

TEWKESBURY BOROUGH COUNCIL

Report to:	Council
Date of Meeting:	30 July 2019
Subject:	Pre-Submission Tewkesbury Borough Plan
Report of:	Head of Development Services
Corporate Lead:	Deputy Chief Executive
Lead Member:	Councillor M A Gore
Number of Appendices:	One

Executive Summary:

The Tewkesbury Borough Plan (TBP), as the Borough's second tier plan, is being prepared to complement the Joint Core Strategy (JCS) to provide a framework for development in Tewkesbury Borough to 2031.

The Member Working Group report (attached to this report) seeks Council approval for the publication of the Pre-Submission version of the TBP under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 as the version to be submitted to the Secretary of State for independent examination. This report highlights Officers' support for the contents and recommendation in the Member Working Group report with the exception of the proposed inclusion of site (SHU4): Land south of Badgeworth Lane at Shurdington, and the changes to the Green Belt boundary consequent upon this proposed inclusion.

Recommendation:

That Council

- 1. Having considered the Member Working Group report and Officer advice,**
 - a. determines whether or not site SHU4 should be included within the Pre-submission Tewkesbury Borough Plan.**
 - b. approves the Pre-submission Tewkesbury Borough Plan for publication under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012; the version of the Tewkesbury Borough Plan proposed to be submitted to the Secretary of State for independent examination.**
- 2. Delegates authority to the Head of Development Services, in consultation with the Lead Member for Built Environment, to make any necessary minor amendments prior to;**
 - i. publication of the Pre-Submission Tewkesbury Borough Plan; and**
 - ii. submission of the Tewkesbury Borough Plan for independent examination.**

Reasons for Recommendation:

To agree the Pre-Submission Tewkesbury Borough Plan for publication and submission to examination and enable the Council to progress the TBP to adoption to help meet our identified growth needs.

Resource Implications:

The preparation of the Pre-Submission Tewkesbury Borough Plan has already involved a significant amount of Officer resource from within the Planning Policy team as well as support from the wider Council.

Approval of the document for publication will involve Officer time in undertaking the consultation, organising and advertising the plan, attending consultation events, and analysing responses. The subsequent submission and examination of the plan will require further significant resource in terms of Officer time but also additional financial resource to meet the costs of undertaking the examination.

Legal Implications:

The Council is required to have an up to date local plan (development plan documents) for its area and must prepare it in accordance with legislative requirements, including ensuring the compliance with the Statement of Community Involvement, and must contain a reasoned justification for the policies contained in it.

The development plan for Tewkesbury Borough is made up of the development plan documents which have been adopted or approved in relation to its area and the neighbourhood development plans which have been made in relation to that area.

If to any extent a policy contained in a development plan for an area conflicts with another policy in the development plan the conflict must be resolved in favour of the policy which is contained in the last document to be adopted or made (as the case may be).

Legislation requires that where a development plan document contains a policy that is intended to supersede another policy in the adopted development plan, it must state that fact and identify the superseded policy.

Under Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 before submitting a local plan to the Secretary of State for independent examination the Council must make a copy of all the proposed submission documents and a statement of representations procedure available via: their website; their principal office and such other places within their area as they consider appropriate; for a period of at least six weeks.

The proposed submission documents are to be the local plan which the Council proposes to submit to the Secretary of State; a submission policies map where the local plan if adopted would result in changes to the adopted policies map; a sustainability appraisal report of the local plan; a statement setting out the consultations already undertaken prior to the regulation 19 publication stage; a summary of the main issues raised by those representations and how those main issues have been addressed in the Pre-Submission local plan; and such supporting documents as in the opinion of the local planning authority are relevant to the preparation of the local plan.

The statement of representations procedure must include the date by which representations about the local plan must be received and the address to which representations about the local plan must be made (representations may be made in writing or by way of electronic communications).

In addition to the proposed submission documents, on submission for independent examination the Council must also send a statement setting out as regards the Regulation 19 Pre-Submission publication, the number of representations received in accordance with the representations procedure, copies of those representations and a summary of the main issues raised in those representations.

Risk Management Implications:

Failure to progress the Tewkesbury Borough Plan will have an adverse impact on the Borough's ability to provide sufficient sites for housing and employment growth to meet the requirements set out within the adopted Joint Core Strategy.

While the JCS sets out strategic policies, the Borough Plan is required to provide the locally specific policies and guidance that will help guide and determine proposals for new development in the area. Without these policies the Borough Council is in a weaker position in ensuring that new development is of a high quality, is sustainable and meets our objectives for growth in the Borough, in support of the rural area and in implementing the housing and economic objectives of the Council

The Borough Plan is also critical to identify the smaller-scale site allocations for housing and employment, particularly in the Borough's rural settlements. In regards to housing sites, this is vital to ensure that the Council can maintain a five year supply of land. If the Council cannot demonstrate a five-year supply then its local plan policies may be considered out of date. This could result in a more unplanned approach to development, leading to inappropriate and incremental development being allowed on appeal that does not take account of requirements for supporting infrastructure, with the potential for adverse environmental impacts.

Performance Management Follow-up:

The Pre-Submission TBP will be published for public consultation and subsequently will be submitted to the Secretary of State for an independent examination. The Planning Inspectorate will appoint an Inspector to undertake this examination which will be publicly conducted and will involve public examination hearing sessions. As a result of the examination the Inspector may recommend main modifications be made to the plan in order to make it sound. Any proposed modifications will be brought back to the Council for approval and subject to further public consultation. Ultimately, if the plan is found to be sound by an Inspector then the Council will be in a position to adopt the plan.

Environmental Implications:

The Tewkesbury Borough Plan must go through a sustainability appraisal process and Habitats Regulation Assessment (HRA) which consider the environmental, social and economic outputs of the Plan and ensures that development meets the needs of both present and future generations. The Sustainability Appraisal supporting the Pre-Submission TBP encompasses Strategic Environmental Assessment as required by EU Directive (2001/42/EC). In addition the Habitats Regulations Assessment has been undertaken as required under the European Directive 92/43/EEC on the "conservation of natural habitats and wild fauna and flora for plans" that may have an impact on European (Natura 2000) Sites. The TBP also contains policies to protect and enhance the environment of the Borough.

1.0 INTRODUCTION/BACKGROUND

- 1.1 This report is a covering report and should be read in conjunction with the Tewkesbury Borough Plan Member Working Group report which is attached to this report at Appendix 1. The Member Working Group report sets out the key issues relating to the history, production and assessment of issues in respect of the Plan. Officers agree with the advice in that report except for one issue which is the focus of this report; the removal of a site (SHU4) from the Green Belt at Shurdington and its proposed allocation for housing development.

2.0 OFFICER ADVICE ON WORKING GROUP REPORT

- 2.1 Paragraph 4.15 of the Member Working Group Report states that it is the view of the group that the National Planning Policy Framework (NPPF) allows for a Local Planning Authority (LPA) to remove areas from the Green Belt through the preparation of a local plan in order to meet its identified development needs. While the NPPF does provide this opportunity, the full wording of the NPPF (paragraph 136 and 137) states that:

“Once established, Green Belt boundaries should only be altered where exceptional circumstances are fully evidenced and justified, through the preparation or updating of plans. Strategic policies should establish the need for any changes to Green Belt boundaries, having regard to their intended permanence in the long term, so they can endure beyond the plan period. Where a need for changes to Green Belt boundaries has been established through strategic policies, detailed amendments to those boundaries may be made through non-strategic policies, including neighbourhood plans.

Before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries, the strategic policy-making authority should be able to demonstrate that it has examined fully all other reasonable options for meeting its identified need for development.”

- 2.2 Exceptional circumstances are required to justify the removal of sites from the Green Belt through the plan making process. Furthermore, there is a requirement for the LPA to demonstrate that it has examined fully all other reasonable options for meeting its identified need for development.
- 2.3 Parcels of land at Shurdington are proposed, by the Working Group, to be removed from Green Belt to provide for residential development. The provision of new housing at the village has been highly constrained as it is surrounded by Green Belt. This means that any growth at the village would necessitate removal of land from the Green Belt to facilitate this. Two allocations, SHU1 and SHU2, are considered to present exceptional circumstances as they would enable the delivery of housing at this sustainable settlement identified as a Service Village by the JCS. Furthermore, assessment of these sites has judged that their removal from the Green Belt would result in a low-moderate level of harm and the sites are well related to existing built development at the village.
- 2.4 Further Green Belt removal is included in the plan to provide for a housing allocation at site SHU4: Land south of Badgeworth Lane at Shurdington (with a site area of 6.6 ha and an indicative capacity of 110 dwellings). The Officer advice is that this site should not be included and is unlikely to be considered ‘sound’ at examination as it does not present exceptional circumstances. Assessment for the site deemed its removal to have a moderate harm and it is not as well related to the existing village, forming an extension beyond the current extent of built development. Furthermore, Environmental Health advises against the allocation of SHU4 arising from potential noise and dust associated with the existing aggregates recycling business located adjacent to the site. Strong objections to the proposed allocation of this site have been received from parish councils, local residents and other interest groups.
- 2.5 At paragraph 4.16 of the Member Working Group report it is noted that the Member Working Group considers that Shurdington has an identified housing need of 141 in the JCS plan period 2011-31. Furthermore, the Member Working Group considers that site SHU4 should be allocated as part of the overall proposal, as without it, Shurdington cannot achieve its identified housing need, and the Member Working Group considers that this constitutes exceptional circumstances as defined by the NPPF.

- 2.6 The advice of Officers is that the figure of 141 homes attributed to Shurdington does not constitute an 'identified need' in accordance with paragraphs 136 and 137 of the NPPF and therefore cannot be used to justify exceptional circumstances. The identified need for development at Service Villages is set out through Policy SP2 of the JCS which states that the Service Villages will accommodate in the order of 880 new homes. The 880 is across all of the 12 identified Service Villages and is not broken down to an individual requirement for each settlement.
- 2.7 Through the development of the Tewkesbury Borough Plan, as a means of disaggregating the 880 dwelling need, an 'indicative requirement' was produced for each village based on their size, function and accessibility. This disaggregation process produced a figure of 141 for Shurdington. This process was undertaken as set out through the Preferred Options Housing Background Paper (September 2018) to provide an indication of the level of development that may be accommodated at each village. It does not factor in the constraints that may exist at a given location, nor the availability and suitability of sites. It is therefore recognised that the figures serve only to provide an indication, against which further refined exploration of the potential for growth needs to be considered and that villages may exceed/not meet this indicative figure depending on this. To put it in context, the paragraph 4.7 of the Housing Background Paper states:
- "...it must be stressed that the disaggregation process is only the starting point for considering an appropriate level of development for each rural settlement. In addition to the 'top down' approach of the disaggregation process, there should also be a 'bottom up' element whereby the availability of sustainable sites at each settlement will also be a factor in determining the most appropriate distribution of development. For example, there may be situations where a settlement is unable to achieve its disaggregated requirement due to a lack of suitable, sustainable sites. Conversely, there may also be situations where a settlement can exceed its disaggregated requirement due to suitable, sustainable sites being available at the settlement. This will however need to be balanced alongside the size, function and accessibility of the settlement in order to achieve a sustainable pattern of development and avoid issues associated with social cohesion. This approach is considered to be consistent with the aim of Policy SP2 for the levels of development in the rural settlements to be proportional to their size and function and reflecting their accessibility to Cheltenham and Gloucester (the top down element) and taking into account the environmental, economic and social impacts (the bottom up element)."*
- 2.8 The indicative requirements presented for the Service Villages, and Rural Service Centres, are not set in policy and do not constitute an identified need.
- 2.9 In determining exceptional circumstances as set out by the NPPF, the correct approach is that the identified needs set out through JCS Policy SP2 must be considered. Without SHU4, when added to existing commitments, the other allocations in the plan would cumulatively provide 2,046 homes at the Rural Service Centres and 1,043 at Service Villages. This amount of growth exceeds the minimum requirement of 1860 and 880 homes respectively for those locations through JCS Policy SP2. Therefore, Officers consider that the SHU4 allocation cannot be justified as being required to meet the identified need for development as set out by the NPPF.
- 2.10 Given the lack of exceptional circumstances, the more harmful impact on the Green Belt that would occur through its release, the potential pollution issues and the nature of objection revealed through the consultation, it is recommended that site SHU4 is not included in the Pre-Submission Tewkesbury Borough Plan.

3.0 RELEVANT COUNCIL POLICIES/STRATEGIES

- 3.1 Tewkesbury Borough Council Plan (2016-2020).
Adopted Joint Core Strategy (December 2017).
Adopted Tewkesbury Borough Local Plan to 2011 (March 2006).
Economic Development & Tourism Strategy (2017-2021).
Housing Strategy (2017-2021).

4.0 RELEVANT GOVERNMENT POLICIES

- 4.1 The National Planning Policy Framework.

5.0 RESOURCE IMPLICATIONS (Human/Property)

- 5.1 Approval of the document for publication will involve Officer time in undertaking the consultation, organising and advertising the plan, attending consultation events, and analysing responses. The subsequent submission and examination of the plan will require further significant resource in terms of Officer time but also additional financial resource to meet the costs of undertaking the examination.

6.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)

- 6.1 The Tewkesbury Borough Plan must go through a Sustainability Appraisal/Strategic Environmental Assessment process and Habitats Regulation Assessment, which considers the environmental, social and economic outputs of the Plan and ensures that development meets the needs of both present and future generations.
- The Sustainability Appraisal (integrating Strategic Environmental Assessment; Health Impact Assessment & Equality Impact Assessment) Non-Technical Summary can be viewed here:

https://tewkesburyborough-my.sharepoint.com/:b:/g/personal/website_tewkesburyborough_onmicrosoft_com/ES311ZlunylKjwaUXhn4TTkB8DrbJL9bGRqh4qMVIDdosA?e=E8VWxh

7.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)

- 7.1 Each version of the Tewkesbury Borough Plan will be accompanied by a full range of assessments which will address equalities and other issues.

8.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS

- 8.1 September 2018 – approval by Council of the Preferred Options Tewkesbury Borough Plan Regulation 18 consultation.
- October 2017 – approval by Executive Committee of the updated Local Development Scheme for Tewkesbury Borough.
- February 2015 – approval by Council of Draft Policies and Sites Options Tewkesbury Borough Plan.
- July 2014 – approval by Council of Tewkesbury Borough Plan Regulation 18 Scoping Summary Response Report.
- October 2013 – November 2013 Tewkesbury Borough Plan public scoping consultation.
- May 2013 - approval by Council of the Statement of Community Involvement (SCI).
- April 2013 - approval by Council of the Local Development Scheme for Tewkesbury Borough.

Background Papers:

National Planning Policy Framework (February 2019) and National Planning Practice Guidance Adopted Joint Core Strategy (December 2017).

Tewkesbury Borough Local Plan (adopted 2006).

Local Development Scheme for Tewkesbury Borough (October 2017).

Tewkesbury Borough Council Statement of Community Involvement (May 2013).

The Tewkesbury Borough Plan Regulation 18 Scoping Summary Response Report (August 2014).

The Tewkesbury Borough Plan Regulation 18 Draft Policies and Site Options Summary Response Report (July 2015).

Tewkesbury Borough Plan Preferred Options Housing Background Paper - Approach to Sites (September 2018).

Tewkesbury Borough Plan Preferred Options Employment Sites Background Paper (September 2018).

Sustainability Appraisal (integrating Strategic Environmental Assessment; Health Impact Assessment; & Equality Impact Assessment) (August 2018).

Habitats Regulations Assessment (August 2018).

Contact Officer: Planning Policy Manager, Tel: 01684 272089

Email: matthew.barker@tewkesbury.gov.uk

Appendices: 1. Report of Borough Plan Working Group.