

# Environment and Sustainability Committee



23 January 2024

<b>Title</b>	Spelthorne Design Code Project
<b>Purpose of the report</b>	To make a decision
<b>Report Author</b>	Laura Richardson, Principal Planning Officer (Strategic Planning)
<b>Ward(s) Affected</b>	All Wards
<b>Exempt</b>	No
<b>Exemption Reason</b>	<i>n/a</i>
<b>Corporate Priority</b>	Community Environment Service delivery
<b>Recommendations</b>	<b>Committee is asked to:</b> <ol style="list-style-type: none"><li>1. Note that a growth bid for £90,000 to assist with delivering the Spelthorne Design Code project has been submitted (a decision will need to be made by the committee on that agenda report)</li><li>2. Agree to undertake the procurement process for the appointment of a Consultant to support the Council in its development of the Spelthorne Design Code (in line with the draft specification as set out in Appendix A)</li><li>3. Delegate permission to award the contract to the successful bidder to the Chair of the Environment and Sustainability Committee and the Group Head of Place, Protection and Prosperity and authorise the Group Head of Corporate Governance to enter into a contract with the successful bidder.</li></ol>
<b>Reason for Recommendation</b>	The expedited development and delivery of the Spelthorne Design Code is a priority for Members. An ambitious timetable for the delivery of this project is proposed. In order to meet the timescale proposed, there is a need for the budget to be approved (separate report on this agenda) and the tender process to commence as soon as is practicable.

## 1. Summary of the report

What is the situation	Why we want to do something
<ul style="list-style-type: none"><li>The Levelling up and Regeneration Act (2023) requires all Local Authorities to develop an area wide Design Code to support the delivery of high-quality places.</li></ul>	<ul style="list-style-type: none"><li>In addition to regulatory requirement to produce a Design Code, delivering high quality design in development is a matter of particular concern for both our residents and Elected Members</li></ul>
This is what we want to do about it	These are the next steps
<ul style="list-style-type: none"><li>Deliver the Spelthorne Design Code as soon as is practicable</li></ul>	<ul style="list-style-type: none"><li>Agree the approach to delivering the Design Code and agree the required budget.</li><li>Begin the procurement process to appoint a Consultant to support the Council in the development of its Design Code</li></ul>

- 1.1 This report sets out the proposed schedule for the development and delivery of the Spelthorne Design Code along with the budgetary implications and proposes that a tender exercise is commenced to appoint a Consultant to support the Council in this endeavour.
- 1.2 In light of the ambitious timetable proposed this report also seeks permission for the award of contract to the successful bidder be delegated to the Chair of the Environment and Sustainability Committee and the Group Head of Place, Protection and Prosperity and to authorise the Group Head of Corporate Governance to enter into a contract with the successful bidder.

## 2. Key issues

- 2.1 A design code is “A set of illustrated design requirements that provide specific, detailed parameters for the physical development of a site or area. The graphic and written components of the code should build upon a design vision, such as a masterplan or other design and development framework for a site or area”. (National Planning Policy Framework, December 2023)
- 2.2 Paragraph 131 of the National Planning Policy Framework (NPPF), updated in December 2023 states: “The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.”

- 2.3 The recently enacted Levelling Up and Regeneration Act (2023) (LURA) sets out the legal requirement for Local Authorities (LAs) to develop area wide Design Codes, which will allow Authorities, working with their residents, to set out what good design looks like for their area and their vision for the future. Following the enactment of the LURA the updated NPPF (December 2023) sets out the national policy expectation for the development and delivery of Design Codes in Paragraphs 131 – 134.
- 2.4 As set out above, the focus on the delivery of high-quality places is expressed in national policy but is also a matter of particular concern for both our residents and Elected Members. While the work to develop the Spelthorne Design Code was originally programmed for after the adoption of a new Local Plan for the Borough, the Group Leaders have expressed a desire for work to begin on the coding process immediately.
- 2.5 In light of the new focus on the development of the Borough's Design Code, work has begun on developing the programme. This report sets out the expected budgetary requirement and proposed programme of work along with seeking approval to begin the procurement process. The recommendations also seek delegated Authority to appoint the successful bidder, as the constraints of the Committee timetable represent a risk to the project programme as a whole if the final decision to award is brought back to Committee for permission to appoint.
- 2.6 The LURA requires LA's to develop an area wide Design Code. It is anticipated however, in light of the fact that a significant proportion of new development is likely to be delivered in Staines, the Boroughs most sustainable location, that the initial focus of the coding work is likely to be centred in this area.
- 2.7 A key element to the success of the Design Code will be to ensure there is full and meaningful involvement with our communities. The Engagement Strategy will be fundamental in ensuring that the coding process is as inclusive as possible. It will include a wide-range of community engagement activities including engaging our Residents' Associations, setting up a Citizens' Panel and using a wide reaching digital engagement tool. The Citizens' Panel participants will be sought for the recruitment of those from "hard-to-reach" groups, including young people, to ensure full representation is achieved. Development of the Engagement Strategy is a key element within the specification that the consultants will be expected to help deliver.
- 2.8 The outline programme proposed for the development and delivery of the Spelthorne Design Code is shown in the Gantt chart below. It is acknowledged that the timetable proposed is ambitious and relies on the capacity of the market to provide high quality consultants, the appropriate resources and timely decision making, if it is to be met.

## Design Codes

Project start date:

01/11/2023

Milestone description	Category	Jan-24	Feb-24	Mar-24	Apr-24	May-24	Jun-24	Jul-24	Aug-24	Sep-24	Oct-24	Nov-24	Dec-24
<b>Project Milestones</b>													
Begin procurement process for external consultants	On Track	█											
Assess availability of milestone data	On Track	█											
Develop communication strategy and launch Design Code project to the community	On Track		█										
Appointment of consultants	On Track			█									
Development of engagement strategy	On Track			█									
<b>Stakeholder and community engagement</b>	High Risk				█	█	█	█					
Development of Design Code vision	On Track				█	█	█	█					
Development of draft Design Code based on the outcomes of the initial engagement and resulting vision	On Track							█	█				
Consult on draft code	High Risk									█	█		
Refine Design Code based on outcomes of second round of formal engagement	On Track										█	█	
Design Code published and adopted through tbc route	High Risk												█

Upon appointment of a Consultant to support the delivery of the Design Code, the proposed programme will be further developed and contain greater detail. Progress on this will be reported to the Committee on a regular basis.

- 2.9 Area wide Design Codes are a relatively new planning tool, with the first of the pathfinder authorities now moving towards adoption of their codes. The authorities which received pathfinder funding from the Department for Levelling Up, Housing and Communities (DLUHC) report regularly to the department and some best practice guidance is beginning to emerge<sup>1</sup>. The learning so far indicates that in order to secure the best outcome, Design Code development should be led by the LA, with the support of relevant external expertise if required, as opposed to seeking a consultant to simply deliver a Code with limited input from the Council. This is the approach that it is being suggested councillors take (i.e. a greater degree of control). A project working group of officers from across the Council has already been established. Following a Member Briefing and Training Session on 28 November 2023, a group of Member Design Code Champions have been identified, who will work closely with officers, have active oversight of the project, and be involved at key stages (e.g. attend interviews with potential consultants so members have high confidence in any final 'delegated' appointment). It will also be their responsibility to advise and brief the members of their respective political groups.
- 2.10 The Council does not currently have sufficient in-house expertise or capacity and requires the support of external Consultant(s) with specific expertise in Urban Design and Urban Design specific Community Engagement to deliver the Spelthorne Design Code. The draft specification for the tender process is included at Appendix A (which has been developed with the support and expertise of Von Bradsky Enterprises and the Corporate Procurement team to ensure that we get the right consultant(s) on board).

<sup>1</sup> The Design Council worked with pathfinder authorities and evaluated the outcomes of the programme for DLUHC. Further details and information about Design Codes and the coding process can be found on their website: <https://www.designcouncil.org.uk/our-work/projects-partnerships/design-codes/#/introduction>

- 2.11 The Council's digital ambition is 'Digital by Default', which supports the 'A community empowered by simple and relevant engagement' objective. Furthermore, it is in keeping with the national drive to modernise the planning system through digitisation. A small number of the pathfinders developed digital codes from the outset, with a good portion of the remainder now exploring the digitisation of their Codes. The learning from the pathfinder authorities indicates there may be additional cost to the above in taking a digital route, but a figure is not known at this time. Officers are exploring options for developing the Spelthorne Design Code in a manner which allows for easy digitisation of the code as a separate project, if the assumption that the current budget sought would not be sufficient is borne out in the procurement process.

### **3. Options analysis and proposal**

#### Option 1 - Agree to procure consultant(s) to deliver a Spelthorne Design Code (preferred)

- 3.1 Officers have taken advice from Pathfinder authorities and assessed the skills necessary to undertake Design Codes. Support will be needed from external consultants in order that the project is completed in a timely fashion and the Spelthorne Design Code is of high quality and gives the best possible outcomes for the borough. The committee are therefore asked to agree the draft specification (attached at Appendix A) to enable the procurement exercise to be undertaken.
- 3.2 In order to ensure the ambitious timetable for delivery is not unduly delayed, the committee is also asked to agree to delegate permission to award the contract to the successful bidder to the Chair of the Environment and Sustainability Committee and the Group Head of Place, Protection and Prosperity, and to authorise the Group Head of Corporate Governance to enter into a contract .
- 3.3 The Committee are also requested to note that a growth bid of £90,000 is being put forwards as part of the service planning/2024 – 25 budget agenda item this evening.
- 3.4 It will be for this committee when they consider *that* report to decide whether they want to agree if this growth bid goes forward, to CPRC and then to Council in February 2024. Members should note that if the growth bid is not agreed, then the project cannot be moved forwards as currently suggested.
- 3.5 As it currently stands, both financially, and in order to meet the ambitious timescale of the end of 2024 to deliver the Design Codes, this committee is effectively being asked to proceed with the procurement on an 'at risk' basis, subject to the budget being agreed in February and being in place from 1 April 2024.

#### Option 2 – Agree to undertake delivery of the Design Code 'in house'

- 3.6 Alternatively, the Design Code work could be undertaken in house by the current team. Whilst one member of the team has some training and has been learning from other Pathfinders about the process, none of the team have any professional qualifications in the specialist fields necessary. Whilst

this is not an absolute barrier, it runs the very high risk that the project timescales will be significantly longer and the limited Urban Design experience of officers and the need for them to 'learn by doing' would result in a lower quality outcome in the longer term.

- 3.7 Consideration has been given to whether or not an additional permanent member of staff, with the relevant qualifications, is needed. This would increase the prospect that a higher quality product could be delivered (with the support of the wider team) but relying heavily on one individual would be a high risk approach. Unless this member of staff were appointed on a short term fixed term contract the Council would also be liable for any redundancy and pension costs. The cost of such expertise will be determined by market forces, and the need for Councils to deliver Design Codes is very likely to render the cost of this option, even if staff were available, unviable.
- 3.8 On the basis that staff do not have the necessary qualification and the cost of bringing in an additional team member would in all likelihood be unaffordable, this option has little to recommend it.

#### Option 3 – Undertake the Design Code work after Local Plan adoption

- 3.9 The need for area-wide Design Codes is now set out in national legislation and the NPPF so undertaking this work is necessary. Work on this could be kept as per the original programme i.e. once the Local Plan is adopted. This would give time to understand the process in greater detail, and learn from other early adopter Councils about the challenges and benefits (lowering the risk to us of a Design Code that perhaps does not deliver everything we are looking for). It would also allow time for staff to be trained up to a higher level so more of the work to undertake the design coding could be achieved in house with less external resource.
- 3.10 The significant disadvantage is that as a Council we would be failing demonstrate to our communities and residents the seriousness of our intent to ensure a high-quality, well-designed borough in the future. This option is not recommended.

#### **4. Financial management comments**

- 4.1 The pathfinder authorities received grants of between £120k and £160k to develop their Design Codes (this is no longer available). Discussion with pathfinder authorities and soft market testing indicate that the higher figure is realistic, with some pathfinders spending in excess of £200k. Bearing in mind the need to balance cost against quality, the team have been working on a figure towards the lower end to deliver the Design Codes.
- 4.2 Late in 2023 we were successful in securing £45k from the Planning Skills Delivery Fund (PSDF) to support the training and engagement element of the project. This has lessened the financial burden that will need to be borne by the Council to undertake this work, but does leave a considerable gap to fill.
- 4.3 An initial Growth Bid for 2024/25 was submitted had already been requested by the team for £100k to complete the work as part of the annual service planning process (a very conservative estimate having taken advice from the

market and spoken to Pathfinder authorities), and a figure of £90k is being put forwards for consideration as part of service planning/2024/25 budget report on the agenda this evening, which reflects the need for the Council to make savings and balance the budget. Therefore Officers will go out to the market place, working on a figure of £90k.

- 4.4 As it currently stands, both financially, and in order to meet the ambitious timescale of the end of 2024 to deliver the Design Codes, the committee are effectively being asked to proceed with the procurement on an 'at risk' basis, subject to the budget being agreed in February and being put in the budget from 1 April 2024.

## **5. Risk management comments**

- 5.1 No comments have been received from the Audit team at this time.
- 5.2 In light of the budget for this project, its complexity and cross Council nature, officers from the Projects Team are playing a key role in the officer working group as Project Managers. The project will have an active risk register, which will regularly be reported on and the Design Code Champions will updated. Furthermore, any significant issues will be reported to the Chair and Vice Chair of the Environment and Sustainability Committee at their regular weekly informal briefings.
- 5.3 As addressed elsewhere in this report, the timetable proposed for the delivery of the Spelthorne Design Code is ambitious. Meeting the proposed timetable will be dependent on a number of factors including the capacity of the market to provide high quality consultants, the appropriate resources and timely decision making. As part of the procurement process the Council's expectation will be set out and bidders will be required to provide detailed information on the timetable for delivery and the resources they have available to meet this. The robust project management and reporting proposed for this project will play a key role in monitoring progress, early identification of possible slippage in the timetable and keeping Members up to date on progress.

## **6. Procurement comments**

- 6.1 The Project Board reference number for this project is PP0046.
- 6.2 The Corporate Procurement team has been working closely with the Strategic Planning team to date to ensure the timely and will continue to provide support to ensure the effective delivery of the procurement of suitable consultants should this procurement proceed.

## **7. Legal comments**

- 7.1 The Legal Team will be consulted for advice on the terms and conditions of any contractual agreements and generally on the procurement process where required to ensure compliance with the Contract Standing Order and the Public Contracts Regulations 2015.
- 7.2 The LURA contains provisions that introduce a new duty for LPAs to prepare local design codes for their area. However, these provisions are not in force

yet and will be subject to further relevant regulations. As such, although currently LPAs are not yet required to prepare design codes or guides, the NPPF, which provides a framework against which LPAs draw up their local plans, already encourages LPAs to prepare design guides and codes as part of their local plans or set them out in supplementary planning documents (SPDs).

- 7.3 Once adopted, the design code will become a vital part of the formal planning framework and will be material consideration when it comes to deciding on planning applications. Proposed developments will be required to adhere to requirements set out in the design code.
- 7.4 Should a LPA fail to prepare a design code when required, the LURA provides that the Secretary of State will be able to direct a local planning authority to prepare, adopt or revise their local plan or supplementary plans to include the required area wide design requirement.

## **8. Other considerations**

- 8.1 With the award by DLUHC of the Planning Skills Delivery Fund grants to 180 local authorities across the country and a second round of the grant expected in the new financial year, combined with the legal duty to develop Design Codes set out in the LURA, there is real concern in the industry about the capacity of suitably experienced and qualified consultants. Any delay in moving forward with the project presents the real risk that we will be unable to appoint a consultant with the capacity to meet our ambitious timescales.
- 8.2 The Spelthorne Design Code is a separate (although related) document to the emerging Local Plan. The role of the Design Code will be to support the implementation of the design aspirations for the Borough set out in the policies and allocations within the Local Plan and as such the development of the Design Code will not impact on the progression of the Local Plan through Examination and adoption. The Project Team will review the design policies in the draft Local Plan and if it is considered that any minor modifications are required to strengthen the policy 'hook' for the Design Code, a minor modification will be proposed to the Inspector when hearing re-commence. Before the Examination resumes the Inspector will be informed of our current position on the development of the Spelthorne Design Code, so he is fully aware of the progress and status.

## **9. Equality and Diversity**

- 9.1 The Engagement Strategy is seeking to be as inclusive as possible and includes setting up a Citizens' Panel, based on the RB of Kingston example. The Equalities group have agreed to review the methodology used to select the demographic characteristics proposed for the selection of Citizens' Panel participants and support will be sought for the recruitment of those from "hard-to-reach" groups, including young people, to ensure full representation is achieved.



## 10. Sustainability/Climate Change Implications

- 10.1 Delivering sustainable development is the cornerstone of the Planning process and as such all planning policies must contribute to meeting this aim. With specific regard to the Design Codes, the incorporation of the appropriate measures set out in the emerging Climate Change Supplementary Planning Document into the Spelthorne Design Code will be explored.

## 11. Timetable for implementation

- 11.1 The timetable proposed for the project is ambitious and relies on the capacity of the market to provide high quality consultants, the appropriate resources and timely decision making, if it is to be met. Furthermore, the key decision points for Committee sign off have not yet been discussed and agreed with Members and will need to be incorporated into the timetable. As part of the procurement process the Council's expectation will be set out and bidders will be required to provide detailed information on the timetable for delivery and the resources they have available to meet this.
- 11.2 Upon the appointment of the successful bidder the initial Project Board meetings will address this and the timetable more fully developed in discussion with Members. The robust project management and reporting proposed for this project will play a key role in monitoring progress, early identification of possible slippage in the timetable and keeping Members up to date on progress.

11.3

Date	Task
Nov / Dec 2023	<ul style="list-style-type: none"><li>• Begin procurement process for external consultants</li><li>• Assess availability of baseline data</li></ul>
Feb 2024	<ul style="list-style-type: none"><li>• Develop Communication Strategy and launch Design Code project to the community</li></ul>
March 2024	<ul style="list-style-type: none"><li>• Appointment of Consultants</li><li>• Development of Engagement Strategy</li></ul>
April – July 2024	<ul style="list-style-type: none"><li>• Stakeholder and community engagement</li><li>• Development of Design Code Vision</li></ul>
July – Aug 2024	<ul style="list-style-type: none"><li>• Development of draft Design Code based on the outcomes of the initial engagement and resulting vision</li></ul>
Sept – Oct 2024	<ul style="list-style-type: none"><li>• Consult on draft Code</li></ul>
Oct – Nov 2024	<ul style="list-style-type: none"><li>• Refine Design Code based on outcomes of second round of formal engagement</li></ul>
Dec 2024	<ul style="list-style-type: none"><li>• Design Code published – adoption route tbc</li></ul>

## 12. Contact

- 12.1 Laura Richardson [l.richardson@spelthorne.gov.uk](mailto:l.richardson@spelthorne.gov.uk)

**Background papers: There are none.**

**Appendices:**

## Appendix A – Draft Spelthorne Design Code Tender Specification