paul Thomas Director of Planning and Placemaking
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Exempt / confidential / not for publication	No
Council Plan reference	27
Wards affected	All wards

Executive summary

We are required to prepare a Local Development Scheme (LDS) under section 15 of the Planning and Compulsory Purchase Act 2004 (as amended). The LDS sets out the local plan documents that we intend to take forward over the next three years and the timetable for producing them. Our new LDS covers the period 2023-2025 and sets out a revised timescale for the preparation of the New City Plan.

1. Proposed Decision/s

- 1.1 That the three-year programme of work as set out in the Milton Keynes Local Development Scheme (LDS) (attached as an **Annex** to the report), be agreed.
- 1.2 That authority be delegated to the Director of Planning and Placemaking to make minor typographical corrections to the LDS prior to publication.

2. Why is the decision needed?

- 2.1 We are required to prepare a Local Development Scheme (LDS) under section 15 of the Planning and Compulsory Purchase Act 2004 (as amended). The LDS sets out the local plan documents we intend to progress over the next three years and the timetable for producing them. The current LDS was agreed and published in 2022. However, it now needs to be updated to reflect progress with preparing the New City Plan.

2.2 We have made significant progress since the 2022 LDS was prepared, which includes:

- Commissioned or completed over 20 evidence studies that will underpin the New City Plan.
- Carried out a public consultation about the Ambition and Objectives for the New City Plan, the results of which will inform the Plan as it is progressed.
- Held a technical conference with key stakeholders about the New City Plan and inclusive growth.
- Started a comprehensive engagement programme to ensure meaningful and inclusive engagement about the New City Plan and key evidence studies.

2.3 Overall, the timetable to submission ('S' on Figure 1 below) has been extended by six months. The Regulation 18 consultation document will be a comprehensive draft plan, informed by a significant amount of evidence and the results from early engagement. Some of the evidence studies are taking longer than anticipated to complete, which has had implications for the timetable.

2.4 Extending the programme is considered necessary to ensure that the Regulation 18 draft plan is as comprehensive as possible, informed by evidence and the results of the early engagement. The impacts of the extended programme have been mitigated by shortening the time between the Regulation 18 and Regulation 19 consultation stages. This is made possible by completing a comprehensive evidence base to inform the Regulation 18 stage and by front-loading the engagement. We are aiming to submit the New City Plan for submission by June 2025. Any Local Plans submitted after this date would need to satisfy new regulations and provisions governing plan-making that are currently being drawn up by Government via the Levelling Up and Regeneration Bill that is going through both houses of Parliament at this time. Any new regulations and provisions would introduce a radically different system for plan-making that would introduce risks to the creation of the New City Plan. There is also significant uncertainty surrounding these draft regulations and provisions currently. As such, we are seeking to prepare and submit the New City Plan by June 2025 under the current plan-making system to avoid such risks and uncertainty.

Figure 1. New City Plan programme 2023-2025

		J	F	M	A	M	J	J	A	S	O	N	D
2023	Local Plan Stages	Ambition & Objectives consultation								Pre-Regulation 18 engagement			
		Evidence preparation											
2024	Local Plan Stages							Regulation 18 consultation					
		Evidence preparation						Update and finalise evidence					
2025	Local Plan Stages		Regulation 19 consultation			S							
		Update and finalise evidence											

3. Implications of the decision

Financial	Yes	Human rights, equalities, diversity	Yes
Legal	Yes	Policies or Council Plan	Yes
Communication	No	Procurement	No
Energy Efficiency	No	Workforce	No

a) Financial implications

The creation of the New City Plan to replace Plan:MK and the preparation of other associated local plan documents will be undertaken primarily by the Development Plans team and, where possible, utilising in-house staff resources. However, many technical studies require expertise to be commissioned and other Council teams to lead, or contribute to, them. Updating the evidence base for the creation of the New City Plan will require significant additional resources to be committed to enable the revised plan to be prepared. The cost of this evidence work, which also supports the preparation and delivery of related strategies and projects, was estimated to be around £3.5m and was allocated in the 2020 Council budget (Annex W). Despite extending the programme there is no requirement to increase the budget as the New City Plan is still expected to be delivered within budget.

b) Legal implications

We are required to prepare an LDS in accordance with the requirements of section 15 of the Planning and Compulsory Purchase Act 2004 (as amended). It requires the LDS to be revised at such times as the Local Planning Authority considers appropriate.

Section 19 of the Planning and Compulsory Purchase Act 2004 (as amended) requires Local Plans to be prepared in accordance with the LDS. Therefore, it is vital that the LDS is updated to ensure the review of Plan:MK is found to be legally compliant.

Regulation 34 of the Town and Country Planning (Local Planning) (England) Regulations 2012 confirms that progress on the production of planning policy documents against the LDS must be reported in the Authority Monitoring Report which is published annually.

It should be noted that the timetable shown in the LDS would depart from the requirement set in Policy DS0 of Plan:MK to submit a new plan by the end of 2022. A consideration of the risks associated with this were set out in the Delegated Decision report accompanying the current LDS in March 2022. These are summarised below. It should be noted that no subsequent challenges to the 2022 LDS or decisions to refuse planning permission on the grounds that Plan:MK is out of date have arisen.

- There are no legal avenues under planning legislation to challenge the publication of an LDS which deviates from Policy DS0 of Plan:MK.

- There is a risk that a decision to refuse planning permission based upon policies within Plan:MK might be appealed on the grounds that those policies are out of date. However, case law demonstrates that considering whether policies within a Development Plan are up to date, or not, is a matter of planning judgement and conformity with the National Planning Policy Framework (NPPF). It is considered that Plan:MK would still be in conformity with the NPPF despite publishing a Local Development Scheme that deviates from Policy DS0.
- There is a risk, as with all decisions made by public bodies, that the decision could be challenged via a judicial review. On such a challenge a judge would be concerned with whether the decision-making process itself was unlawful and not the outcome of the decision. The risk of this is considered to be small, due to the fact that the challenge would need to be brought by someone who has a 'sufficient interest' in the decision; a person who has been affected by the particular decision, action or failure to act of a public body.

c) Other implications

Human rights, equalities, diversity: The planning policy documents referred to in the LDS will have significant implications for equalities and diversity and will need to comply with human rights legislation and will be subject to an equalities impact assessment where appropriate.

Policies or Council Plan: The preparation of the LDS will assist in continuing to deliver the vision, aims and key priorities of the Council Plan 2022-2026. It will also contribute to delivering key Council plans and strategies including, amongst others, the Local Plan and Strategy for 2050.

4. Alternatives

- 4.1 An alternative option would be for the Cabinet Member to decline to publish the LDS attached as an Annex. This is not recommended as the current LDS is out of date.

5. Timetable for implementation

- 5.1 The LDS sets out the planning policy documents that we intend to progress over the next three years, and the timetable for producing them. If agreed, it will be published on our website as soon as reasonably practicable after the call-in period has expired.

List of Annexes

Annex Milton Keynes Local Development Scheme 2023-2025

List of Background Papers

None