

Decision Date – 27th June 2024

Key Decision – Yes

Mendip Local Plan Part II Limited Update: Publication and Submission

Executive Member(s): Councillor Ros Wyke, Lead Member for Economic Development, Planning and Assets

Local Member(s): All Members in the former Mendip (Somerset East) Plan Area

Lead Officer: Alison Blom-Cooper - Head of Planning/Chief Planning Officer

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1. Summary

- 1.1 To agree the publication of the submission version of the Limited Update to the Mendip Local Plan Part II and supporting documents for a 6 week period as required by the regulations prior to submission to the Planning Inspectorate for examination. This is the next stage in progressing the outcome of the Judicial Review decision and High Court directions to review and re-consider allocated sites. The Court agreed to a revised timetable in the Order in February 2024 which directs that publication must take place by 30 June 2024 and submission by the end of September 2024.
- 1.2 This report summarises the responses made to the Limited Update Regulation 18 consultation document which was agreed by this Committee on 14 February 2024. The report recommends agreement to a submission version of the Limited Update and that following the publication period, these are submitted to the Planning Inspectorate for Independent Examination, alongside representations received from interested parties. Representations made at this stage in the process can only relate to legal compliance or soundness.
- 1.3 The timescales agreed with the High Court require an expedited process to submission. This does not allow time for a review or revisions in response to representations. The submission document represents the version the Council will submit for Independent Examination. The submission policies document is at Appendix 2.

1.4 A Consultation Statement which summarises the responses received through the Regulation 18 consultation and the officer recommended response to them is included at Appendix 1. This statement will be updated following the publication period and will summarise the issues raised at Regulation 19. This statement is provided to the Planning Inspectorate alongside the submitted representations.

1.5 Drafts of the statutory environmental assessments and compliance documents are contained in the following appendices to this report

Appendix 3: Sustainability Appraisal (SA) Report

Appendix 4: SA Findings – towns

Appendix 5: SA Findings – villages

Appendix 6: SA Findings – new and revised sites

Appendix 7 Duty to Co-operate Statement

Appendix 8 Equalities Statement

1.6 A full list of the documents which support the publication stage are shown in Table 4 (Para 20). This includes the Habitat Regulations Assessment report, Site Assessment evidence and summary of site options.

2 Recommendations

2.1 The Planning and Transport Policy Executive Sub-Committee:

- (a) Note the responses made to the Limited Update Regulation 18 consultation document as summarised in the Consultation Statement in Appendix 1 and changes proposed to supporting technical and other documents;
- (b) Agrees the Sustainability Appraisal and compliance reports appended to this document;
- (c) Agrees the Mendip Local Plan Part II Limited Update (submission version) at Appendix 2 and that this is published for a period of six weeks from 28 June 2024 to 9.00am on 12 August 2024 in accordance with Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012;
- (d) Agrees that any changes necessary to the publication documents following this meeting are delegated to the Head of Planning in conjunction with the

Lead Member for Economic Development, Planning and Assets in order to expedite the Regulation 19 publication stage and submission;

- (e) Agrees that following the conclusion of the Regulation 19 publication period, the Limited Update be submitted to the Secretary of State for Independent Examination under section 20 of the Planning & Compulsory Purchase Act 2004, together with the submission documents prescribed by Regulation 22 of the 2012 Regulations (including representations received relating to legal compliance and soundness) before 30 September 2024.
- (f) Agrees that officers provide updates to this Committee on progress to submission and the examination stages of the Limited Update.

3 Reasons for recommendations

- 3.1 To comply with the requirements of the High Court Order specified above and relevant legislation associated with the production and update of development plans.

4. Other options considered

- 4.1 There are no alternative options. There is a significant risk to defer a decision or delay publication as the Council would be at risk of breach of the High Court Order.
- 4.2 It is recognised that in order to meet the High Court order the consultation period will need to commence during a short period where Council pre-election restrictions (due to national elections) are in place. Advice from Legal Counsel has been sought which indicates that the Council should not defer consultation. Consideration has also been given to the fact that the scope of the update is limited and that Regulation 19 allows for submission of representations which will be considered by a planning inspector in due course.

5. Links to Council Plan (2023-27) and Medium-Term Financial Plan

- 5.1 Following the Judicial Review, the directions from the High Court allow for the policies/allocations in the Mendip Local Plan Part II (save for the 505 dwellings) to remain as adopted and to continue to be used as part of the

development plan in the determination of planning applications. Retention of the extant planning framework for the Somerset East area supports sustainability, housing and economic development priorities in the Council Plan. The Council will also build on the evidence base from this exercise in the preparation of the Somerset wide Local Plan.

- 5.2 The Limited Update of the Plan is expected to be completed in the 2024-5 financial year, although adoption of the policies for additional sites will depend on the timescales for holding an examination and receipt of reports from the planning inspector.

6. Financial and Risk Implications

- 6.1 The Local Plan Part II Limited Update has an agreed allocation from the Planning Services budget of £214,500 for 2024-25 to allow for the further work and cost of the independent examination, which is the responsibility of the Council. DAC Planning, which is assisting the policy team, has a capped budget.
- 6.2 Officers have not identified any significant additional expenditure not included in the budget. The main costs before submission include legal and expert advice. A wider review of the evidence base is not considered necessary or proportionate and is being progressed in the Somerset Plan.
- 6.3 Witness statements from senior officers, including the Council's s151 officer, were provided to the High Court to make the case to vary the timetable set out in the Order. This required assurances that expenditure on the Limited Update is not subject to review as part of the financial emergency and a waiver will be applied to the use of the agreed budget to ensure the timetable set by the Court is met.
- 6.4 The main cost will be the examination of proposals by the Planning Inspectorate (PINS). This is difficult to estimate at this stage as the duration of the hearing will depend on the approach of the appointed Inspector and the scope and nature of representations received. The focus will be the Council proposals and not a detailed review of alternative (omission) sites.
- 6.5 The Council will also need to provide a part-time administrative assistant to the Inspector (programme officer) to be in place before submission. This can be an internal secondment (but not from the policy team) or appointed externally.

6.6 It should be noted that the examination process starts on submission. However, timings discussed with the Planning Inspectorate indicate examination hearings are more likely to take place in early 2025. Officers will be seeking a shorter timescale if possible.

Risk Assessment

Mendip Local Plan Review – site allocations Review					
Likelihood	4	Impact	4	Risk Score	20

6.7 Failure to progress the Local Plan Part II Limited Update in accordance with the deadlines as directed High Court engages significant legal and reputational risk to the Council. Recommendations in this report relate to publication of the Submission version of the Limited Update which will mitigate risk.

6.8 Officers have been working with DAC Planning to address both practical and technical risks associated with the Limited Update. The range of actions to reduce risk include:

- Development and maintenance of a risk register (covering compliance with legal requirements, national planning policy, examination matters)
- Critical review of responses and consultation documents
- Support for meetings with PINS and legal counsel, and to the policy team in production of documents
- Advice on interpretation of the High Court directions in relation to the Review
- Ensuring that the update process is legally compliant
- Testing to ensure the Sustainability Appraisal process is clear and robust, and that reasonable alternatives are adequately identified as assessed as part of the process
- Considering changes to the NPPF and impact on the process
- Ensuring that the tests of soundness for development plan production are met – particularly that proposed site allocations will be deliverable and are justified by proportionate evidence

Planning Inspectorate Advisory Meeting

6.9 A second advisory meeting was held with two Inspectors on 2 May 2024 to discuss their likely approach to examination and soundness. They gave a clear steer that the narrow scope of the Limited Update, as defined by the Court Order and set out in

the Local Development Scheme, would form the parameters of the Independent Examination. It was clarified that the examination would focus on the deliverability of proposed allocations with the submission material being succinct, and that modifications to the Local Plan Part II are unlikely to be required.

Legal Implications

- 6.10 The Council is required to comply with the directions of the Court Order which is covered in the Executive report of 10 July 2023.
- 6.11 The Council must follow the statutory requirements for consultation on development plans which are set out in the Town & Country Planning (Local Planning) (England) Regulations 2012 and in the Statement of Community Involvement.
- 6.12 The approach, work to date and consultation documents have been reviewed with Counsel. No major concerns with scope and approach were raised, although it was clear that the Council will need to robustly justify its deliverability assumptions.

7. HR Implications

- 7.1 There are no HR implications.

8. Equalities Implications

- 8.1 There are no direct equalities implications arising from the recommendations. An equalities impact assessment of the Limited Update will form part of the documents submitted for examination.

9. Community Safety Implications

- 9.1 There are no immediate community safety implications.

10. Climate Change and Sustainability Implications

- 10.1 The site-selection methodology, draft policies and sustainability appraisal have a strong focus on environmental impacts. Mitigation/adaption is embodied in the site selection process. The plan process has engaged with statutory environmental bodies.

11. Health and Safety Implications

11.1 There are no health and safety implications from the report.

12. Health and Wellbeing Implications

12.1 There are no immediate health and wellbeing implications from the report. Health and wellbeing form part of sustainable development considerations in the site assessments.

13. Social Value

13.1 This is not directly applicable to the recommendation to publish site options. Social value is secured through the policy requirements and development management processes where possible.

14. Scrutiny Comments / Recommendations

14.1 The proposed decision has not been considered by Scrutiny Committee but has engaged with Somerset East Members throughout.

15. Background Papers

- Executive - 10 July 2023 Item 8: Mendip Local Plan - Variation to Order of 16/12/22 [Link](#)
- Planning and Transport Policy Sub-committee - 14 February 2024 [Link](#)
- Somerset Council Statement of Community Involvement – October 2024 [Link](#)
- Somerset Council Local Development Scheme - October 2024 [Link](#)

16. Appendices

- Appendix 1: Consultation Statement - June 2024
- Appendix 2: Submission Policies for Publication - June 2024

17. Background

17.1 Following a successful Judicial Review challenge to the Mendip Local Plan Part II 2006-2029, the former Mendip District Council was directed under a High Court Order to undertake a limited review of the Plan. This requires housing sites to be

identified to provide for 505 dwellings and subject to consultation, submission and plan examination.

- 17.2 This report seeks approval for the next stage in the Limited Update which involves the publication of site allocations under Regulation 19 for a 6 week period to allow formal representations on legal compliance and soundness. The publication of the Plan must take place by 30 June 2024 to comply with the Court Order.
- 17.3 The Limited Update was agreed at Somerset Executive on 10 July 2023 with the update confirmed in the Somerset Local Development Scheme (LDS) in October 2023. The scope of the work is limited to addressing the Court Order and does not involve any wider review of the Mendip Local Plan Part I and (post-JR) Part II. This will be addressed through the new Somerset Local Plan which is in preparation.
- 17.4 The Council undertook a call for sites in August 2023, as required by the Court Order, and following detailed site assessment and Sustainability Appraisal, published a draft consultation document (Regulation 18 consultation) for six weeks in February 2024. 164 sites were assessed in the process. The Council also applied to the High Court to vary the timescales in the Order in December 2023 and this was granted on 16 February 2024. It is unlikely the Court would approve further delay.
- 17.5 The Regulation 18 report identified ten proposed housing allocations and represents the Council's re-consideration of sites as required by the High Court. Sites were selected using the adopted housing policies in Local Plan Part I and II (CP1 and CP2) which:
- directs growth to the main towns/primary villages;
 - prioritises brownfield land/sites within development limits over greenfield; and
 - takes into account proportionate growth in smaller settlements.
- 17.6 The Limited Update includes some sites with permission and current applications, taking account of the fact that the legal errors upheld in the JR challenge date back to 2019 after the first examination hearings. Site selection also focused on the prospects for housing delivery by 2029 which is the end of Mendip Local Plan period.
- 17.7 The council applied the same methodology to all sites, irrespective of planning status. The draft identified sites and approach were agreed by this Committee on 14 February 2024.

18. Consultation and responses to draft housing allocations at Regulation 18

- 18.1 The Council consulted on draft site allocations and supporting documents from 28 February to 12 April 2024. Invitations to comment were sent to statutory/general consultees and landowners promoting available sites. The consultation was also promoted through the Plan-IT newsletter and via five online briefings, linked to extensive information on the website and the Council consultation portal.
- 18.2 Full details of the consultation and engagement undertaken is provided in the consultation statement (Appendix 1). It demonstrates the Council has complied with its Statement of Community Involvement.
- 18.3 78 responses were received during the consultation period which are summarised in Table 1.

Statutory Consultees.Agencies	13	
Parish Councils	11	
Other Consultees	53	
Total	78	
Responses made on SA / Scoping Report	12	(4 stat and 8 non-stat)
New sites put forward	4	Land NE of Cook's Lane, Cranmore - LUR18-118 Chapelfield, Oakhill - LUR18-124 (appeal site not included in Reg 18) Land at Model Farm, Milton, Wells (east of Merlin Drive)- LUR18-138 Land west of Cannards Grave (Neighbourhood Plan) site (SHEP092) - LUR18-134
Revised sites promoted	5	West of Anchor Road (COLE033) - LUR18-148 Land south of Chilcompton CHIL052 - LUR18-147 Henley Lane WOOK032, Henley Lane - LUR18-143 Rodden Manor (FRO214M) - LUR18-110 / 111 / 121 / 133 / 152 Old wells Road, Shepton (SHEP013) - LUR18-107 - amended 50 - 75 dwellings

- 18.4 The consultation statement provides a summary of all the responses received, a recommended response from the Council and whether any changes should be made to the Plan. The Council will make available the Regulation 18 responses during the publication period.
- 18.5 The responses received largely relate to assessments of individual sites or policy considerations of the sites identified for allocation. 27 responses (covering around 30 locations) related to omission sites not selected by the Council. The majority of these

dispute the judgements made in the site assessments and sustainability appraisal work.

- 18.6 A small number of additional sites were received promoting amended site boundaries and other corrections relating to deliverability or other impacts. These have been assessed and updates made where necessary as part of the submission plan evidence base.
- 18.7 The common themes in objections made to the site methodology can be summarised as:
- (i) Allocations above the 505 dwellings to address five year supply shortfall in Somerset East;
 - (ii) Including sites with permission as part of the 505 dwelling requirement; and
 - (ii) The deliverability of the allocated sites and assumptions made around delivery.
- 18.8 The Somerset Local Development Scheme (LDS), approved in October 2023, is clear that the scope of this review is limited to identification of sites to provide the 505 dwellings and does not involve a wider update of policies or other adopted designations. This approach also aligns with the advice from the Planning Inspectorate and legal Counsel.
- 18.9 A significant number of alternative sites have been promoted for allocation in the main towns and villages. Officers have reviewed these but do not consider the scope of the update should address wider housing land supply issues, or there is a case to depart from the adopted plan framework as required in the Order. This position also takes into account that a broad review of housing strategy and requirements will come forward as part of the Somerset development plan.
- 18.10 None of the omission sites, when tested against the Councils approach, represent more sustainable or deliverable options when assessed as a whole. It has therefore been concluded that no revisions should be made to the list of sites identified at the consultation stage.
- 18.11 There is one change made to the sites identified from the draft consultation list. The site at Adderwell Road, Frome which is under construction. This has been removed from the draft list of identified sites as it is likely to have been completed prior to adoption of the Limited Update. The minimum of 505 homes to be identified is not affected by this change.

18.12 The consultation statement includes a schedule (at table 2) which lists where corrections or amendments are accepted by the Council. These will be reflected in changes to site assessments and the sustainability appraisal.

Statutory Supporting Documents

18.13 In terms of technical and statutory requirements, no significant revisions are considered necessary to the overall approach taken to the Sustainability Appraisal (SA) and its scoping report. However, these reports have been updated in response to comments from Historic England.

18.14 A Duty to Co-operate compliance statement has been produced which summarises engagement with statutory consultees. Officers have engaged on a regular basis with Bath & NE Somerset (BaNES) Council on the responses to the call for sites which involved land promoted on their boundary. BaNES retains its objections in principle in relation to the conflict with their adopted Plan as well as concerns around the cumulative infrastructure burdens imposed by a neighbouring authority. The Council will seek a Statement of Common Ground to confirm the respective positions of the two Councils. This will form part of the submission documents.

18.15 Somerset Ecology Services undertook a Habitats Regulations Assessment (HRA) of the draft site allocations, and this was published for consultation at Regulation 18. The assessments and conclusions in the HRA are addressed in the submission policies for the identified sites.

19. Site Allocations – Submission Version

19.1 The submission version of the Limited Update to the Mendip Local Plan Part II is provided at Appendix 2. This document lists the sites identified for allocation and sets out individual site allocation policies. These policies would be adopted as updates to the Mendip Local Plan Part II. No further changes are proposed to the adopted Mendip Local Plan Part II. The submission document does not repeat the background to the Limited Update and constraints by settlement or the justification of the draft allocations.

19.2 Site allocation policies follow a similar format to those presented in the adopted Local Plan Part II. This includes a ‘site context’ section (which is supporting text) followed by Policy text (under policy requirements). They include consideration of issues raised in response to the Regulation 18 consultation. As it is not necessary to

repeat NPPF policies, revisions made to national policy, including to topics such as climate change and design, do not need to be reflected in submission policy.

19.3 Officers have recommended to retain nine of the ten sites as proposed allocations which are summarised in Table 2. These are expected to deliver 569 dwellings over the remainder of the plan period and have an overall capacity of 729 dwellings.

19.4 The Council will publish updated evidence on deliverability as supporting evidence to the submission plan.

Table 2: Site Allocations for submission					
Settlement	LPP2 Policy Reference	HELAA Ref	Minimum Dwellings	Total Size Hectares	Delivery 2024-29
Frome					
Land at North Parade Car Park	FR10	FRO227	18	0.41	18
Glastonbury					
Land off Common Moor Drove	GL6	GLAS124	90	7.0	60
Land at Norbins Road	GL7	GLAS122	6	0.2	6
Street					
Land to rear of Crispin Centre	ST5	STR146	40	0.6	40
Land at Brooks Farm	ST6	STR001	120	10.9	80
Wells					
Wells Police Station	WL6	WELLS127	47	0.4	47
Midsomer Norton/ Westfield					
Land at White Post	MN1	NRAD001M	270	12.1	180
Land at Beauchamps Drive	MN4	NRAD008	75	3.4	75
Villages					
Anchor Road, Coleford	CL2	COLE014	63	3.4	63
Total			729	38.31	569

20. Publication Stage - Timescales and Engagement

20.1 The period for formal representations to be made must be a minimum of 6 weeks. In order to comply with the Court Order, the publication period will run from 28 June 2024 with a closing date of Monday 12th August 2024 at 9.00am. The documents to be published and form part of the publication stage are shown in Table 3.

Table 3: Schedule of documents to be published at Regulation 19

	Document	Description/changes from Reg 18
1	Site allocations – submission version document for publication	Appendix 2 to this report – includes policies for the 9 identified sites
2	Consultation Statement	Appendix 1 to this report – summarises engagement, consultation responses and response from the Council
3	Duty to Co-operate Statement	Sets out engagement with statutory consultees
4	Equalities Statement	
Site Assessments and supporting evidence		
5	Deliverability Report	Summarises delivery expectations of the identified sites - <i>replaces the deliverability schedule published as an appendix to reg 18 consultation report</i>
6	Site and Settlement Assessments	Includes updates for new and amended sites, factual corrections and other accepted changes
7	Summary of site options by settlement	Updated to include new or revised sites, planning progress and other accepted changes
Sustainability Appraisal (SA)		
8	SA Scoping Report	Changed in response to Reg 18 comments
9	Main SA Report (Reg 19 version)	Updated to reflect Reg 18 stage
10	SA Findings for Towns	Updates made to reflect new /revised sites and specific issues accepted by the Council
11	SA Findings for Villages	
12	SA Findings – addendum for new and revised sites	
Habitat Regulations Assessment (HRA)		
13	HRA report on proposed sites – version 5	No amendments as original sites retained
Other Supporting Information		
	Reg 18 Consultation Report	Contains the explanation of site selection

20.2 Notification and engagement will be similar to that undertaken for the Regulation 18 stage including notification of statutory consultees for environmental reports. Officers will consider the need for online briefings for Members, Parishes and general

consultees. It will be important to make clear that this stage is an opportunity for representations on legal compliance and soundness to be made for consideration by an independent examination by a Planning Inspector. Because of the timetable imposed by the Court, the Council is not able to make changes before submission.

20.3 A response form for representations will be available (via the consultation portal) which will reflect the format advised by the Planning Inspectorate. Original representations provided during the publication period will form part of the submission documents. The Council will also provide details of respondents and a summary of matters and issues raised. The summary will inform early engagement with the Planning Inspectorate on the examination process.

20.4 A timetable for the Limited Update is shown in Table 4. Timings discussed with the planning inspectorate at the advisory meeting suggested examination hearings are likely in early 2025. Officers will keep this committee and Somerset East members updated on progress and timings. Updates will also be provided via Plan-It newsletters.

Table 4: Mendip Local Plan Part II Limited Update - Timeline

27 June 2024	PTP Exec sub-committee Decision to approve final site allocations report for publication and submission to Secretary of State (SoS).
28 June - 12 August 2024 (no later than 30 th Jun 2024)	Submission Policies - 6 week publication (Regulation 19) Consultees invited to make representations on sites and policies.
August/September 2024	Finalise summary of representations and submission documents. Representations made are collated and submitted with the plan documents to Planning Inspectorate for examination.
By 30 September 2024	Submission to Planning Inspectorate (as recommended in this report).
October-November 2024	Examination process starts with review of submitted documents and appointment of Inspector. Examination dates scheduled.
Early 2025	Examination Hearings.
Spring 2025	Receipt of Inspectors Report and adoption of updates to the Local Plan Part II.

Report Sign-Off

	Officer Name	Date Completed
Legal & Governance	David Clark	13/6/24
Communications	Peter Elliot	7/6/24
Finance & Procurement	Nicola Hix	Notified 6/6/24
Workforce	Dawn Bettridge	N/A
Asset Management	Oliver Woodhams	Notified 6/6/24
Strategy & Performance	Alyn Jones	Notified 6/6/24
Chief Planning Officer	Alison Blom-Cooper	5/6/24
Executive Lead Member	Cllr Ros Wyke	12/6/24
Consulted:		
Local Division Members	N/A	
Opposition Spokesperson	Cllr Mark Healey	Notified 7/6/24
Scrutiny Chair	Cllr Martin Dimery	7/6/26