

Meeting: Cabinet

Date: 16 June 2020

Wards Affected: All

Report Title: Torbay Local Development Scheme

Is the decision a key decision? No

When does the decision need to be implemented? June 2020

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Director/Assistant Director Contact Details: David Edmondson – Assistant Director Planning, Housing and Climate Emergency

1. Purpose of Report

- 1.1 The Local Development Scheme (LDS) is a statutory document that the Council has to have in place. It is a public statement of the programme that the Council intend to take forward to deliver the Local Plan for the area. A copy of the proposed LDS is attached at Appendix 1. This Report is to inform Members of the updated LDS which sets out the anticipated timeframe for the Local Plan review.
- 1.2 A review of the Torbay Local Plan (2012 to 2030) adopted in December 2015 is needed to conform with the requirements set out in the updated National Planning Policy Framework (2019) paragraph 33 which states: '*Policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary.*' Reviews at least every five years are a legal requirement for all local plans.
- 1.3 A Local Development Scheme is required under section 15 of the Planning and Compulsory Purchase Act 2004 (as amended by the Planning Act 2008, the Localism Act 2011 and the Housing and Planning Act 2016). The Torbay Local Development Scheme 2017 was last published in March 2017 (see references section). This must specify (among other matters) the timetable for the preparation and revision of the development plan documents. It must be made available publicly and kept up-to-date. The Torbay Local Development Scheme (LDS) will set out the following information:
 - The documents that make up the development plan for the local authority;
 - The documents that will be produced in order to maintain an up to date plan led system (explaining who, how and when they will be produced, as well as their status);
 - The purpose of, geographical extent and relationships between these documents, explaining how they will provide the framework for considering the long term social, economic, environmental and resource impacts of

development proposals.

- 1.4 The LDS itself is not subject to consultation. It will be published to indicate how the Local Plan review process will commence. A refreshed Statement of Community Involvement will also be prepared to set out the Council's approach to community involvement in the Local Plan preparation process. Engagement will take place with Members, stakeholders in the production of planning policy documents where appropriate. This report sets out the content of the LDS publication and seeks Cabinet's agreement to a revised Local Development Scheme including an updated timetable for the review of the Local Plan.

2. Reason for Proposal

- 2.1 The Council has a statutory duty to prepare, monitor and review its planning policy documents through the Local Development Scheme (LDS). The LDS establishes a work programme to produce Torbay Council's Local Plan. The Council has a statutory duty to review the Local Plan; failure to review can leave the Council open to direct intervention and loss of control over the plan making process.
- 2.2 The Torbay Local Plan 2012-2030 – 'A landscape for success' was adopted by the Council on 10th December 2015 and since this time the community has prepared three Neighbourhood Plans for Torquay, Paignton and Brixham Peninsula covering 100% of the landmass of Torbay. These Neighbourhood Plans have been independently Examined (Spring/Summer 2018) and Adopted (June 2019) and now also form part of the Development Plan. Nevertheless, the Council has a statutory duty to carry out a review of the Local Plan documents (as discussed below in more detail) within the first five years (i.e. December 2020).
- 2.3 The timetable for the Review is set out in the LDS. The LDS reflects the work necessary on the Local Development Documents to undertake this review. Members will continue to have an important role in both reviewing the issues arising but also the approach to be taken to progress the review of the Local Plan. The current LDS contains the following, ambitious key milestones and dates in plan preparation:
 - Pre-Submission (draft plan) consultation Winter 2020
 - Submission of plan to Secretary of State Summer/Autumn 2021
 - Examination in Public Spring 2022
 - Adoption Spring 2024

3. Recommendation(s) / Proposed Decision

- 3.1 That the Local Development Scheme (LDS) be approved as per the details in Appendix 1 to this report and delegate authority to the Assistant Director Planning, Housing & Climate Emergency in consultation with the Cabinet Member for Infrastructure, Environment and Culture, to make any final minor editorial and typographical revisions to the document including any necessary to reflect the Cabinet's discussions and decision.

Background Documents

Torbay Local Development Scheme 2017

<https://www.torbay.gov.uk/council/policies/planning-policies/local-plan/local-development-scheme/>

Supporting Information:

1. What is the proposal / issue?

- 1.1 Preparation of a Local Development Scheme and Local Plan are statutory requirements pursuant to the Planning and Compulsory Purchase Act 2004 and Town and Country Planning (Local Planning) (England) Regulations 2012.
- 1.2 There is a duty to ensure that a Local Development Scheme is maintained as an up to date document.
- 1.3 The LDS establishes a work programme to produce Torbay Council's Local Plan. The Council has a statutory duty to review the Local Plan; failure to review can leave the Council open to direct intervention and loss of control over the plan making process.

2. What is the current situation?

- 2.1 There is no direct budgetary implication with the preparation of the LDS itself, however the LDS does set out the timetable and resource implications for the preparation of the Development Plan Documents.

3. What options have been considered?

- 3.1 A local development scheme is required under section 15 of the Planning and Compulsory Purchase Act 2004 (as amended by the Planning Act 2008, the Localism Act 2011 and the Housing and Planning Act 2016). This must specify (among other matters) the local development documents which are to be development plan documents, the subject matter and geographical area to which each development plan document is to relate, and the timetable for the preparation and revision of the development plan documents.
- 3.2 It must be made available publicly and kept up-to-date. It is important that local communities and interested parties can keep track of progress. Local planning authorities should publish their local development scheme on their website.
- 3.3 This report sets out the recommended LDS approach.
- 3.4 The Council has a statutory duty to review the Local Plan; failure to review a Local Plan can leave the Council open to direct intervention and loss of control over the plan making process.

4. What is the relationship with the priorities within the Partnership Memorandum and the Council's Principles?

- 4.1 Torbay Council's new administration is committed to greater engagement of, and involvement with communities. The Council's Local Plan helps support all corporate objectives in the emerging Community and Corporate Plan

5. How does this proposal/issue contribute towards the Council's responsibilities as corporate parents?

- 5.1 The LDS in itself will not directly affect the Council's role as corporate Parents however the Local Plan review will enable the Planning Authority to assess it's Local Plan policies and allocations to ensure that provision of sufficient educational,

care, housing and play facilities are proposed and that Policies have been informed by Children's Services and are developed to be inclusive to benefit children and positively impact on their outcomes. A full Sustainability Appraisal (SA) must be carried out as part of the Local Plan process. The SA looks at social, environmental and economic impacts in detail and is scrutinised at the Local Plan examination by an independent inspector. The Council will also undertake a Equality Impact Assessment (EIA).

6. How does this proposal/issue tackle poverty, deprivation and vulnerability?

6.1 The LDS in itself will not directly affect poverty, deprivation and vulnerability, however the Local Plan review will enable the Planning Authority to assess its Local Plan policies and allocations to ensure that provision that policies have been assessed and developed to be inclusive to tackle issues of deprivation and inequalities.

6.2 A full Sustainability Appraisal (SA) must be carried out as part of the Local Plan process. The SA looks at social, environmental and economic impacts in detail and is scrutinised at the Local Plan examination by an independent inspector. The Council will also undertake a Community Impact Assessment (EIA).

7. How does the proposal/issue impact on people with learning disabilities?

7.1 The LDS in itself will not directly affect people with learning disabilities, however the Local Plan review will enable the Planning Authority to assess Local Plan policies and allocations to ensure that provision that policies have been assessed and developed to be inclusive to provide opportunities and tackle issues people with learning disabilities.

7.2 A full Sustainability Appraisal (SA) must be carried out as part of the Local Plan process. The SA looks at social, environmental and economic impacts in detail and is scrutinised at the Local Plan examination by an independent inspector. The Council will also undertake a Community Impact Assessment (EIA).

8. Who will be affected by this proposal and who do you need to consult with? How will the Council engage with the community? How can the Council empower the community?

8.1 It is not proposed to consult on this decision. However, the preparation of Development Plan Documents has to conform to a statutory consultation and public /examination process. A refreshed Statement of Community Involvement will also be prepared to set out the Council's approach to community involvement in the Local Plan preparation process. Engagement will take place with Members, stakeholders and Neighbourhood Forums in the production of planning policy documents where appropriate.

9. What are the financial and legal implications?

9.1 The LDS sets out the timetable for the Local Plan review. The Local Plan review timetable has resource implications for officers. The Strategic Planning Team resource is equivalent to 1.5 seniors and 1 officer and a Team Leader FTE for Development Plan work (two vacant posts are currently being advertised at the time of this report).

- 9.2 The Local Plan has a budgeted allocation, however this has been reduced and is unlikely to cover the required expenditure. The Local Plan Review is likely to necessitate an evidence base update and such evidence gathering and reports (housing needs assessment, retail needs assessment, strategic flood risk assessments etc). Where possible, evidence base work is undertaken jointly with other authorities to ensure cost is optimised (through economies of scale); however, the need for evidence base may also necessitate external consultants with associated costs. Any examination of Local Plan will also have associated costs (currently timetabled for 2022/2023).
- 9.3 The Torbay Local Plan (2012-2030) was adopted in 2015. Reviews at least every five years are a legal requirement for all local plans (Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012). The LDS will set out the timetable for the Local Plan Review.

10. What are the risks?

- 10.1 The key risk is that the Local Plan is found to be 'out of date' or a reviewed Local Plan 'unsound' by an Inspector at Public Examination. To avoid this, the Council must ensure that the Plan complies with Government policy and is founded on robust evidence, particularly on infrastructure, and follow all statutory and local requirements, including on public consultation.
- 10.2 The Local Plan review is not only a legal requirement but critical to evidencing how the Local Planning Authority can achieve a five-year supply of housing land which is important to ensure that Council is able to control development appropriately and the planning decisions are plan-led.
- 10.3 Any review of the plan will need to ensure that if submitted, it is appropriately supported and justified by evidence then the Plan. If not be found sound, the Council would have to restart plan making, incurring further time and cost to the process. Risks emerging from recent examinations include insufficient evidence demonstrating the delivery of infrastructure to support growth and Councils not satisfying requirements under the Duty to Cooperate. Therefore, the LDS should set out how the Council plans to review the key Development Plan Document and the likely timing and resources associated with this process.

11. Public Services Value (Social Value) Act 2012

- 11.1 Not applicable.

12. What evidence / data / research have you gathered in relation to this proposal?

- 12.1 Views have been sought from officers in drawing up the timetable for the Local Plan Review contained in the LDS in Appendix 1.

13. What are key findings from the consultation you have carried out?

- 13.1 Not applicable.

14. Amendments to Proposal / Mitigating Actions

- 14.1 Not applicable.

Equality Impacts

15.	Identify the potential positive and negative impacts on specific groups		
	Positive Impact	Negative Impact & Mitigating Actions	Neutral Impact
Older or younger people			The LDS in itself will not directly impact, however the Local Plan review will enable the Planning Authority that policies can be assessed and developed to be inclusi
People with caring Responsibilities			The LDS in itself will not directly impact, however the Local Plan review will enable the Planning Authority that policies can be assessed and developed to be inclusi
People with a disability			The LDS in itself will not directly impact, however the Local Plan review will enable the Planning Authority that policies can be assessed and developed to be inclusi
Women or men			The LDS in itself will not directly impact, however the Local Plan review will enable the Planning Authority that policies can be assessed and developed to be inclusi
People who are black or from a minority ethnic background (BME) <i>(Please note Gypsies / Roma are within this community)</i>			The LDS in itself will not directly impact, however the Local Plan review will enable the Planning Authority that policies can be assessed and developed to be inclusi
Religion or belief (including lack of belief)			The LDS in itself will not directly impact, however the Local Plan review will enable the Planning Authority that policies can be assessed and developed to be inclusi
People who are lesbian, gay or bisexual			The LDS in itself will not directly impact, however the Local Plan review will enable the Planning Authority that policies can be assessed and developed to be inclusi

	People who are transgendered			The LDS in itself will not directly impact, however the Local Plan review will enable the Planning Authority that policies can be assessed and developed to be inclusive
	People who are in a marriage or civil partnership			The LDS in itself will not directly impact, however the Local Plan review will enable the Planning Authority that policies can be assessed and developed to be inclusive
	Women who are pregnant / on maternity leave			The LDS in itself will not directly impact, however the Local Plan review will enable the Planning Authority that policies can be assessed and developed to be inclusive
	Socio-economic impacts (Including impact on child poverty issues and deprivation)			The LDS in itself will not directly impact, however the Local Plan review will enable the Planning Authority that policies can be assessed and developed to be inclusive
	Public Health impacts (How will your proposal impact on the general health of the population of Torbay)			The LDS in itself will not directly impact, however the Local Plan review will enable the Planning Authority that policies can be assessed and developed to be inclusive
16.	Cumulative Impacts – Council wide (proposed changes elsewhere which might worsen the impacts identified above)	The LDS in itself will not directly impact, however the Local Plan review will enable the Planning Authority that policies can be assessed and developed to be inclusive and cumulatively have a positive impact.		
17.	Cumulative Impacts – Other public services (proposed changes elsewhere which might worsen the impacts identified above)	The LDS in itself will not directly impact, however the Local Plan review will enable the Planning Authority that policies can be assessed and developed to be inclusive and cumulatively have a positive impact.		