

# Executive Report



Delegated Decisions - 19 March 2024

## REVIEW OF LOCAL DEVELOPMENT DOCUMENTS AND DEVELOPMENT BRIEF PROTOCOL

Name of Cabinet Member	<b>Councillor Pete Marland</b> Leader
Report sponsor	<b>Paul Thomas</b> Director of Planning and Placemaking
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Exempt / confidential / not for publication	<b>No</b>
Council Plan reference	<b>G27</b>
Wards affected	<b>All wards</b>

### Executive Summary

To report on the outcomes of a statutory review of the Statement of Community Involvement (SCI), Plan:MK, the Site Allocations Plan Development Plan Document (DPD), the Waste DPD, and the Minerals Local Plan. These are all classified as Local Development Documents and, in accordance with Regulation 10a of the Town and Country Planning (Local Planning) Regulations 2012, we must undertake the review every five years and recommend actions accordingly. The report also includes a review of the current Development Brief Protocol and recommends changes to its operation.

#### 1. Proposed Decisions

- 1.1 That, further to completion of the reviews, following consideration in accordance with Regulation 10a of the Town and Country Planning (Local Planning) Regulations 2012, it be noted:
  - (a) Plan:MK (2019), the Site Allocations Plan DPD (2018) and Statement of Community Involvement (2020) are up to date and consistent with national planning policy; and

- (b) a New City Plan is being prepared to replace Plan:MK and the Site Allocations Plan DPD, as outlined in the Local Development Scheme (2023).
- 1.2 That an updated Statement of Community Involvement (attached at **Annex G**) be agreed with the following amendments:
- (a) removal of 'Annex A Planning Policy Consultation during COVID-19'; and
- (b) factual changes to reflect national planning policy references.
- 1.3 That a formal update of both the Minerals Local Plan (2017) and Waste DPD (2008) be commenced.
- 1.4 That, in respect of the Protocol on preparing Development Briefs for MKDP and other Council owned sites:
- (a) the issues set out in **Annex H** be noted; and
- (b) authority be delegated to the Director of Planning and Placemaking, in consultation with the Leader of the Council), to revise and republish the protocol, reflecting a voluntary process that is led by the landowner.

## 2. Why is the Decision Needed

### Local Development Documents

- 2.4 Regulation 10a of the Town and Country Planning (Local Planning) Regulations 2012 require Local Plans and the SCI, known as Local Development Documents, to be reviewed every five years. For us this comprises:
- SCI, last adopted July 2019
  - Plan:MK, adopted March 2019
  - Site Allocations Plan, adopted July 2018
  - Minerals Local Plan, adopted July 2017
  - Waste Development Plan Document, adopted February 2008
- 2.5 Legislation requires a review of these documents to conclude whether they are considered up to date, or whether they require updating and replacing (in whole or in part).
- 2.6 The review of the SCI has concluded that **Annex A**, which contains moribund guidance on how we will consult with the community during social restrictions that were in force during the COVID-19 pandemic, should be removed. This was anticipated when agreeing to publish the SCI in July 2020 as noted in the decision sheet at the time<sup>1</sup>. The review has also concluded that factual

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<sup>1</sup><https://milton-keynes.moderngov.co.uk/CeConvert2PDF.aspx?MID=2123&F=Decisions%20-%20Delegated%20Decisions%2021%20July%202020.pdf&A=1&R=0>

references to national planning policy, which has been changed since the SCI was last adopted, require updating. The remainder of the SCI is up to date and fit for purpose. As these are minor changes, consultation on them before they are made is not required.

- 2.7 For the local plans listed above, their review has been carried out using the Planning Advisory Service's Local Plan Review Assessment Toolkit. This toolkit is widely accepted as representing best practice in reviewing local plans under the Town and Country Planning (Local Planning) Regulations 2012. A further step in the review process has been carried out to capture relevant changes to the National Planning Policy Framework in December 2023 and National Planning Policy for Waste. In summary, the conclusion of the assessment is that Plan:MK and the Site Allocations Plan DPD are up to date for decision-making. However, we have already committed to replacing them with the New City Plan, which is due to be submitted for examination in public by June 2025 and is an important element in delivering the Strategy for 2050.
- 2.8 In respect of the Waste DPD and Minerals Local Plan, it is concluded that both should be updated and replaced following the statutory steps set out under legislation and national planning policy. It is important to acknowledge that, whilst an update is required, the majority of the policies contained within them are still considered to be up to date for decision making on planning applications. Following the review, further work to agree a preferred way to update and replace the Waste DPD and Minerals Local Plan will be undertaken and reported back through an updated Local Development Scheme (via a Delegated Decision). This will also include scoping of technical work required to inform the update of the Minerals Local Plan.

#### Development Brief Protocol

- 2.9 The original Protocol for preparing and adopting development briefs was initially approved by Delegated Decision on 16 April 2013<sup>2</sup> and revised on 13 January 2015<sup>3</sup>. It requires briefs to be prepared for MKDP and MKCC sites over 10 homes/ 0.5 hectare for residential sites and 1000m<sup>2</sup>/ 1 hectare for other development (or 5 hectares for employment sites that are to be delivered for employment).
- 2.10 A review of the Protocol and role of development briefs has been completed (see **Annex H**) and identified several issues. As they are not adopted as Supplementary Planning Documents, the briefs are afforded very limited weight in terms of a material planning consideration for decision making. Additionally, most strategic sites within Plan:MK include a policy requirement to prepare a Development Framework Supplementary Planning Document, and this is likely to continue through the New City Plan.

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<sup>2</sup><https://milton-keynes.moderngov.co.uk/Data/Delegated%20Decisions/201304161730/Agenda/SCHEDULE%20AND%20REPORTS%20.pdf>

<sup>3</sup><https://milton-keynes.moderngov.co.uk/CeListDocuments.aspx?Committeed=154&MeetingId=1940&DF=13%2f01%2f2015&Ver=2>

- 2.11 The value of preparing a development brief, which can be a lengthy process, is often extremely limited. Therefore, it is proposed to amend the Protocol to clarify that a development brief will be prepared when requested by the landowner (MKDP or MKCC). This will enable us to respond to any site-specific circumstances or constraints that would benefit from further assessment.

### 3. Implications of the Decision

Financial	Y	Human rights, equalities, diversity	
Legal	Y	Policies or Council Plan	
Communication		Procurement	
Energy Efficiency		Workforce	

#### (a) Financial Implications

Updating and adopting a new Minerals Local Plan will require a budget for technical work and engagement. A scoping exercise will be undertaken to establish exactly what is required. Budget has already been allocated in the 2020/21 Council budget for the New City Plan that would replace Plan:MK and the Site Allocations Plan and Waste DPDs.

#### (b) Legal Implications

The review of Local Development Documents set out above satisfies the requirement under Regulation 10a of the Town and Country Planning (Local Planning) Regulations 2012 until March 2029. It concludes that Plan:MK and the Site Allocations Plan DPD are up to date for decision-making without requiring any changes to them. Subject to minor changes, the SCI is also considered to be up to date and fit for purpose.

Whilst the Waste DPD and Minerals Local Plan are considered to require an update, this does not mean they are out of date or not fit for purpose in terms of making decisions on relevant planning applications. Policies within both plans should still be attributed weight in decision-making taking into account the wider Development Plan and their consistency with national planning policy.

### 4. Alternatives

#### Local Development Documents

- 4.4 Do Nothing - in respect of Plan:MK, the Site Allocations Plan DPD and the Waste DPD, a decision under Regulation 10a of the Town and Country Planning (Local Planning) Regulations 2012 is a formality as we have already agreed to update and replace these Local Development Documents through previous Delegated Decisions on the Local Development Scheme. However, doing nothing to formally satisfy Regulation 10a may open the authority to a legal challenge. Similarly, doing nothing to satisfy Regulation 10a in relation to the Minerals Local Plan could open the authority to a legal challenge.

- 4.5 In respect of the SCI, the Inspector appointed to examine the New City Plan will assess whether the New City Plan was prepared in accordance with an up-to-date SCI at the time of its preparation. If we do not publish a revised SCI with the minor changes outlined above, there is a risk that future consultation on the New City Plan would not satisfy this legal test meaning the New City Plan would fail Examination in Public.

#### Development Brief Protocol

- 4.6 Do Nothing - there is nothing in the current MKDP governance to compel a continuation of the Protocol. The length and complexity of the process will also continue to maintain a public level of expectation of the weight of the documents in planning decisions, which is not matched by reality.
- 4.7 Revoke the Protocol in its Entirety - there is still value in producing development briefs for commercial purposes and it can assist in the pre-application process, particularly where development proposals are more speculative in nature and there are potentially significant planning policy constraints.

## 5. Timetable for Implementation

- 5.4 The SCI will be modified and published on the Council website following the Delegated Decision. The outcome of the review of Plan:MK, Site Allocations Plan DPD, Waste DPD and Minerals Local Plan will also be published on the website.
- 5.5 Further work to agree the scope for the Minerals Local Plan update, and whether this should be combined with the Waste DPD update, will be undertaken. This will be reported back through an update to the Local Development Scheme when this is published alongside the Delegated Decision in June 2024 to consult on a draft Regulation 18 New City Plan.

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## List of Annexes

Annex A	PAS Local Plan Route Mapper Toolkit: Local Plan Review Assessment Plan:MK/Site Allocations Plan DPD Part 1
Annex B	PAS Local Plan Route Mapper Toolkit: Local Plan Review Assessment Plan:MK/Site Allocations Plan DPD Part 2
Annex C	PAS Local Plan Route Mapper Toolkit: Local Plan Review Assessment Waste DPD part 1
Annex D	PAS Local Plan Route Mapper Toolkit: Local Plan Review Assessment Waste DPD Part 2
Annex E	PAS Local Plan Route Mapper Toolkit: Local Plan Review Assessment Minerals Local Plan Part 1

Annex F	PAS Local Plan Route Mapper Toolkit: Local Plan Review Assessment Minerals Local Plan Part 2
Annex G	Updated Statement of Community Involvement 2024
Annex H	Development Briefs and Protocol Review

## List of Background Papers

[National Planning Practice Guidance](#)

[Town and Country Planning \(Local Planning\) Regulations 2012 \(as amended\)](#)

[Delegated Decision July 2020](#)