

<b>Full Council</b>	<b>Agenda Item: X</b>
<b>Meeting Date</b>	26 July 2017
<b>Report Title</b>	Bearing Fruits: The Swale Borough Local Plan 2031: Inspector's Final Report and Adoption
<b>Cabinet Member</b>	Cllr Gerry Lewin, Cabinet Member for Planning
<b>SMT Lead</b>	Emma Wiggins
<b>Head of Service</b>	James Freeman
<b>Lead Officer</b>	Gill Harris
<b>Key Decision</b>	Yes
<b>Classification</b>	<b>Open</b>
<b>Forward Plan</b>	<b>Reference number:</b>
<b>Recommendations</b>	<ol style="list-style-type: none"> <li>1. The Inspector's Final Report and Main Modifications are noted;</li> <li>2. That the Local Plan incorporating the Inspector's Main Modifications, plus the further additional modifications is adopted as the local development plan for Swale Borough;</li> <li>3. That the Proposals Map be updated to incorporate the consequences of the Main Modifications as soon as possible; and that until this work can be completed, the Proposal Map will comprise the Map as submitted (April 2015), as amended by the Main Modifications shown at Chapter 9 of the adoption version of the plan at Appendix 1 to this item.</li> <li>4. Subject to agreement of 2 and 3, the Local Plan adoption statement with the date of this Council be posted on the Council's website and sent to all participants in the process;</li> <li>5. That the Sustainability Appraisal supporting the adoption version of the plan is noted and adopted;</li> <li>6. That the Equalities Statement supporting the adoption version of the plan is noted and endorsed;</li> <li>7. That the remaining saved policies of the former Swale Borough Local Plan (2008) are now completely replaced and will not be of any further relevance as the context for determining planning applications.</li> </ol>

# 1 Purpose of Report and Executive Summary

- 1.1 This report outlines the main findings of the Inspector's Final Report on Bearing Fruits: The Swale Borough Local Plan 2031. Subject to the inclusion of the Main Modifications outlined in the Appendix to the Inspector's Report (which were consulted on during summer 2016 and subsequently discussed at Examination in Public), the plan has been found sound to adopt. There are also a set of further additional modifications such as those which are necessary for updating, syntax, consistency and changes consequential to the Inspector's Main Modifications. These are not necessary for the 'soundness' of the Plan, but are necessary to ensure the legibility and consistency of the plan as a whole. In compliance with the Statutory Regulations Local Authorities (Functions and Responsibilities) (England) Regulations 2000, this requires a Full Council resolution. This item therefore updates Members on the latter stages of the process and recommends that the Local Plan is now adopted.

## 2 Background

### Process to Date

- 2.1 Members may recall that the Local Plan has been the subject of a long and complex process, which was seriously delayed as a result of major change to national policy with the introduction of the National Planning Policy Framework (NPPF) at March 2012. At that point in time the Council had a draft Core Strategy at an advanced stage of preparation, which had itself been subject to several rounds of public consultation and was a few months away from readiness for submission. The NPPF signalled a 'significant boost' to housing delivery through meeting objectively assessed housing need, rather than the figure indicated in the South East Regional Spatial Strategy. A return to single local plan style planning documents was also indicated. In the wake of numerous core strategies being found unsound at Examination in the months following these changes, a substantial amount of additional research was undertaken to support the Swale document and it was recast as a local plan. This was subject to public consultation as:
- Bearing Fruits 2031: Swale Borough Local Plan Consultation Draft (August 2013)
  - Bearing Fruits 2031: Swale Borough Local Plan (Publication version December 2014).
- 2.2 The Local Plan process since submission of the plan to the Planning Inspectorate has entailed:
- Submission of the Publication version of the plan (plus public comments thereon) to the Planning Inspectorate April 2015;
  - Examination in Public (first round) December 2015 to hear objections to the submitted plan;

- Inspector's Interim Findings February/ March 2016, which recommended a substantially higher housing target and that additional land allocations be made to achieve that;
- The Council generated Main Modifications in response to the Interim Findings and consulted on them June - August 2016;
- Public comments to the Main Modifications and Council responses to them were forwarded to the Inspector November 2016;
- Examination in Public (EIP) resumed January- February 2017 to hear objections to the Main Modifications.
- Consultation was held March / April on a single Further Main Modification which amended the access point to the housing allocation east of Station Road, Teynham. The consultation comments and the Council's responses to them were sent directly to the Inspector for consideration and incorporation into her final report.

- 2.3 The Inspector's Final Report was received 20 June 2017 and posted immediately to the Council's website. All contributors to the plan process have been notified. An All – Member briefing and Q&A session on the content of the report was held on 13 July. The Inspector's Report can be viewed at: ID/12 [Inspectors Final Report](#) ( 20 June 2017 )  
ID/12a [Appendix A Inspectors Main Modifications](#) ( 20 June 2017 )

### **Inspector's Main Findings and Modifications**

- 2.4 The non technical summary section of the Inspector's Report reads as follows:

*'This report concludes that the Swale Local Plan provides an appropriate basis for the planning of the Borough provided that a number of main modifications [MMs] are made to it. The Council has specifically requested me to recommend any MMs necessary to enable the Plan to be adopted.*

*The majority of the MMs were proposed by the Council and I have recommended their inclusion in the Plan after considering all the representations made in response to consultation on them.*

*The Main Modifications can be summarised as follows:*

- *Include a commitment to a review of the Plan to be adopted by April 2022;*
- *Amend the Plan period to 2014 – 2031;*
- *Amend the OAN (objectively assessed housing need) to 13,192;*
- *Modify the submitted site allocations to update housing numbers and infrastructure requirements and to highlight locations where safeguarded minerals may be present;*
- *Allocate new housing sites to plan for the full OAN;*

- *Update policies for gypsies and travellers for consistency with the 2015 PPTS, although the need for a new GTAA as part of local plan review is noted;*
- *Update affordable housing policy;*
- *Amend employment policies based on updated evidence and the revised Plan period;*
- *Add new policies for the Port of Sheerness and Kent Science Park;*
- *Update policies to provide mitigation for designated environmental sites;*
- *Amend the standards set out in the Plan and the development management policies for the historic environment, sustainable development, green links, open spaces, air quality and woodland;*
- *Amend the list of Local Green Spaces*
- *Update references to the strategic and local highway infrastructure needed to support the Plan; and*
- *Amend the delivery and monitoring framework to ensure consistency with all the other changes to the Plan.'*

2.6 The Inspector's Report also concludes that the Plan has also complied with all legal requirements in its production and that the Sustainability Appraisal and consideration of alternative development options has been satisfactorily and robustly carried out at all stages of the plan process.

2.7 The Appendix to the Inspector's Report sets out the detail of the Main Modifications which are required to be incorporated into the plan to make it sound for adoption. These Main Modifications are essentially the same as those which Members agreed in summer 2016 and which then went forward for discussions with objectors during the second round of the EIP at the beginning of 2017. This is not therefore further new material, as the Inspector has made very little change to the Main Modifications. She has 'demoted' some of the changes the Council had posted as Main Modifications to the further additional modifications list.

2.8 The further additional modifications are minor changes which are consequential to the Main Modifications, factual updating, typos and consistency changes which do not affect soundness of the plan, but are essential to its reading as a coherent and consistent whole. The Council is free to apply these as they are not deemed to be soundness or policy issues. These matters are explained at para 5-6 of the Inspector's Report. A table of the additional changes has been posted to the website at: [SBC/PS/137 Further Additional Modifications June 2017](#), 26 June 2017

## **Key Findings of the Inspector's Report**

- 2.8 The Inspector supported the two planning area approach (Thames Gateway and Faversham and the rural areas), with the main focus for growth opportunities in the Thames Gateway area, as robustly evidenced and consistent with the Thames Estuary Growth Commission findings. She further notes that the necessary increase in housing allocations has satisfactorily maintained this proportional balance between the two planning areas.
- 2.9 The overall settlement strategy is also endorsed with Sittingbourne as the primary focus for growth, followed by Faversham and Sheerness and other urban centres in the West Sheppey area. Increased growth at rural local service centres as a result of the Main Modifications is noted and as a result of that, the Inspector considered it justifiable to strengthen policy to protect rural areas and sites adjacent to the built up area boundaries of villages.
- 2.10 The Objectively Assessed Need (OAN) for housing was confirmed at 13,192 for the plan period which translates into an annual housing target of 776 dwellings per annum.
- 2.11 The Inspector has also confirmed (para 72-73 of her report) that the plan as now proposed to be modified will provide the Council with a 5.4 year housing land supply calculated on the basis of the up to date evidence provided to the EIP on deliverability of sites to contribute to the five year supply. It was confirmed that use of the Liverpool method with a 5% buffer to calculate the supply was appropriate. This means that any shortfalls in delivery in a particular year(s) can be spread across the remaining years of the plan period (as opposed to having to be provided in the next five years and thus ratcheting up the amount of housing land required to be allocated or permitted). This is a good result and basis on which to determine planning applications. This was achieved in the face of strong developer objections and arguments for a still higher housing target; challenges to the deliverability of the Council's preferred land allocations and promotion of alternative non-allocated sites. However, delivery of the allocated sites will be essential to ensure that a five year supply is maintained, as the latter will come under scrutiny in Appeal situations.
- 2.12 The additional housing allocations proposed through Main Modifications to meet the higher housing target have been endorsed by the Inspector. These are as per the Council's Main Modifications at summer 2016. No new allocations have been added since that time. Moreover the process by which those allocations were chosen, was found to be clear and logical, as stated at para 63-64 of the report.
- 2.13 For clarity, the Inspector only considered the Main Modification Policy MUX1 (South West Sittingbourne), not the extended version of the allocation promoted by developers in response to the Main Modifications. This is

explained at para 16 of her report. She endorses the allocation as proposed by the Council.

- 2.14 The suite of development management policies has been subject to little modification other than updating and likewise forms a solid and up to date basis for determining planning applications.
- 2.15 An early review for the plan is now back on the agenda and acknowledged as necessary by the Inspector. This is partly as a result of Kent County Council Highways concerns over the local highway network capacity to accommodate growth to 2031. These views were expressed very late in the process, during the EIP itself in January 2017. However, all parties are agreed that the Local Plan development can be accommodated in the period up to 2022 in highway terms. A commitment to five yearly local plan reviews has also been signalled through the Housing White Paper (February 2017), so this may well become a mandatory requirement in any event. The timescale the Inspector has recommended for **adoption** of a review (April 2022) is nevertheless very challenging and the Local Development Framework Panel have recommended immediate commencement of such a review at their meeting of 20 June 2017.
- 2.16 Overall, the result and recommendations of the Examination process are the best which could be expected and place the Council in the position of being able to adopt a sound and National Planning Policy Framework compliant local plan.

### **Adoption Process**

- 2.17 The Inspector's Report is binding on the Council and the plan is only sound and adoptable if all of the Main Modifications as set out in the Report are incorporated into the local plan (through the provisions of the Planning and Compulsory Purchase Act 2004 Section 23). Consequently the Main Modifications must be incorporated as a cohesive whole to have a sound and adoptable Local Plan.
- 2.18 In compliance with the Statutory Regulation 4(1) and (3) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000), adoption requires a Full Council resolution to adopt the plan. The Local Planning Regulations (SI 767: The Town and Country Planning (Local Planning) (England) Regulations 2012) then require the plan to be made publicly available along with an Adoption Statement and Sustainability Appraisal Statement. A letter will be sent to all those who have expressed and interest in it to notify them of adoption; and a copy must also be sent to the Secretary of State.
- 2.19 Members should be aware that there is also statutory provision for a six week period after the resolution to adopt for High Court Challenge, by any aggrieved person on the grounds that the document is not within the

appropriate powers and / or procedural requirements have not been complied with.

### **Adoption Version Local Plan Documents**

- 2.20 An adoption version of the Local Plan (which incorporates the Main Modifications and further additional modification changes) has been prepared and is attached to this item as Appendix 1. Members can therefore see how the complete and adopted plan will look with all the recommended changes. This is with the exception of the internal electronic links to other documents, which have not yet been activated; and further proof checking of all cross references within the document, resulting from renumbering of paragraphs and policies. Some site concept diagrams also require updating to match the main Modifications. Modifications to the Proposals Map are included as Chapter 9 at this point in time for user convenience, but once the mapping work to update the online and print version of the maps has been completed, the document set will be finalised without this (also see para 2.22 on this point).
- 2.21 A supporting Sustainability Appraisal Report for the adoption stage, plus an Equalities Statement are attached as Appendices 2 and 3 to this item.
- 2.22 Paras 7-9 of the Inspector's Report deal with the Proposals Map and notes the changes that will need to be made to it. The Local Plan Proposals Map will be updated as soon as possible after an adoption resolution to reflect the Inspector's Main Modifications and her advice to do so (and indeed the Statutory Regulations on this matter). In practice, there is no further change proposed beyond the Main Modifications consulted upon at summer 2016; plus the Further Main Modification for the Teynham Station Road allocation (this was a change to the access point, which was consulted on at the Inspector's request in February 2017). For a short interim period after the plan has been adopted and the necessary specialist map work can be procured and completed, the Proposals Map will comprise:
- the submission version of the Proposals Map; plus
  - the Map Main Modifications agreed by the Inspector and incorporated at Chapter 9 of the adoption version of the plan at Appendix 1 to this item.
- 2.23 A copy of the draft Adoption Statement to be posted on the Council's website and sent to all participants in the process is at Appendix 4 to this item.

## **3 Proposals**

- 3.1 Members are recommended to now accept the provisions of Inspector's Final Report and adopt the Bearing Fruits 2031 Swale Borough Local Plan. The following specific recommendations are made that:
1. The Inspector's Final Report and Main Modifications are noted;

2. That the Local Plan incorporating the Inspector's Main Modifications, plus the further additional modifications is adopted as the local development plan for Swale Borough;
3. That the Proposals Map be updated to incorporate the consequences of the Main Modifications as soon as possible; and that until this work can be completed, the Proposal Map will comprise the Map as submitted (April 2015), as amended by the Main Modifications shown at Chapter 9 of the adoption version of the plan at Appendix 1 to this item .
4. Subject to 2 and 3, the Local Plan adoption statement with the date of this Council be posted on the Council's website and sent to all participants in the process;
5. That the Sustainability Appraisal supporting the adoption version of the plan is noted and adopted;
6. That the Equalities Statement supporting the adoption version of the plan is noted and endorsed;
7. That the remaining saved policies of the former Swale Borough Local Plan (2008) are now completely replaced and will not be of any further relevance as the context for determining planning applications.

## **4 Alternative Options**

- 4.1 Members could opt not to adopt the Plan as per the Inspector's Report and Main Modifications. This would leave the Council without sound and up to date Local Plan for a considerable period (some five years) whilst an alternative is prepared. During this time the Council would not have an agreed development strategy or framework of policies and land allocations with which to determine development proposals.
- 4.2 In lieu of a defined development target, the default would be the latest ONS projections and the inability to show an adopted housing land supply to meet them would make it extremely difficult to defend decisions to refuse development not only on sites proposed for development in the draft plan, but also at unsustainable and / or sensitive locations.
- 4.3 The lack of an up to date plan also makes a coordinated approach to securing developer funding or potentially public funding for supporting infrastructure provision impossible, and as a consequence leaving new development inadequately supported.
- 4.4 The lack of an up to date local plan is also contrary to National Planning Policy and the direction of travel of the Housing White Paper. The latter proposes to make five – yearly updates mandatory. Since the Swale Local Plan (2008) is well beyond its intended end date of 2016 and out of date in many respects, failure to



adopt this plan could result in undesirable consequences for the Borough and potentially punitive measures for the Council.

- 4.5 For all of these reasons, non adoption of the Bearing Fruits Swale Local Plan in the format proposed is not recommended.

## 5 Consultation Undertaken or Proposed

- 5.1 The Local Plan has been subject to public consultation throughout its preparation and there has been public involvement in the Examination in Public. The Planning Inspectorate has found that aspect of the process to be legally compliant.

## 6 Implications

Issue	Implications
Corporate Plan	Supports the Council's corporate priorities for a Borough and a community to be proud of.
Financial, Resource and Property	Within the Local Plan budget.
Legal and Statutory	The Adoption process is in accordance with: Regulation 4(1) and (3) of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000); and Statutory Instrument No.767 The Town and Country Planning (Local Planning) (England) Regulations 2012. Regulations 26 & 35 Adoption subject to Inspector's Main Modifications is in accordance with the provisions of Section 23 of the Planning and Compulsory Purchase Act 2004.
Crime and Disorder	None anticipated at this time.
Sustainability	A Sustainability Appraisal Report has been provided for the adoption stage and is appended to the item
Health and Wellbeing	None anticipated at this time.
Risk Management and Health and Safety	None anticipated at this time.
Equality and Diversity	A Community Impact Assessment (in accordance with the Equalities Act 2010) as been carried out for the Adoption stage of the plan and is appended to this item.

## 7 Appendices

**Appendix 1:** Bearing Fruits 2031: The Swale Borough Local Plan Adoption version, incorporating all Main Modifications; and further additional modifications.

**Appendix 2:** Sustainability Appraisal Statement (covering the adoption stage)

**Appendix 3:** Community Impact Assessment

**Appendix 4:** Adoption Statement

**Appendix 5:** The Proposals Map will comprise the maps as per the submitted version of the plan at April 2015 which can be viewed at:

CD/002 [Bearing Fruits 2031 - The Swale Borough Local Plan Proposals Map](#) ; plus the amendments made by the Inspector's Main Modifications. These are included at Chapter 9 of Appendix 1 above for the purposes of this meeting and until a final version of the Proposals Map incorporating the Main Modifications can be commissioned. This will be as soon as possible after a decision to adopt the Local Plan to avoid potentially abortive costs.

A set of this 'interim' set of Proposals Maps will be placed in the Members Room and displayed at the meeting.

## 8 Background Papers

Planning Inspectorate: Report on the Examination of the Swale Borough local Plan (April 2017) copy available in Members Room and at:

ID/12 [Inspectors Final Report](#) (20 June 2017 )

ID/12a [Appendix A Inspectors Main Modifications](#) ( 20 June 2017)

Table of additional further modifications - copy available in Members Room and at

SBC/PS/137 [Further Additional Modifications June 2017](#), 26 June 2017