

Agenda

Planning and Transportation Policy Working Group Meeting

Date: Tuesday, 17 September 2024

Time 7.00 pm

Venue: Council Chamber, Swale House, East Street, Sittingbourne, ME10 3HT

Membership:

Councillors Mike Baldock, Monique Bonney, Charles Gibson, Kieran Golding, Alastair Gould, James Hunt, Elliott Jayes, Julien Speed, Karen Watson, Mike Whiting and Tony Winckless.

Quorum = 3

Pages

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1. Election of Chair
To elect a Chair for the Municipal Year 2024-25.
2. Election of Vice-Chair
To elect a Vice-Chair for the Municipal Year 2024-25.
3. Emergency Evacuation Procedure

Visitors and members of the public who are unfamiliar with the building and procedures are advised that:

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- (d) Anyone unable to use the stairs should make themselves known during this agenda item.

4. Apologies for Absence

5. Minutes

To approve the [Minutes](#) of the Meeting held on 14 March 2024 (Minute Nos. 769 - 772) and the [Minutes](#) of the Extraordinary Meeting held on 8 August 2024 (Minute Nos. 166 – 172) as correct records.

6. Declarations of Interest

Councillors should not act or take decisions in order to gain financial or other material benefits for themselves, their families or friends.

The Chair will ask Members if they have any disclosable pecuniary interests (DPIs) or disclosable non-pecuniary interests (DNPis) to declare in respect of items on the agenda. Members with a DPI in an item must leave the room for that item and may not participate in the debate or vote.

Aside from disclosable interests, where a fair-minded and informed observer would think there was a real possibility that a Member might be biased or predetermined on an item, the Member should declare this and leave the room while that item is considered.

Members who are in any doubt about interests, bias or predetermination should contact the monitoring officer for advice prior to the meeting.

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Issued on Monday, 9 September 2024

The reports included in Part I of this agenda can be made available in alternative formats. For further information about this service, or to arrange for special facilities to be provided at the meeting, please contact democraticservices@swale.gov.uk. To find out more about the work of the this meeting please visit www.swale.gov.uk

**Chief Executive, Swale Borough Council,
Swale House, East Street, Sittingbourne, Kent, ME10 3HT**

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Planning and Transportation Policy Working Group Meeting	
Meeting Date	17 September 2024
Report Title	Swale Planning Enforcement Strategy – Draft for Adoption
EMT Lead	Emma Wiggins Director of Regeneration and Neighbourhoods
Head of Service	Joanne Johnson Head of Place
Lead Officer	Paul Casey Team Leader – Planning Investigations
Classification	Open
Recommendations	<ol style="list-style-type: none"> 1. That PTPWG review the comments received on the draft Planning Enforcement Strategy and the proposed officer response, and to provide any further comments. 2. That PTPWG recommend the updated draft Strategy to Policy and Resources Committee for adoption.

1 Purpose of Report and Executive Summary

1.1 This purpose of this report is to invite members to review the updated draft Planning Enforcement Strategy following the undertaking of a formal 8 week public consultation process between February and April this year.

2 Background

2.1 An initial draft Enforcement Local Plan was presented to PTPWG on 25th January 2024. Officers updated the draft following member discussion, and it was then presented to Policy and Resources Committee on 7th February 2024. At this meeting it was resolved that the draft Strategy proceed to public consultation. The draft is a refresh of a previous strategy adopted in 2021.

2.2 The Strategy intends to provide clarity on the scope, capacity and parameters of planning enforcement, and to thereby effectively set expectations

2.3 The adoption of the Planning Enforcement Strategy benefits customers by reassuring the public and other public bodies that effective and proportionate practices are in place. It provides for consistent and targeted enforcement activity, whilst also supporting transparent and effective dialogue and understanding between the public, Councillors, and planning investigation officers.

2.4 There have been several changes to legislation since the draft went to consultation, and these are reflected in the attached draft at Appendix I.

3 Proposals and comments received in response to consultation.

3.1 The draft strategy was the subject of a formal consultation for an eight week period between 26 February 2024 to 22 April 2024. During this same period the document was also displayed on the Swale Borough Council website inviting the public to submit any comments. The consultation was also promoted via social media.

3.3 As a result of the formal consultation process comments were received from 4 parish/town councils, 1 Councillor and 4 members of the public

3.2 The consultation responses and subsequent proposed revisions to the Strategy are included as an Appendix II.

Consequently, PTPWG are asked

- to review the comments received on the draft Planning Enforcement Strategy and the proposed officer response, and to provide any further comments.
- To recommend the updated draft Strategy to Policy and Resources Committee for adoption.

4 Alternative Options Considered and Rejected

4.1 Not to refresh the existing strategy. The adoption of a refreshed enforcement strategy benefits customers by outlining effective practices and it will develop a transparent and effective dialogue and understanding between the public, councillors, and planning investigation officers.

To accept some or none of the proposed amendments to the consultation draft. This is not recommended, as the proposed changes are considered to appropriately reflect comments received.

5 Consultation Undertaken or Proposed

5.1 Consultation was carried out over an eight-week period this year with all councillors and parish/town councils directly invited to respond, and relevant publicity on our website pages and social media seeking public comment.

The consultation draft was informed by the views of PTPWG.

6 Implications

Issue	Implications
Corporate Plan	The strategy contributes towards our vision to provide a cleaner, healthier, more sustainable and enjoyable environment and to work with communities and outside bodies
Financial, Resource and Property	There are no direct financial implications for Swale Borough Council concerning this draft Enforcement Strategy as the consultation is being carried out by officers.
Legal, Statutory and Procurement	<p>The relevant legislation in relation to planning is contained within the Town and Country Planning Act 1990, Planning (Listed Buildings and Conservation Areas) Act 1990 and The Town and Country (General Permitted Development) (England) Order 2015</p> <p>During the consultation a number of changes were made to legislation, including the introduction of Enforcement Warning Letters, immunity from enforcement action standardised to 10 years, restriction on appeals against enforcement notices and removal of our choice of appeal procedure for Lawful Development Certificates.</p>
Crime and Disorder	The strategy contributes towards handling unauthorised development and the potential for enforcement action with the aim of protecting communities and their environment
Environment and Climate/Ecological Emergency	No implications
Health and Wellbeing	No implications
Safeguarding of Children, Young People and Vulnerable Adults	No implications
Risk Management and Health and Safety	A robust and accountable planning enforcement regime helps preserve the integrity of the planning system.
Equality and Diversity	No implications
Privacy and Data Protection	No implications

6 Appendices

- 6.1 The following documents are to be published with this report and form part of the report:

- Appendix I: Draft SBC Planning Enforcement Strategy 2024
- Appendix II: Consultation comments and responses

Planning Enforcement Strategy

2024

Foreword by Cllr Tim Gibson, Leader of Swale Borough Council

FOREWORD

I am delighted to publish Swale Borough Councils Planning Enforcement Strategy which sets out how we deal with complaints and queries about alleged breaches of planning control.

The strategy outlines the main legislative powers and how enquiries will be prioritised and investigated. The Council adopts a firm but fair approach to the investigation of enforcement matters, and enforcement officers seek to strike a sensible balance between the need for effective control and the need to be reasonable and proportionate in our response to such matters.

The strategy provides consistency in our approach to dealing with breaches of planning control and details what customers should expect from the planning enforcement service. People care about their neighbourhoods and reasonably expect the Council to uphold planning law and I am confident that the strategy will reassure the public that effective and proportionate practises are in place, which in turn should go some way in promoting transparent and effective dialogue and understanding with the Planning Enforcement Team.



Cllr Tim Gibson

Leader of the Council

SWALE PLANNING ENFORCEMENT STRATEGY

The [National Planning Policy Framework](#) (NPPF) says in Paragraph 59 that

“Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate”

This Planning Enforcement Strategy is the Local Enforcement Plan as recommended by the NPPF, and sets out how the Council will approach enforcement, how and when action will be taken, and the occasions when action will not be taken.

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1.0 INTRODUCTION

1.1 Importance of an Enforcement Local Plan (Planning Enforcement Strategy)

This Planning Enforcement Strategy is being produced in line with the recommendation in the National Planning Policy Framework (NPPF) to ensure that enforcement remains a clear and transparent process serving the local community and ensuring proper planning borough wide. The strategy will guide how Swale Borough Council will approach and handle planning enforcement issues. It will set out what can and cannot be investigated, priorities for enforcement action, what courses of action are available, and will also set out targets for responding to enquiries at key stages within the enforcement process. This strategy will be reviewed on a four yearly basis – or more frequently as required - to ensure that it remains consistent with any changes in national guidance, policy and legislation and any changes to key Council documents such as the Corporate Plan.

1.2 Principles of Planning Enforcement

Planning enforcement aims to investigate planning breaches where development has been carried out without the benefit of the necessary planning permissions. Swale Borough Council adheres to the principles of good enforcement which include:

- **Proportionality** – enforcement action will be proportionate to the risks and seriousness of any breach including any actual or potential harm caused by the breach and the economic impact of averting the breach. Priority will be given towards unauthorised development that is causing immediate, serious, and irreversible harm. Swale Borough Council will consider a full range of enforcement powers which includes negotiation and retrospective planning applications. Where appropriate, formal action will be taken.
- **Helpfulness** - where it should be possible for all breaches of control to be quickly remedied, officers will give developers or landowners the opportunity to quickly rectify matters. Correspondence will identify the officer dealing with the matter and will provide contact details. Abusive language or behaviour will not be tolerated.
- **Targeting of enforcement action** – we will focus enforcement action on the most serious cases with the greatest potential to cause harm and will recognise that it is not possible to prioritise all issues of non-compliance or take action against breaches that are considered to cause little or no harm
- **Consistency** – consistency does not mean uniformity; however, a similar approach will be taken in similar circumstances with the appropriate exercise of professional judgement.
- **Transparency of how enforcement operates and what can be expected** – where non-compliance has been identified, officers will state what must be done to remedy the breach, clearly explaining the reasoning behind the decision, giving reasonable timescales for compliance, and providing clear guidance on the next steps if those in breach do not comply. To improve transparency and accountability, Swale Borough Council’s website will be further developed to show formal enforcement actions being taken and the progress being made. A copy of the enforcement register and an enforcement notice search facility will be added to the planning applications website.
- **Accountability for actions** – enforcement officers will abide by the strategy at all times during their working practices.

2.0 BREACHES OF PLANNING CONTROL

2.1 What is a breach of planning control?

“The carrying out of development without the required planning permission or failing to comply with a condition or limitation subject to which planning permission has been granted” (Town and Country Planning Act 1990, s171A)

Development carried out without planning permission is not ordinarily a criminal offence. There are exceptions for Listed Buildings, trees subject to a Tree Preservation Order (TPO) and advertisements displayed without consent. All other development only becomes a criminal offence if there is non-compliance following formal enforcement action. The 1990 Act defines formal enforcement action as the issue of an enforcement notice or the service of a breach of condition notice.

2.2 Types of Development

All development as defined by reference to Section 55 of the 1990 Act requires planning permission. There are two main types.

‘Deemed’ planning permission

Some types of development can be carried out without having to apply for written planning permission, and this is referred to as ‘Permitted Development.’ In these circumstances legislation is deemed to have granted planning permission if certain criteria are met as set out in the Town and Country Planning (General Permitted Development) (England) Order 2015 (As amended). In addition the Town and Country Planning (Control of Advertisements) (England) Regulations 2007 (As amended) grants deemed consent for advertisements that satisfy the relevant criteria and conditions.

‘Express’ planning permission

All development that is not granted consent by deemed planning permission requires ‘express’ consent from the local planning authority. This requires a formal written planning application. Most planning applications are subject to public notification to nearby residents, relevant consultees and Parish or Town Councils, and are available for comment from any member of the public. More information about this process is available on the Swale Borough Council website.

2.3 Immunity from enforcement

Section 171B of the 1990 Act restricts the Council's ability to take enforcement action after a certain period of time has lapsed. After the specified period, development without planning permission becomes lawful and therefore enforcement action cannot be taken.

- For building, engineering, mining or other operations or change of use of a building to a single dwelling house, action cannot be taken after **Ten** years beginning with the date on which operations were substantially completed, including a continuous breach of planning conditions.
- There is no time limit in respect of listed buildings and enforcement action can be taken at any time.

The landowner has the option of applying for a certificate of lawful development to regularise the development.

The serving of an enforcement notice in respect of a particular development 'stops the clock' in relation to the time limit.

These circumstances do not, however, apply if the development was deliberately concealed (see 2.4 below).

2.4 Concealment

The Localism Act 2011 introduced section 171BA into the 1990 Act. This power permits the Council to take enforcement action against deliberate concealment of breaches of planning control after the usual time limit for enforcement action has expired. The Council can, within six months of a breach coming to their attention, apply to the magistrate's court for a planning enforcement order. If such an order is granted by the magistrates, this allows the Council an additional twelve months in which to take enforcement action

2.5 Expediency

Once a breach of planning control has been identified, the extent of the breach must be assessed to establish what action should be taken to remedy the breach and whether it is considered expedient to do so. One of the options is to invite a retrospective planning application. This enables the development to be assessed on its merits taking into account local planning policies and any other material considerations. If an application is not submitted or submitted and refused it is then at the Council's discretion to use enforcement powers. In accordance with section 172 of the 1990 Act 'expediency' is a test of whether the unauthorised development is causing serious harm and is assessed with reference to national and local planning policies and to any other material considerations (eg, amenity, design) to justify formal action.

If it is likely that the unauthorised development would have been approved, had planning permission been initially applied for, taking formal enforcement action would be unlikely. Taking enforcement action must be in the public interest. Enforcement action will not be taken simply because a breach has occurred or to punish those responsible for the breach regardless of whether the breach was carried out deliberately or in ignorance.

It will still be in the owner's best interest to regularise the breach. This can be a serious issue when it comes to selling or re-mortgaging a property, as evidence to show permission has been obtained for all extensions and alterations is often required by the purchaser's solicitor or the mortgage company.

Decisions to take enforcement action under the current scheme of delegation or not to take any further action will be relayed to local ward members, Planning Committee Chair and Vice Chair.

3.0 REPORTING ALLEGED BREACHES

3.1 Reporting a breach

Anyone concerned about a development or activity they believe may be unauthorised, is encouraged to report this directly to the Council. The easiest way to report a breach is through the online form at www.swale.gov.uk/planning-and-regeneration/planning-breaches-and-enforcement/enforcement.

Before submitting a complaint, customers are advised to check whether the particular development or activity already benefits from planning permission. This information can be found on the Council's website at <https://pa.midkent.gov.uk/online-applications/>.

Complaints will be investigated in accordance with the Planning Enforcement Priorities at Appendix 2. Anonymous complaints or complaints with limited or incorrect details will not normally be investigated, however, officers have full discretion in this regard and will make an informed choice whether to investigate based on the nature of the complaint. This is to ensure that public resources are not spent unnecessarily investigating hoax or malicious complaints and due to the importance of being able to fully assess the impact of the development on the complainant as part of the investigation.

The subject of a complaint will be public information; however, the identity of the complainant will be kept confidential. It is possible that the person who is the subject of the complaint may draw their own conclusions about the source. In some cases, a court may declare that personal information has to be made available; however, this is very unusual. If the case is referred to another department within the Council personal information will be passed on but would remain confidential.

Swale Borough Council cannot investigate a complaint based on speculation, information or suggestion regarding what may be planned and where no actual breach of planning control has taken place.

3.2 Types of development that will be investigated

There are a number of matters that do not fall within planning control and therefore no planning enforcement action can be taken. Often this is where other legislation covers and controls the matter, such as Highway, Environmental Health and Building Control or external organisations such as the Health and Safety Executive or Police

The following are examples of what the planning service can investigate:

- Carrying out development where no planning permission has been sought.
- Carrying out development which deviates from that which has been granted planning permission.
- Breach of conditions which were imposed under an existing planning permission.
- Unauthorised change of use
- Unauthorised display of advertisements
- Unauthorised works to a Listed Building
- Unauthorised works to a protected tree

- Unauthorised works in a conservation area or a protected area such as an Area of Outstanding Beauty
- Derelict buildings and untidy residential properties (condition adversely affects the amenity of the area)
- Unauthorised work to hedgerows.

3.3 What we cannot investigate

- Internal works unless they relate to Listed Buildings
- Obstruction of highway, footpaths and parking of vehicles on the road or grass verges
- Matters controlled under building regulations such as dangerous structures
- Private issues between neighbours (that don't involve material planning considerations)
- Opposition to business competition
- Non-material planning considerations such as loss of property value or loss of view
- Noise, Smoke, dust or vibration unless it is in breach of a planning condition
- Land ownership or boundary issues
- Party wall disputes
- Blocking of designated rights of way
- Breaches of property deeds or covenants
- Damage to property
- Health and safety and site security
- Untidy land, for example an unkempt lawn where there is a minimal effect on amenity
- Dumping of waste

Matters relating to the highway and public footpaths are dealt with by Kent County Council.

Reports about noise, smoke and dust should be reported to Environmental Health.

Boundary issues and party wall disputes are private matters.

Concerns about Health and Safety and site security should be reported to the Health and Safety Executive (HSE)

Dangerous structures are inspected by STG Building Control Partnership

Waste Crime is dealt with by the Environment Agency

On receipt of reports which relate to any of the above, advice on how to contact the correct department or agency will be given, but if the report suggests that there is an immediate threat to health and safety of the public we will endeavour to contact the relevant authority on behalf of the complainant.

Other works that are not classed as breaches of planning control:

- Clearing of land of vegetation unless it is the subject of a planning condition or protected under a Tree Preservation Order

- Fences or other means of enclosure adjacent to the highway 1m in height or 2m in all other cases unless permitted development rights have been removed, subject of an Article 4 Direction or a Listed Building. Highway may also include a private road so long as it is one over which the public has a right to pass and repass.
- Parking of a caravan within a residential property if it is used incidentally or ancillary to the main dwelling.
- Conversion of garages or outbuildings to residential if they are used incidentally or ancillary to the main dwelling.
- Operating of business from home where the residential use remains the main use and there is no serious harmful impact on neighbouring amenity.

If a sufficiently harmful breach of planning control is confirmed then officers will initially try to resolve the issue through negotiation and informal action, however, in some cases due to the level of harm it may be considered appropriate to take immediate formal enforcement action, without any initial contact with the contravener.

3.4 Information needed

In order to investigate an alleged breach, it is important that the Council has as much information as possible. Breaches can be investigated more rapidly when sufficient information is provided up-front. To ensure that relevant information is included in a complaint, this list highlights the key pieces of information that should be submitted to aid the investigation:

- An accurate address of the site including the postcode; if the address is unclear or the site is particularly unusual, an annotated map of the site may be more appropriate or customers can provide an exact location using what3words at www.what3words.com;
- The enforcement complaint; a detailed description of the development or activity.
- If available, approximate dimensions of the development.
- Any other information to assist the enquiry; a 30-day log of activities if it relates to a change of use complaint, photos of the development/ proof of use;
- If possible, name and address of person/company involved in suspected breach
- Approximate time when the suspected breach commenced and if necessary, the stage of building works.

4.0 ENFORCEMENT POWERS AND PROCESSES

4.1 Site visits and rights of entry

An officer will initially carry out desktop research to establish the fact of the complaint and determine whether a site visit is necessary. Not every site that is the subject of a complaint will need to be visited. A visit will only be made to establish facts and investigate the matter further. The officer will, wherever necessary, take measurements and photographs of the development and activity taking place.

There are situations where more than an initial site visit would be required to evidence a breach such as an alleged change of use. In most cases, if a visit is required an officer will visit the site under investigation within five working days of receiving the complaint, unless it relates to a Listed Building or Tree Preservation Order (TPO) which we will aim to visit on the same day. If the allegation relates to minor breaches such as A-Boards or advertisements an investigation will be started within 10 working days. Due to the nature of planning enforcement work, most site visits will be made without prior arrangement.

Planning Investigation Officers will carry approved identification which will be produced for inspection on request. The Council's Planning Investigation Officers have extensive powers of entry which allow them to investigate planning enforcement enquiries. It may also be necessary for the officer to bring third parties onto the land to assist or advise them in carrying out their duties. Where entry is refused, a warrant to enter the land may be obtained. Prosecution will also be considered where there is deliberate obstruction of the officer carrying out their duties. Abusive or threatening behaviour towards staff will not be tolerated and will be logged and reported to the Police.

4.2 What is considered?

Whilst establishing whether enforcement action should be taken, a number of elements are considered, including but not limited to:

- Whether the complaint relates to a non-planning matter.
- Whether the enquiry falls within the Council's planning boundaries
- Whether the alleged breach falls within the constraints and conditions of permitted development and is therefore lawful development.
- How long the development/change of use has been present.

After considering all these factors, if it is considered that there has been a breach of planning control officers will then establish whether it is expedient to act upon the breach. There may also be situations where another department within the Council is better placed to deal with the issue raised and in that case Planning Investigation Officers will refer the complaint to the relevant department.

4.3 Formal Action

If a breach is deemed to be sufficiently harmful the Council will make every attempt to encourage those responsible for a breach to resolve the issue voluntarily. If informal negotiations have been unsuccessful, and the Council feels that the planning breach has significant harmful effects, formal enforcement action will usually be taken. There are numerous ways in which formal action can be taken, and this depends on the type, seriousness and harmfulness of the breach. In many circumstances dealing with planning enforcement can be a lengthy and complex process (see Appendix 1). Planning enforcement notices issued by the Council are kept on the Planning Register and are available to view by the public on request. They will shortly be available on the Council's website.

4.4 Appeals

Enforcement Notices can be appealed. Guidance on Enforcement Appeals can be found [here](#). Once an appeal has been submitted in respect of an Enforcement Appeal then any enforcement action must be suspended until such time as a decision is issued in relation to the appeal. If an appeal is not issued within the required time period (usually 28 days) the Enforcement Notice takes effect, and the subject of the Notice is required to comply with the requirements of the Notice.

Appeals on Enforcement Notices can be made on seven grounds as follows:

- Planning permission should be granted for the development
- There has been no breach of planning control
- The breach alleged in the Enforcement Notice has not occurred as a matter of fact
- It is too late for the Council to take action under the four- and ten- year rules
- The Notice was not properly served
- The requirements of the Notice are excessive

There is a role for people who are not one of the main appeal parties but are interested in the outcome. Neighbours and complainants are notified that an enforcement appeal is taking place but they will not be sent copies of representations made by the appellant, the Local Planning Authority and other interested parties. A letter is sent to these parties to inform them of the appeal, which contains information on where to inspect the appeal documents and how to make representations to the planning inspectorate.

Prosecution

Prosecution is a potential outcome of the enforcement process, and the Council will pursue a prosecution where circumstances warrant such action. Before commencing legal proceedings, the Council will need to be satisfied that there is sufficient evidence to offer a realistic prospect of conviction and that the legal proceedings are in the public interest. The Council will also seek to recover costs in connection with the enforcement action.

4.5 What happens if you are the subject of a complaint?

It is understood that in some cases a breach of planning control is not intentional and can be the result of a misunderstanding or being unaware of the planning requirements. If you are contacted about an alleged breach of planning control, you will be informed of what the allegation is, but not who made it.

If a breach is established, you will be clearly advised of the details of the breach and how to put it right. You will be advised not to do any more work and that any further work that is done would be at your risk as you may have to undo the work. Most breaches are resolved through negotiation and discussion, and we encourage you to cooperate positively. Do not delay in responding to our advice as it is in the interests of all parties if an identified breach can be addressed at an early stage.

If no positive progress is made, then the matter will be reported for enforcement action and formal notices may be served if it is expedient to do so. If you are served with a formal notice, you will be given the details of the breach, the reasons for the action, steps required to resolve the issue and a time period for compliance.

5.0 PERFORMANCE STANDARDS AND PRIORITIES

5.1 Priorities

The Council receives a large number of complaints of alleged breaches of planning control and therefore cases need to be prioritised based on level of harm. Resources need to be focused on the most serious breaches of planning control as these are likely to cause most harm to the public or the environment. Once a complaint has been received, the level of harm will be assessed by an officer.

In assessing the degree of harm officers will use a desk-based research approach; however, in some cases a site visit will be required to identify the breach if it cannot be established from desktop research, which will form the first stage of the investigation of the complaint.

Each complaint will be allocated a score to assess the level of harm and whether the harmful effects are escalating or stable, whether there is serious effect or harm to neighbours or residential amenity, where the development is located e.g., is it in an AONB, Conservation Area or flood risk area and so on.

This process will be subject to review and will:

- Determine whether a case can be closed without any further investigation. The complainant will be notified that the development causes insufficient harm to warrant any further action.
- Identify those cases that will score more highly, and which will need to be investigated further. Thus, ensuring that the most harmful cases are dealt with as soon as possible.

The score of an alleged breach may alter during an investigation and if circumstances change, or new information is obtained this will be reviewed. If the complaint relates to an activity or use, officers will visit the site at different times to build a picture of the activity or use. In some circumstances a 30 day activity diary will be requested which should include the date and time of occurrences and harm caused, with any supporting evidence. If the person reporting the breach is unwilling to do this, then this may result in the Council not being able to pursue the investigation further due to there not being enough evidence.

All retrospective refused planning applications; Listed Building and Tree Protection Order complaints and complaints from Ward Members / MPs / **Parish Council Clerks** will automatically receive a full investigation.

5.2 Contacting the complainant and our performance standards.

Swale Borough Council recognises the importance of keeping individuals up to date with our progress. Some investigations can take longer than others due to lengthy and complex negotiations and / or statutory time periods in serving notices, appeals and prosecutions. Investigation Officers will:

- Acknowledge complaints that are a potential breach within five working days, which will include the investigating officer's contact details.
- Provide a detailed response to the complainant within 21 working days. However, if a detailed response cannot be given then an update will be provided which will include a date by when the full response will be given.

Complainants are asked to wait to be contacted by the Investigations Officer about the progress of an enquiry. To effectively focus on investigations, it will not be possible for the Investigations Team to respond to complainant requests for updates outside of these times.

The performance of the Planning Enforcement function is monitored corporately on the basis of responding to at least 95% of all reports with a 21-day deadline. Following the detailed response within 21 days each case will be reviewed on a case-by-case basis based on the target dates for each step of action to be completed.

Key performance indicators for the service include:

- Number of complaints received and initial response times.
- 5 and 21 day deadlines

5.3 Monitoring of Sites

It is not possible to monitor all developments being carried out within Swale.

It is the responsibility of developers to comply with planning conditions and to determine when planning permission is required. The Council relies on public information, enquiries from Councillors, MPs and Parish Councils, and planning officers proactively monitoring sites to raise potential breaches of planning control. The Council informally monitors sites through site visits, and the planning investigations team also relies on other Council departments to raise potential breaches.

Appendix 1 – Terminology

Options available to tackle possible breaches of planning control	Brief explanation
No formal action	This is appropriate for when there is no breach of planning control or when the impact of the breach is not considered expedient for enforcement action.
Monitor site	This is appropriate for when further evidence or investigation is required to establish an alleged breach.
De-minimus	These are minor works that have been carried out, which are considered so minor that would practically fall outside the scope of planning. Whether works are de-minimus is a decision made by the Council on a case-by-case basis.
Allow time to remedy	Time may be given to remedy the breach where there is no significant harm and it is not serious enough to warrant immediate action. Therefore the opportunity will be given to resolve the breach.
Retrospective planning application	A retrospective planning application allows for an application to be submitted after the development has been carried out. In some cases a retrospective planning application can be requested, when it is considered an appropriate way forward to regularise the situation. A retrospective application is dealt with in the same way as any other planning application.
Lawful Development Certificate	A lawful development certificate application can be submitted to regularise the development/use after the expiry of time period for taking enforcement action.
Planning Contravention Notice (PCN)	A PCN is a discretionary procedure, and is a way for the Council to find out more information about an alleged planning breach to establish what, if any enforcement action should be taken. It usually involves a series of questions about operations being carried out, or about how the breach may be satisfactorily remedied. Failure to complete, or to provide false or misleading information is a criminal offence.
Section 330 Notice	Similar to a PCN, this notice is a way for the Council to find out more information about the occupiers interest in the land.
Planning Enforcement Order	A magistrates' court may only make this order. It can be made where a person has deliberately concealed an unauthorised development and enables the Council to take action withstanding the usual time limits that may have expired. This order is used to extend the amount of time the Council can take formal action, the 'enforcement year'. This gives the Council time to decide the most appropriate course of action.
Enforcement Notice	This is the most common type of notice and instructs the recipient to carry out steps to remedy the breach. The notice will specify what the alleged breach is, and prescriptive steps, with specific timescales that must be taken to remedy it. Failure to comply with the requirements of an Enforcement Notice within the time period given is a criminal offence.
Listed Building Enforcement Notice	This notice is similar to an enforcement notice, and will specify the unauthorised works to the relevant listed building. It can be served on its own, where listed building consent was required but not planning permission, and can also be served in conjunction with a Planning Enforcement Notice.
Breach of Condition Notice (BCN)	A BCN may be served where there has been a breach of condition that is attached to an extant planning permission. It requires the recipient to comply with the specified planning conditions and failure to comply within the time period given is a criminal offence.
Enforcement Warning Notice	<p>An enforcement warning notice formalises the process for a local planning authority to invite a retrospective planning application.</p> <p>Under section 172ZA of the Town and Country Planning Act 1990, where a local planning authority considers that unauthorised development has a reasonable prospect of being acceptable in planning terms, it can issue an enforcement warning notice. The notice will set</p>

	<p>out the matters that appear to be a breach of planning control and state that, unless an application is made by a specified date, further enforcement action may be taken.</p> <p>The issue of an enforcement warning notice constitutes taking enforcement action for the purposes of section 171B of the Town and Country Planning Act 1990.</p>
Stop Notice	A stop notice can only be served with an Enforcement Notice and they aim to prohibit any or all of the activities which comprise the alleged breach. They are used when the Council feels it expedient that any relevant activity should cease before the deadline for compliance in the related notice.
Temporary Stop Notice	Temporary Stop Notices can prohibit a range of activities relating to a planning breach, if it is expedient to do so. Unlike a stop notice, a temporary stop notice can be issued immediately without having to wait for an enforcement notice to be issued. They expire after 56 days from issue.
Advertisements	The display of advertisements that do not meet the criteria set out in the Town and Country Planning (Control of Advertisements)(England) Regulations 2007 are illegal unless they have been granted express consent.
Discontinuance Notice	This notice can require that the display of a particular advertisement which has deemed consent is discontinued. This action may be taken if the Council feels that an advertisement causes substantial harm to the amenity of the locality or danger to members of the public.
Section 225 Notice	This notice enables the Council to require the removal of any placard or poster displayed illegally. The notice requires the owner or occupier to take specified measures to prevent or reduce the frequency of unauthorised advertisements in a specified time limit.
Section 215 (Untidy Land) Notice	This notice is served when land requires to be cleaned up because its condition adversely affects the amenity of the area. It can also require the demolition of derelict buildings. This notice sets out the steps needed to be taken and time limits in which they must be carried out.
Direct Action	The Council has the option to take direct action to remedy a planning breach if an Enforcement Notice or a Section 215 notice has not been complied with. The Council may carry out works required in the notice and seek to recover those costs from the landowner.
Injunction	An injunction can be obtained if the Council need to restrain a breach of planning control, and it is considered expedient for any actual or apprehended breach of planning control to be restrained. This is done by applying to the High Court or County Court. An injunction is a last resort attempt, and will only be applied for if ordinary enforcement powers have been, or will be unlikely to stop unauthorised activities.
Enforced Sale	An enforced sale is used when direct action has been taken and the Council is owed money for carrying out the work. If a charge has been placed on the property the Council has the ability to see the property in order to recover its costs. This is a last resort and would only be used when other repayment methods have been exhausted.
Prosecution	The Council will consider commencing a prosecution in the Courts when there has been a failure to comply with any notice and will recover costs.
Confiscation Orders under the Proceeds of Crime Act 2002 (POCA)	This is used when the defendant has benefitted financially from a breach of planning control and enforcement action has been taken. It allows the Council to bring an action to recover the money they have gained as a result of disregarding enforcement action.

Appendix 2 – Planning Enforcement Priorities (Initial Visit response times)

Category	Harm	Description	Visit Response times
Category 1	Serious Harm	Unauthorised demolition of Listed Buildings, ancient monuments and demolition of Locally Listed Buildings	1 day / same day
		Felling or lopping of a preserved tree or tree in a Conservation Area	
		Development or breach of conditions likely to cause serious harm or danger to people or amenity	
		Unauthorised work in a Conservation Area likely to lead to permanent harm	
		Where development has started and is subject to planning conditions relating to either contamination, archaeology, nature conservation or trees which are required to be agreed before development commences	
		Development which is unsafe and hazardous	
Category 2	Significant and widespread harm to local amenity	Unauthorised development causing significant or widespread harm	3 working days
		Breaches of planning conditions causing serious nuisance to adjoining residents	
		Breaches of advertisement control causing a serious impact on amenity	
		Unauthorised pitching of caravans	
Category 3	Matters causing demonstrable harm or where timely action is expedient		5 working days
		Breaches likely to be resolved quickly by negotiation and/or the submission of a retrospective application	
Category 4	Other – including Breaches of a technical nature and	Breaches which are temporary and unlikely to result in any long-term harm	10 working days
		Advertisements not otherwise included above	
		Breaches of other planning conditions	

	not in significant conflict with planning policy	Other changes of use	
		High Hedges	

Contacting Swale Borough Council

The customer Service Centre deals with all enquiries across the Council, it should be your first stop when contacting us.

Call 01795 417850.

Copies of this document are available on the council website.

Appendix II: Comments Received on Draft Planning Enforcement Strategy

Comment Summary	Response
I am writing to lodge a complaint against building works that took place...	Thank you. Comments passed to planning officer dealing with the retrospective planning application
All retrospective applications should be considered at Committee and not dealt with at officer level.	A retrospective application is considered in the same manner as one made in advance. It does not automatically follow that permission will be granted, and this is no more or less likely when decided at Committee rather than under delegation. All decisions are made based on national and local policy.
I find the strategy clearly written, and sets out very clearly what is covered/what isn't. What is seen as more/less serious. Timescales expected for different priorities. I will find this very useful, both as a new Councillor and as a resident. I will also be confident in referring other residents to it, if asked	Noted, thank you.
The strategy is silent on how complaints will be prioritised	Please see Appendix 2 which lists priorities and categories along with initial site visit response times
<p>Where can the public view the key performance indicators and what is the frequency of publication?</p> <p>Could performance indicator statistics be made available on a regular basis so stakeholders can see how well targets (response times etc) are being met.</p>	<p>Performance and monitoring indicators for enforcement are:</p> <ul style="list-style-type: none"> • % complainants updated within 21 days of registration • No. of enforcement notices served • % priority cases responded to within one working day <p>Some of these are new indicators. They are reported to Policy and Resources Committee twice yearly.</p>
<p>What course of action is available to complainants when they do not receive a satisfactorily detailed response within the 21 day period from officers.</p>	<p>We would encourage ongoing dialogue with the investigations officer, noting that some details cannot be shared during a live investigation.</p> <p>A complaint can be made under Stage 1 of the Councils complaints procedure if desired.</p>
<p>The document is procedures rather than strategy. There are no details on how SBC will engage with Parish Councils or the general public which is fundamental to make enforcement work.</p> <p>There is historical evidence of major developments not being built to approved plans. There are no details on how Planning and Building Control will collaborate to ensure build outs are to approved plans or when there are potential breaches.</p> <p>Concerns were raised about enforcement outside of office hours and this could be improved.</p>	<p>Engagement begins when a Parish or member of the public reports a breach, and their help is invaluable during investigations.</p> <p>Paragraph 5.3 covers monitoring of sites and we regularly monitor Building Control's Commencement and Completions lists and act on suspected irregularities.</p> <p>Out of hours provision will be considered going forward, but this is not within current budgets.</p>
<p>Whilst the draft policy has a logical flow it seems to provide incentives to ignore the planning process</p>	<p>The document outlines the processes and procedures by which all Local Planning Authorities are bound. There is no provision within the Planning Act to</p>

Appendix II: Comments Received on Draft Planning Enforcement Strategy

<p>and wait to be caught? Should you be seeking some form of penalty when this happens?</p> <p>If the enforcement system is not seen to be vigilant and effective, the view could prevail that planning control is weak, and encourage some to not apply for planning permission / comply with conditions on the assumption that failure is unlikely to lead to sanctions or that a long period will elapse before sanctions are applied.</p>	<p>penalise perpetrators on discovery of unauthorised development, as it is not an offence to undertake development without planning permission. It becomes an offence if an enforcement notice is issued and not complied with.</p> <p>We agree with your take on the workings of a successful system and the team has recently been reorganised to manage variations in workload throughout the district.</p>
<p>It also does not seem to cover deliberate wholesale criminality where land is used for dumping spoil/material for cash. This crime cuts across both planning controls and environmental controls.</p> <p>My view is that the policy should set challenging timescales for dealing with these reports and contain clear linkages with other agencies to take rapid action. I would suggest there are quarterly meetings between enforcement leaders in KCC, Swale and the EA to review sites of interest.</p>	<p>Waste crime falls within the remit of the Environment Agency and Kent County Council Minerals and Waste Planning Enforcement. It is generally not a district council matter.</p> <p>Swale BC Planning Investigations team maintains a close working relationship with other statutory bodies, including the Environment Agency, KCC planning and the police and do meet regularly.</p>
<p>The use of agricultural land effectively as scrap yards seems to be growing rapidly.</p>	<p>Reports can be made online through the Council's planning investigations pages.</p>
<p>Responses to illegal residential use of agricultural land should be tightened. Once it is established that a static caravan is deposited on a site not designated for housing an order for removal within 30 days is given. The owner can apply for planning permission but the caravan should be removed in the interim pending their application.</p>	<p>Unauthorised residential use of land which conflicts with planning policy and national planning guidance is always followed up by enforcement action. There is no provision within the Planning Act to allow us to require that unauthorised development must cease/ be removed whilst a planning application is being determined.</p>
<p>There is no definition of 'harm' as this can mean different things to different people</p>	<p>Harm that results from a breach in planning control could concern residential amenity or highway safety. It is the collective term used to describe the negative impacts of a development.</p>
<p>There needs to be more transparency and ability to view what breaches have been logged and actions taken, similar to reporting potholes.</p> <p>It would also be very helpful if Swale does include enforcement cases and case history to its planning portal as indicated in the strategy, as this should help avoid multiple reports from the public where a matter is already in hand.</p>	<p>Reports are submitted on a confidential basis. It is not good practice to make allegations public from the onset of the investigation.</p> <p>Planning Enforcement Notices are available to view on the Council's planning enforcement website, along with related appeal decisions.</p>
<p>There needs to be a process to address cumulative volumes of breaches.</p>	<p>Cases are dealt with individually and decisions as to whether to take enforcement action are discretionary, taking into account planning harm and other material considerations.</p> <p>There is no legislation in place singling out multiple breaches for tougher action. Each case is unique and will be dealt with accordingly</p>

Appendix II: Comments Received on Draft Planning Enforcement Strategy

<p>We strongly agree that “effective enforcement is necessary in order to maintain public confidence in the planning system”. At the present time, we are of the view that Swale does not have an effective enforcement system in place.</p>	<p>Comment noted.</p>
<p>The NPPF states that enforcement is “discretionary” but this word in our view has been misconstrued by Swale. It does not give local authorities carte blanche as to whether or not to offer an enforcement service. Rather, in our view it means that the local authority must exercise discretion when carrying out its enforcement function which, as para 59 makes clear, means that the council must act “proportionately”.</p>	<p>Enforcement action is discretionary, however the Council’s duty to investigate an alleged breach is not. Enforcement action is intended to be remedial rather than punitive. The majority of cases are resolved by negotiation, but as soon as it becomes clear that a breach cannot be resolved and there is planning harm that is contrary to the public interest we consider formal action.</p>
<p>Acting “proportionately” means balancing several factors when deciding on a course of action and the stepped approach set out in the draft does this - our criticism would be that it lacks rigour and in some cases urgency. Enforcement action is sometimes slow, incomplete and ineffectual. These show in our view a lack of “proportionality”.</p>	<p>Comments noted. The investigations team are aware of the sites you refer to in your wider comments, many of which have been served enforcement notices upheld on appeal and where the breach is continuing. Legal advice is being sought.</p> <p>There are a lot of factors when deciding whether to take formal action, and the gathering of evidence can take some time if we are to successfully challenge any appeal that may be made against an enforcement notice.</p>
<p>In our opinion, effective, prompt and timely taking of enforcement action is a prerequisite to a functioning planning department. We do not expect all allegations of breach to lead to stop or enforcement notices but we do expect the process to move forward at a pace which ensures that the matter is dealt with expeditiously.</p>	<p>The Strategy sets out the processes, procedures and the powers at our disposal when considering enforcement action. The planning investigations team begin investigations within 21 days of a complaint being received, and complainants are updated throughout the course of the investigation. The majority of sites are visited within 10 working days, with the most urgent cases being visited the same day. There are timescales involved beyond the team’s control – for example waiting for determination of a retrospective application, and compliance and subsequent appeals processes of enforcement notices.</p>
<p>Our conclusion is that the draft strategy sets out a reasonable set of rules, but that these should be tightened to provide a more timely and rigorous enforcement policy whilst still applying the principle of proportionality to outcomes.</p> <p>This should be combined with more resources. This will include the clearing of pending cases. Planning enforcement should be seen as an important part of the effective operation of the planning system and not as some optional add-on.</p>	<p>Noted. Swale BC covers a large area of North Kent and the four investigating officers dealt with 259 cases in 2023, all of varying complexity. Cases where an enforcement notice has not been complied with usually result in a prosecution, and we are dependent on HM Courts to convict before considering further action. Whilst not a statutory duty, Swale BC understands the importance of planning enforcement, and every concern submitted via the online form is investigated.</p> <p>With regard to pending cases – there are many instances where a period of monitoring is required to gather evidence of a breach, and case reviews are</p>

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	<p>held regularly where decisions are taken on whether to close a case or take formal action, taking into account expediency, harm and public interest. A 'pending' case does not mean there is a backlog.</p>
<p>It appears to our Parish Council that insufficient resources have been put historically into planning enforcement at Swale, and that there is a large backlog of cases which has led to instances where a situation has to be tolerated or has become incapable of enforcement. This inadequacy in resources and timely action needs to be addressed to provide confidence that planning enforcement is taken seriously at Swale.</p>	<p>There is no backlog of cases. Cases that are open for 6 months or more remain on file for variety of reasons, for example: appeals in progress; planning applications pending consideration; Court action; monitoring to gather evidence. The team comprises a Team Leader and four full time officers which is the average compliment for a suburban/rural planning authority.</p> <p>Swale is in the top percentile of Kent Planning Authorities in terms of the number of enforcement notices issued since 2022.</p> <p>The respondent has been invited to share details of the sites so that updates can be provided</p>
<p>Tone, perception and risk</p> <p>The thrust and direction of the draft strategy comes over as leaning heavily towards minimising cost and effort. It appears to offer cover for wider tolerance of planning breach (ie no or only limited action).</p> <p>The past strategy has already been weighted too heavily towards informal action. The new strategy needs to address this otherwise it under-estimates the overall impact on planning control and future planning officer workload as well as the reputational risk.</p> <p>Once problem developments are in situ, officers become involved in a series of steps by applicants/appellants over time to manoeuvre and manipulate the planning system.</p> <p>In this context the draft strategy only mentions temporary stop notices once – and on page 15 mentions stop orders (rather than temporary stop notices) - instead relying on a combination of informal action and enforcement notices, but weighted heavily towards informal action. Formal action, majoring on enforcement orders issued <u>after</u> unlawful development has already been carried out risks poorer outcomes.</p> <p>It would be helpful to tighten the risk-based system on page 14, prioritising rapid action in sensitive areas, to include not just conservation areas and the AONB but adverse planning history, and where concern has</p>	<p>The strategy aims to be transparent, covering all eventualities in the planning enforcement process, and does not condone enforcement where it is unnecessary to act.</p> <p>The initial visit criteria is effective, and deals with development that is irreversible, such as works to a listed building or felling of a protected tree.</p> <p>Temporary Stop Notices are used where necessary, and are followed up by enforcement notices and/or stop notices as required.</p> <p>Reports of work on sites with adverse planning history and where there is concern about further unauthorised development are prioritised for immediate attention.</p> <p>The opening statement query – it is for the Council to decide on whether there has been a breach of planning control based on the information supplied by the complainant, and we consider this would complicate the reporting process.</p>

Appendix II: Comments Received on Draft Planning Enforcement Strategy

<p>been flagged up by a Ward Member, MP or Parish Council.</p> <p>A combination of these factors should automatically trigger a Category 1 response as well as a lean towards prompt formal action.</p> <p>The opening statement (Para 1.2 Principles) only says Planning Enforcement “<i>aims to investigate planning breaches..</i>” - it would help if that paragraph could say something like</p> <p><i>Swale Enforcement will:</i></p> <p><i>i) investigate potential breaches of planning law, and therefore unlawful in planning terms, defined as :</i></p> <ul style="list-style-type: none"> • <i>the carrying out of development (including change of use of land) without the benefit of the necessary planning permissions, or</i> • <i>failing to comply with any condition or limitation subject to which planning permission has been granted</i> • <i>any contravention of the limitations on, or conditions belonging to, permitted development rights</i> <p><i>(ii) take enforcement action deemed appropriate by the Council and consistent with relevant Council planning policies, national planning policy and guidance, in order to prevent, halt and seek to remedy breaches of planning law”.</i></p>	
<p>Public involvement</p> <p>Section 3.0 Reporting alleged breaches</p> <p>Making it easy for people to report concerns and responding rapidly to reports of unlawful development assessed as Category 1 is an important part of the overall control system. In practice it is currently not easy. Whether contact is online or by phone, few members of the public know or understand planning law etc - they just want to make contact or speak to someone about a particular concern.</p> <p>It’s long been the case that work on an unauthorised development would start near a bank holiday. Restricting phone access to half a day a week creates the equivalent of a perennial bank holiday for unauthorised development.</p> <p>Officers clearly cannot be at their desks to take calls all the time but it would be helpful if the main switchboard system included Planning and Enforcement in its list of options, and for planning dept phones to accept voice messages at any time.</p>	<p>Comments noted, and will be passed to the relevant team.</p> <p>Planning enforcement can be contacted by telephoning the main switchboard if the matter is considered. Reports can be made in person at Swale House reception, by letter, email and the preferred option of completing the online form on the Council’s planning enforcement webpages.</p> <p>Planning investigations officers are available to discuss planning enforcement concerns by telephone on Wednesday mornings between 9am and 12.30pm. Outside these times messages can be left on voicemail, and officers are alerted to voice messages immediately by email with a text transcript of the call.</p> <p>Enforcement notices going back 30 years were recently uploaded to public planning website, which can be accessed under the ‘Enforcement’ tab on the search page.</p>
<p>Notifying local people Para 4.4 Appeals</p> <p>As far we are concerned Para 4 is not happening. Some notification used to happen, and none appears</p>	<p>The relevant department has been notified of your concerns. Objectors to planning applications and planning enforcement complainants are always</p>

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<p>to be currently happening. In addition people no longer appear to receive letters (or emails) informing them of nearby planning applications, retrospective or otherwise so, unless they see a statutory notice pinned up locally they will be unaware.</p> <p>Access to Appeal documents is not easy as the Planning Inspectorate don't make these available on line to the public, so anything Swale can do to make these available would be welcomed.</p> <p>Statutory notices are still displayed nearby by Swale, but the strategy doesn't mention these for planning applications, Enforcement or Appeals, so it would be helpful to clarify this in the draft strategy.</p>	<p>contacted about appeals, including neighbouring properties</p> <p>Appeal documents are available to interested parties on request as set out in the appeal notification letters sent by Swale.</p> <p>Statutory notices such as planning application notices and inquiry notifications are displayed on site. Enforcement appeal notifications are sent by letter to complainants, neighbours and any other interested parties.</p>
<p>3 Priorities: Para 5.1 Priorities and page 19 Categories</p> <p>Little mention has been made of the importance of the role of Parish Councils, in particular their role in flagging up high risk concerns. It would be helpful to correct this by adding Parish Councils to the last sentence of para 5.1 , after Ward Members and MPs.</p>	<p>Noted. We have a close working relationship with parishes and concerns are always investigated. This change will be made.</p>
<p>Page 1 : Proportionality :</p> <p>The strategy mentions “averting” the breach whereas the preceding sentence says “has been carried out”. Should remedying be added to averting? Could this paragraph include something along the lines of :</p> <p><i>“In considering its options for enforcement, formal action will be taken when, in the officers opinion, the breach constitutes significant harm to the amenity of the local area, contravenes the Councils planning policies or national planning policy and a relevant planning application is unlikely to be approved. The Council has a wide range of formal powers including for example, Temporary Stop Notice, Enforcement Notice, Stop Notice, Breach of Condition Notice, the use of which will be decided on a case-by-case basis”.</i></p> <p>Targeting; saying that enforcement will focus on the most serious breaches signals to the public that enforcement will probably really only deal with serious breaches. This puts planning control at risk – can this section refer to the (tightened) scoring system on Page 14 ?</p> <p>Transparency: reference is made to reasonable timescales for compliance but can reference also be made to the use of a temporary stop notice to avoid or reduce further harm ? The period of the stop notice (Page 17) has apparently recently been increased from 28 to 56 days</p>	<p>Potential harm is covered in this paragraph, and a retrospective application will always be invited if a breach is judged to be potentially acceptable on its planning merits and can be controlled by conditions. Much of our work is education and negotiation, and failing this we will use formal powers to enforce, where expedient and in the public interest.</p> <p>We investigate all breaches reported to us, and act accordingly depending on the seriousness of the breach. It is right to focus on the most serious breaches and give them priority.</p> <p>Temporary Stop Notice is at Appendix 1 – Terminology. Legislation - The Temporary Stop The draft Strategy has been updated to reflect the legislative change.</p>
<p>Para 2.0 Breaches of planning control</p>	<p>The strategy is designed to be clear and easily understood with the appendix clearly stating our</p>

Appendix II: Comments Received on Draft Planning Enforcement Strategy

<p>Can the focus be shifted from just enforcement orders to the wider issue of maintaining a system of planning control and bring in all the other mechanisms not just enforcement orders (detailed in appendix 1) more clearly into the strategy, rather than just buried in an attachment.</p>	<p>enforcement powers. Enforcement is a complex area of planning, and there are many potential outcomes, some of which may include one of more of our powers as listed in the appendix</p>
<p>Para 2.3 Immunity – does this need updating to reflect the recent end of the 4-year rule?</p> <p>It puts people off by saying reports won't be investigated if only limited details but don't explain what limited means- people aren't versed in planning law.</p>	<p>Thank you, the immunity paragraph has been changed to reflect the new 10 year period.</p> <p>Limited details refers to the precise location of the reported breach, and scant details of the building or activity of concern. This is a case by case judgement call.</p>
<p>Page 8 : Para 3.1 Reporting a breach Privacy Can privacy of the complainant include address not just name withheld on request.</p>	<p>Yes, the complainant's name, address, email address, phone number are confidential.</p>
<p>Page 8: Last sentence of Para 3.1 - the last sentence will deter anyone from contacting you until work etc has at least started, which is not desirable in high risk cases. Would it be better to receive information which leads to a site visit and halting the start or progression of a high risk Category 1 breach? E.g. building materials, large vehicles, mobile homes arriving on site.</p>	<p>If there is hard evidence of an impending breach of planning control such as building materials and the arrival of mobile homes we will always investigate as a priority.</p>
<p>Page 9: Para 3.3 what you can't investigate You mention high hedges but then include high hedges in category 4. Delete from para 3.3 or from category 4 ?</p> <p>Last sentence currently gives a message that Swale will always seek to resolve informally, which is probably ok in most cases, but it also needs to give a clearer signal that it will take strong action when necessary.</p>	<p>High Hedges are dealt with by the Tree Officer and notices by planning enforcement in conjunction with legal, and we provide back up if requested for site visits. A fee is payable for this kind of investigation. The draft strategy has been amended for clarity.</p> <p>Our enforcement powers are outlined elsewhere in the document, and this sentence does mention immediate enforcement action</p>
<p>Page 10 Para 3.4 Information needed Could the check list be written in less formal language and request only a brief description rather than a detailed one (most people won't know the detail of what is required)?</p> <p>Although the strategy has a link to the planning portal can the strategy mention its a shared service (Mid Kent) rather than Swale which is confusing, and that it can be found by searching online for 'Swale planning applications'. It would be helpful if the strategy included a link direct to the on-line reporting system a list of key internal phone extension numbers and contact hours.</p>	<p>These are just suggestions and if the information is not provided the cases will still be investigated at our discretion, however they may take longer to deal with as additional information is gathered.</p> <p>The strategy is accessed online by visiting the planning enforcement section of Swale's website, which contains key contact and reporting information.</p>
<p>Page 11 What is considered ?</p>	<p>Expediency relates to the planning balance for taking action, and when assessing a case for enforcement</p>

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<p>Last sentence: rather than saying ‘establish whether it is expedient to act upon the breach’, could it instead say ‘decide what action to take’?</p>	<p>action the Council will ensure that any action is reasonable, proportionate and in the public interest.</p>
<p>Page 19 Categories Can category 1 be tightened to include the Kent Downs AONB, and whether the location or person in control already has an adverse planning history, and where concern has been flagged up by a Ward Member, MP or Parish Council Chairman.</p>	<p>Category 1 is very clear, and to include a reference to the Kent Downs AONB would not make a difference to our response to the types of development stated.</p> <p>When a new complaint is logged on the system it automatically brings up the entire planning history for the site, thereby alerting officers to any adverse planning history.</p> <p>Complaints raised by Ward Members, MPs or Parish Councils are always investigated, and will be placed in the appropriate category based on the nature of the complaint.</p>

Planning and Transportation Policy Working Group	
Meeting Date	17 September 2024
Report Title	Local Development Scheme Autumn 2024 update
EMT Lead	Emma Wiggins Director of Regeneration and Neighbourhoods
SMT Lead	Joanne Johnson Head of Place
Lead Officer	Stuart Watson Project Manager (Planning Policy)
Classification	Open
Recommendations	<ol style="list-style-type: none"> 1. Members of PTPWG are asked to recommend to Policy and Resources committee the revised timetable for a Regulation 18 draft Plan consultation in quarter 2 of 2025 and a Regulation 19 pre-submission Plan consultation in quarter 4 of 2025. 2. Members are also asked to recommend the updated Local Development Scheme at Appendix I that includes the revised timetable.

1 Purpose of the Report and Executive Summary

1.1 This report sets out a proposed update to the timetable for the Local Plan Review consultations as set out in the Council’s Local Development Scheme. The update is required to address members’ request to carry out additional work that could be considered as part of drafting the Regulation 18 version of the Local Plan. The work includes:

1. identify sites in Sittingbourne for additional homes;
2. identify sites for rural older persons housing;
3. review specific sites for densification potential; and,
4. review draft HELAA allocations from the perspective of alternative transport solutions (given the perceived direction of travel of national government in that regard).

2. Background

2.1 The requirement to produce a Local Development Scheme is set out under section 15 of the Planning and Compulsory Purchase Act 2004. The Act sets out that schemes must specify (among other matters) the development plan documents including local plans that when prepared, will comprise part of the development plan for the area. The Local Development Scheme should be made publicly accessible and kept up to date so that that local communities and interested parties can keep track of progress.

- 2.2 On 24th July 2024 the Council agreed the Local Plan Review consultation approach option 2 that included a Regulation 18 draft Plan consultation in quarter 4 of 2024 and a Regulation 19 pre-submission Plan consultation in quarter 1 of 2025 and, that the updated Local Development Scheme be agreed.
- 2.3 Since the Full Council decision, a consultation on proposed changes to the National Planning Policy Framework has been undertaken by the government. Whilst at the time of writing this report the proposed changes have not been adopted into national policy, it is clear that the government continues to place emphasis on the importance of Local Authorities to have up to date Local Plans and that Plans and should meet central government’s understanding of local needs.
- 2.4 To allow time for new legislation on Plan Making to be brought forward and for Local Authorities to address changes proposed in the NPPF, the government has extended the timeframe for Local Plans to be submitted under the current Plan Making system to December 2026. This is an extension of 18 months from the previous governments’ intended deadline of June 2025.
- 2.5 As part of informal discussions with members on sites that can be considered for drafting the Local Plan, members have asked for further work on the site options as set out in paragraph 1.1 above. To help facilitate the first two requests in a robust and defensible manner, officers will need to carry out a new call for sites exercise and assess those sites to determine their suitability for consideration in Plan drafting. This will ensure that all sites proposed for draft allocations have been through the same assessment, a process that is a requirement for Plan Making and is tested through the Plans Sustainability Appraisal.
- 2.6 The call for sites workstream has been estimated by officers to take approximately 6 months. Alongside the call for sites officers will also be working on the third and fourth requests of members. As a result of these work streams the proposed Regulation 18 draft Local Plan consultation schedule for Quarter 4 of this year will be need to be pushed back to Quarter 2 of 2025.
- 2.7 Additionally, the time between the Regulation 18 consultation and Regulation 19 consultation is proposed to be extended by 3 months to ensure officers have enough time to comprehensively consider responses to the Regulation 18 consultation before producing the next draft of the Local Plan. Whilst the previous timeframe for this work was achievable, albeit tight the government has allowed more time for Plan Making under the current system. The extension of time would also be appropriate based on the recent experience of neighbouring authorities who have experienced higher levels of response to consultations than previously experienced. The revised timetable proposed in the LDS is set out below.

Project Plan going forward	
Publication of Regulation 18 draft Local Plan consultation	April to June 2025
Publication of submission draft local plan review for public Consultation (Reg 19)	October to December 2025

Submission of Plan for Examination (with results of the public consultation) Reg 22	January to March 2026
Examination hearing sessions (Reg 24) *	July to September 2026
Main modifications consultation *	October to December 2026
Adoption, full Council (Regulation 26) *	January to March 2027

* Indicative time frames as finalise of dates will be dependent on the availability of the Planning Inspectorate.

- 2.8 When balancing the priorities of the timeframe to December 2026 to submit a Plan for examination under the proposed NPPF transitional arrangements, costs of Plan production and robustness of Plan drafting that includes the 4 workstreams set out in paragraph 1.1 above, officers consider a 6 month extension to the timetable to the Regulation 18 consultation and a further 3 months after the consultation to refine drafting of the Regulation 19 draft Plan to be the best approach to support member aspirations for the Local Plan Review

3. Conclusion

- 3.1 This report recommends changes to the Local Plan Review timetable for consultation to include a 6 month extension for preparation of the Regulation 18 document and a 3 month extension to the review period before the Regulation 19 consultation. The proposed timetable extension ensures that the Council can deliver the Local Plan Review within the new timeframe for Plan Making set out by the government. Updating the Local Development Scheme to reflect the timetabling changes will ensure that local communities and stakeholders are kept up to date on the Council's Local Plan progress.

4. Proposals

- 4.1 Members of the PTPWG are asked to recommend to Policy and Resources committee the revised timetable for a Regulation 18 draft Plan consultation in quarter 2 of 2025 and a Regulation 19 pre-submission Plan consultation in quarter 4 of 2025. Members are also asked to recommend the updated Local Development Scheme at Appendix I that includes the revised timetable.

5. Alternative Options Considered and Rejected

- 5.1 To not update the timetable for Local Plan consultation set out in Local Development Scheme – The additional call for sites work including site suitability assessments would not be completed within the existing timetable. This would make the published Local Development Scheme out of date and the Council would

fail in its legislative duty to keep local communities and stakeholders up to date on its intentions towards Local Plan making.

6. Consultation Undertaken or Proposed

- 6.1 The timescales for Local Plan production and the timetable for consultation are a matter for the Council's Local Development Scheme (LDS). The LDS which is contained in Appendix I has been updated to reflect the timetabling changes set out in this report.
- 6.2 The timetabling changes were discussed informally with administration members in August 2024 once proposed changes to the NPPF and Plan making were known.

7. Implications

Issue	Implications
Corporate Plan	The LPR is responsible for delivering the spatial elements of the Corporate Plan.
Financial, Resource and Property	Updating the Local Development Scheme to reflect the timetable changes and publication of the document on the website can be accommodated within existing resources.
Legal, Statutory and Procurement	Preparation of a Local Plan is carried out under a national legislative and regulatory framework.
Crime and Disorder	None identified at this stage.
Environment and Climate/Ecological Emergency	<p>The Local Plan will be supported by its own Sustainability Appraisal and Habitats Regulation Assessment at each key stage in decision making.</p> <p>The sustainability appraisal process appraises the social, environmental and economic effects of a plan from the outset. In doing so it helps ensure that Plan making decisions are made that contribute to achieving sustainable development.</p> <p>Habitats regulations assessments test if a Plan and the site allocations and policies within it could significantly harm the designated features of a site or sites protected by the Conservation of Habitats and Species Regulations 2017.</p> <p>Drafting of the Plan and its Policies will also take in to account the Council's Climate and Ecological Emergency Action Plan.</p>
Health and Wellbeing	None identified at this stage

Safeguarding of Children, Young People and Vulnerable Adults	None identified at this stage.
Risk Management and Health and Safety	<p>There is a considerable (although now reduced – given the extended timeframe) risk that SBC may not be able to recruit or retain the required full complement of permanent staff to deliver the Local Plan within the window of the transitional arrangements.</p> <p>There is an identified national shortage of skilled planners, and many Local Authorities will be seeking similar skills at a similar period of time.</p>
Equality and Diversity	None identified at this stage.
Privacy and Data Protection	None identified at this stage.

8. Appendices

8.1 Appendix I Local Development Scheme 2024

8.2 Appendix II Local Plan Review Evidence Base list

9. Background Papers

9.1 [Full Council report Local Plan Review Consultation timetable options and LDS 24th July 2024.pdf \(swale.gov.uk\)](#)

Appendix I. Local Development Scheme tbc 2024 Draft

1. Introduction

- 1.1 Swale Borough Council is required to prepare and maintain a Local Development Scheme (LDS) in accordance with Section 15 of the Planning and Compulsory Purchase Act 2004 (as amended by the Localism Act 2011).
- 1.2 This LDS came into effect upon agreement by the Full Council at its meeting on TBC 2024. As set out in the Planning and Compulsory Purchase Act 2004 (Section 15) the LDS must specify:
- The local development documents which are to be development plan documents;
 - The subject matter and geographical areas to which each development plan document is to relate;
 - Which development plan documents (if any) are to be prepared jointly with one or more other local planning authorities;
 - Any matter or area in respect of which the authority has agreed (or propose to agree) the constitution of a joint committee under section 29;
 - The timetable for the preparation and revision of the development plan documents.
- 1.3 The LDS is a project plan which sets out the timetable for the production of new or revised development plan documents which will form the Council's Local Development Plan. This LDS sets out a work programme for the Council's Local Plan Review over the period to March 2027. Progress against this LDS will be reviewed annually and reported by the Councils Planning Policy team.

2. Background

- 2.1 The Council produced its first LDS in 2005, followed by subsequent revisions in 2008, 2010, 2015, and 2016. These related to the former Local Plan (Adopted Feb 2008); and the current adopted Local Plan 'Bearing Fruits' (Adopted July 2017).
- 2.2 Work on the Local Plan Review (LPR) began once Bearing Fruits was adopted and the first LDS was published in 2018. Revised LDSs was published in March 2020, October 2021, July 2022 and July 2024 to reflect changes in approach that the Council deemed appropriate at that time. This latest version has been produced as a result of changes to the timetable for Regulation 18 and 19 consultation to allow time for officers to identify additional suitable sites for consideration in Plan drafting for Sittingbourne and for rural/older persons housing.
- 2.3 The Council remains committed to having an up-to-date local plan and recognises the need to progress with the LPR and to have a robust and proportionate evidence base. This new LDS (tbc 2024) reflects the statutory

stages of the plan process and the Statutory Regulations and will supersede the LDS (July 2024) programme for Local Plan Review.

3. The current adopted development plan for Swale

3.1 The current statutory adopted elements of the development plan for Swale Borough are:

- Bearing Fruits 2031: The Swale Borough Local Plan (adopted July 2017)
- Faversham Creek Neighbourhood Plan (made June 2017)
- Boughton-under-Blean and Dunkirk Neighbourhood Plan (made April 2023)
- Kent Minerals and Waste Local Plan 2013 – 2030, as amended by early partial review (adopted September 2020)

4. Current Supplementary Planning Documents (SPD)

4.1 The Local Plan is supported by a number of existing and proposed Supplementary Planning Documents and Supplementary Planning Guidance and Technical Advice Notes which set out the details for implementing local plan policies. All of these documents were subject to public consultation. These can be viewed at [Publications - Planning and Planning Policy \(swale.gov.uk\)](https://www.swale.gov.uk/publications-planning-and-planning-policy)

4.2 Currently adopted SPDs for the Borough are:

- Developer Contributions SPD (adopted, November 2009)
- Queenborough and Rushenden Masterplan SPD (November 2010)
- Sittingbourne Town Centre and Milton Creek Masterplan SPD (September 2010)
- Swale Landscape Character and Biodiversity Appraisal SPD (2011)
- Stones Farm Development Brief SPD (May 2011)
- Parking Standards SPD (May 2020)
- Sittingbourne Town Centre Supplementary Planning Document (2022)

4.3 Supplementary Planning Guidance (SPG) documents are:

- The Conversion of Buildings into Flats and Houses in Multiple Occupation
- Listed Buildings – A Guide for Owners and Occupiers
- The Conservation of Traditional Farm Buildings
- The Design of Shop Fronts, Signs and Advertisements
- Designing an Extension – A Guide for Householders
- Planting on New Developments – A Guide for Developers
- The Erection of Stables and Keeping of Horses
- Conservation Areas
- Lynsted Parish Design Statement
- Abbott Laboratories Ltd. – Development Brief

4.4 Technical Guidance Notes (TGN) documents are:

- Air Quality
- Noise and Vibration Planning Technical Guidance

4.5 The Full Council agreed an interim Planning Policy statement the “Interim Planning Policy for Park Home residences” ahead of the Policy consideration in the Local Plan Review on 17 June 2020, the.

4.6 Additionally, part of the Kent Downs National Landscape formerly known as the Kent Downs Area of Outstanding Natural Beauty falls within Swale and has a management plan that is adopted by all local authorities within their area. This is used as a material consideration for planning applications and can be viewed at [Planning and the Management Plan - Kent Downs](#)

5. Other Relevant Documents

5.1 Statement of Community Involvement (SCI)

The Swale Statement of Community Involvement (February 2018) currently being updated sets out the Council’s approach to public and key stakeholder participation in all planning matters, including the preparation of the local plan, supplementary planning documents and arrangements for consultations on planning applications.

5.2 Sustainability Appraisal

The Council will meet the requirements of sustainability appraisal through the local plan preparation process, which will involve carrying out iterative appraisals of the sustainability of the options, proposals and draft policies in the local plan and prepare reports on the findings. These will be carried out at the key stages of plan preparation and will inform progress on the Plan. The sustainability appraisals carried out at the key stages of plan preparation will also accompany consultation drafts of the Plan for public comment.

5.3 Swale Borough Council Corporate Plan (2023 – 2027)

The corporate plan sets out the Council’s priorities and the local plan is responsible for delivering those of a spatial nature. The priorities most specific to the Councils Local Plan review include:

- Priority Community: To enable our residents to live, work and enjoy their leisure time safely in our borough and to support community resilience.;
- Priority Economy: Working with our businesses and community organisations to work towards a sustainable economy which delivers for local people.
- Priority Environment: To provide a cleaner, healthier, more sustainable and enjoyable environment, and to prepare our borough for the challenges ahead.
- Priority Health and Housing: To aspire to be a borough where everyone has access to a decent home and improved health and wellbeing.

5.4 **Authority Monitoring Report**

The Council will publish monitoring information on its website on an annual basis relating to the previous monitoring year (running from 1 April to 31 March). This will provide updates on the status of the LDS timetable; progress on the Local Plan Review; reports on public consultations; duty to co-operate statements; neighbourhood planning and borough wide performance statistics on planning topics such as housing, employment, environment and transport.

5.5 **Policies Map**

The Council is required to produce a Policies Map which shows the location of development proposals in all current, adopted development plan documents on an ordnance survey base map. For Swale, this is the Proposals Map which accompanies the Bearing Fruits Local Plan (2017). The area annotated as Policy NP1 denotes the area covered by the adopted Faversham Creek Neighbourhood Plan.

6. **Emerging Development Plans for Swale**

Swale Borough Local Plan Review 2022 – 2040

- 6.1 The Local Plan Review (LPR) will set the framework for the development needs for the whole of the Swale Borough area from 2022 – 2040. This will include addressing revisions to the National Planning Policy Framework and associated Practice Guidance (2023); addressing the future development needs of the Borough including housing, the local economy, environmental considerations and community infrastructure needs and transport.
- 6.2 The LPR will include strategic policies to address these matters and put forward a development strategy for the Borough. It will also include site specific allocations to meet identified need and retain, update or include new detailed topic development management policies to guide determination of planning applications. Where applicable, the policies for any larger scale developments, such as significant extensions to existing villages and towns, will be set within a vision that looks further ahead (at least 30 years). This will take into account the likely timescale for their delivery.
- 6.3 Work began on the LPR as a result of Council Minute 44 (July 2017), with early scoping and evidence gathering, within the context of major review of national planning policy and government policy to significantly boost housing delivery. The key stages of the process and the Document Project Plan and the timetable for Local Plan Review including key stages of consultation are set out at 7.4 below.
- 6.4 The Council continues to undertake the Duty to Cooperate with neighbouring planning authorities and on the London Plan, to identify and discuss potential cross boundary issues (which will result in Statements of Common Ground). No intention for joint plan making with other Local Authorities was agreed by

the Council at its Full Council meeting on 15th November 2023 link: [Agenda for Council on Wednesday, 15 November 2023, 7.00 pm \(swale.gov.uk\)](#)

6.5 Community Infrastructure Levy (CIL)

CIL is a mechanism introduced under the Planning Act 2008 with the intention of providing a consistent approach to determining financial contributions from new development towards local infrastructure provision. CIL significantly reduces down the Section 106 agreement process at the planning application stages as Levies will have been determined through a CIL specific examination in public. The Section 106 agreements then are left to focus upon limited matters like Affordable Housing. At this stage in the Local Plan Review due to the Whole Plan viability assessment having not been completed it is unknown whether it will be viable to apply CIL to new development proposed within the Plan. The Council will review the appropriateness of applying CIL and, if required, CIL will be included in a future review of this LDS.

6.6 Neighbourhood Plans

At September 2024, the following areas have designated Neighbourhood Plan areas:

- Minster (designated in 2014)
- Hernhill (designated in 2017 and under preparation)
- Faversham (designated in 2020 and at referendum Autumn 2024)

6.7 Neighbourhood plans, once adopted, form part of the development plan but are not programmed by the local planning authority and are therefore, not included within this LDS timetable. They must be in general conformity with the strategic policies of the adopted local plan and have regard to any emerging local plans. More details for Swale neighbourhood plans can be found at [Local Plans - Neighbourhood planning \(swale.gov.uk\)](#)

6.8 Supplementary Planning Documents

Presently, the Council is not intending to prepare any Supplementary Planning Documents.

7. Conclusion

7.1 The Local Plan Review (LPR) will be produced by the Council's Planning Services, and led by the Planning Policy Team. The importance of the work is recognised and supported with input and expertise from other teams across the Council including the use of outside specialist consultants (where appropriate) and engagement with stakeholders, organisations and the public to help inform and develop the plan.

- 7.2 The Council has an established management and reporting structure to support delivery of the local plan review. This is primarily the Policy and Resources Committee (and Planning and Transportation Policy Working Group that report to it), that subsequently make recommendations to Council for decision. In addition, briefings for senior managers and Members on key pieces of research or new national policy are used.
- 7.3 The LPR Document Project Plan and the timetable for the Review including key stages of consultation are set out below.

Document Project Plan to date	
Subject/Content	<p>Matters to be reviewed include:</p> <ul style="list-style-type: none"> A vision for the Borough up to 2052 A review of development needs for housing, employment and other uses Identification of a development strategy that will meet identified development needs Allocation of land to deliver development needs and maintain supply The need for further sustainable transport measures aimed at encouraging modal shift to reduce congestion and air pollution that will lead to improved health outcomes. How great design and good placemaking can be achieved How best to respond to the challenges of the climate and ecological emergency
Status	Local Plan
Coverage	Borough-wide
Conformity with national policy	Central government policy and guidance, including the National Planning Policy Framework, National Planning Practice Guidance and the Town and Country Planning (Local Planning) (England) Regulations 2012.
Conformity with local policy	Regard to the Council's Plans and Strategies, including the Corporate Plan, Economic Development Improvement Plan and Housing Strategy. Also have regard to the Climate Change and Ecological Emergency Strategy and Action Plan. The LPR will need to take into account the policies within neighbourhood plans and have regard to other local strategies such as those produced by KMEP and KCC
Policies map	To be amended to reflect the policy content of the Local Plan Review
Local plan review commenced (Council Minute 44)	July 2017

Sustainability Appraisal	Relevant appraisals and assessment will be carried out throughout the review of the Swale Borough Local Plan
Evidence gathering	Commenced July 2017
Previous consultations being superseded	
<ul style="list-style-type: none"> • Regulation 18 consultation (Looking Ahead) • Regulation 19 consultation on the LPR • Publication of further Issues & Options (with Preferred Option) consultation document (Reg 18) 	<p>27 April – 8 June 2018</p> <p>February – 30 April 2021</p> <p>October – November 2021</p>
Project Plan going forward	
Publication of Regulation 18 draft Local Plan consultation	April to June 2025
Publication of submission draft local plan review for public Consultation (Reg 19)	October to December 2025
Submission of Plan for Examination (with results of the public consultation) Reg 22	January to March 2026
Examination hearing sessions (Reg 24) *	July to September 2026
Main modifications consultation *	October to December 2026
Adoption, full Council (Regulation 26) *	January to March 2027

* Indicative time frames as finalise of dates will be dependent on the availability of the Planning Inspectorate.

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Appendix II Local Plan Review Evidence Base list – September 2024 update

Ref No.	Document Title	Purpose of Piece of Evidence	Current Status	Dependencies	Why is this piece of Evidence Needed?	Member routing?	Key Project Dates	Need for Updating/Refreshing?
Housing								
1	Exceptional Circumstances for a Lower Housing figure Paper	The December 2023 NPPF revisions stated that “there may be exceptional circumstances, including relating to the particular demographic characteristics of an area which justify an alternative approach to assessing housing need; in which case the alternative approach should also reflect current and future demographic trends and market signals.” (Para 61 (NPPF, December 2023))	Commissioned	None	NPPF requirement if a lower housing target is desirable	Informal PTPWG	Second draft received	
2	GTAA (Gypsy and Traveller and Travelling Show People Accommodation Needs Assessment)	Update of future Gypsy and Traveller accommodation needs and also needs of Travelling Show People	Published	Call for sites must come first	Statutory /NPPF requirement	Informal PTPWG	Feb-24	
3 Page 51	Gypsy and Traveller and Travelling Show People Accommodation Needs Assessment	Specialist technical report to identify future accommodations needs for Gypsies, Travellers and Travelling Show People Informs allocations and policy to deliver this specialist accommodation, ensure statutory obligations are met and to deliver sustainable development	Published	None	Statutory /NPPF requirement	No Further Action	Nov-18	
	Link: Appendix I – Gypsy and Traveller Accommodation Assessment.pdf (swale.gov.uk)							
4	Housing Market Area Assessment	Update of 2020 study to determine future housing needs for the borough in terms of type, size and tenure	Published	Whole plan viability assessment must come first	Statutory /NPPF requirement	Informal PTPWG	TBC	Needs updating prior to publication of a Reg 19
5	Swale Housing Market Assessment (SHMA) Link: Housing Market Assessment for Swale.pdf	Analysis of housing needs in the borough and what future needs should be addressed in policies and proposals in the LPR	Published	None	Statutory /NPPF requirement	No Further Action	Jun-20	
6	Swale Borough Council: Choices for Housing Growth Link: Swale Borough Council Choices for housing growth	Report on high level strategic options for housing growth for Swale Local Plan Review. General evidence report to identify potential development options based on capacity	Published	None	Statutory /NPPF requirement	No Further Action	Feb-18	
Air Quality								
7	Air Quality Modelling	To identify potential impacts on Air Quality through potential development proposed in the Local Plan	Commissioning	Local Plan preferred allocations/	Statutory/NPPF requirement	Informal PTPWG	TBC	

				HELAA/ELR must come first				
8	Air Quality Monitoring Report Link: Final Air Quality Modelling Report for Swale LP December 2020.pdf	Assess impacts of potential local plan site allocations on air quality in the borough	Published	None	Desirable	No Further Action	Dec-20	
Environment								
9	Agricultural Land Review	The best agricultural land for food production is now a material consideration in Planning matters under the December 2023 NPPF so we need to update our evidence on best and most versatile land in Swale.	Detailed evidence	None	Statutory /NPPF requirement	Informal PTPWG	First draft September 2024	
10	Swale Tree Strategy	It aims to safeguard existing trees, woodlands and hedgerows employing the necessary mechanisms to conserve this outstanding resource and to capitalise on the benefits of green infrastructure by increasing tree planting and canopy cover and attracting investment to ensure delivery.	Detailed evidence	Green and Blue Infrastructure Strategy will influence it	Desirable (requested by members in Feb 2023)	Formal PTPWG and P&R	TBC	
11	Borough Wide Design Code	To allow local areas to have their own framework for creating well-designed and inclusive places in keeping with local context, character and preference.	Not started yet	The Viability Study must come first as it will inform details on viable homes standards.	Statutory /NPPF requirement	Formal PTPWG and P&R	To Follow Local Plan Review	
		Local Nature Recovery Strategies have been created under the 2021 Environment Act and are a system of spatial strategies for nature and environmental improvement that will underpin England's Nature Recovery Network. They will deliver the government's commitment to ending the decline of nature and supporting its recovery. The Partnership is lead and managed by KCC with SBC actively involved.	Partnership (Making Space for Nature in Kent and Medway) launched October 2023	None	Statutory /NPPF requirement	Informal PTPWG and Environment Committee	TBC	
13	Water Cycle Study	Assessment of sustainable water quality and resources across the borough	Commissioned	Stage 1 – none Stage 2 – none Stage 3 – HELAA must come first	Desirable and to meet the October 2022 Council Motion	Informal PTPWG	Summer 2024 Autumn Spring 2025	

14	Swale Biodiversity Baseline Report Link: Biodiversity Baseline Study.pdf (swale.gov.uk)	Baseline assessment of the biodiversity in Swale in relation to meeting our duties under the Environment Act	Published	None	Desirable	No Further Action	Oct-20	
15	Swale Green and Blue Infrastructure Strategy Link: Swale GBI Strategy	identify and guide opportunities for a greener, healthier, more biodiverse and prosperous Swale.	Published	None	Statutory /NPPF requirement	No Further Action	Sep-20	
16	Costal Erosion Zones for CCMAAs		Not started yet					
Climate Change								
17	Climate change study / Pathways to Net Zero	A study setting out how Swale will get to Net Zero by 2030/2050 and what planning policies are required to achieve that. It could also potentially set out the approach to integrating transport, active travel, public transport with the local plan.	Commissioned	The Viability Study must come first as it will inform details on viable homes standards.	Desirable and it will help Swale meet its Climate and Ecological Emergency declaration and action plan objectives	Informal PTPWG and Environment Committee	First draft mid September	
Page 53	Sustainable Design and Construction Standards	Recommendations to inform policy to deliver sustainability standards in buildings and deliver zero carbon by 2030	Published	None	Desirable	No Further Action	Jan-21	Needs updating/refreshing before we draft another Reg 19
	Link: Square Gain Policy Recommendations table FINAL January 2021.pdf (swale.gov.uk)				To assist with the delivery of the Council's Ecological and Climate Emergency Action Plan			
Economy and Employment								
19	Tourism and Culture Study	Potential study to see what Swale has, its potential and growth areas.	The current headline intention is that the existing Visitor Economy Framework is updated within a refreshed Economic Development Strategy	It will be part of the Economic Development Strategy refresh	Desirable	Informal PTPWG/ P&R/ Regeneration and Property Committee	TBC	
20	Employment Land Review 2023	Update of 2018 study to determine the future economic land needs of the borough	Published		Statutory/NPPF requirement	No further action	Dec-23	

21	Employment Land Review 2018	Specialist technical report identifying future needs for employment land in the borough Informs allocations for employment land and policies to deliver sustainable development and support job creation	Published	None	Statutory /NPPF requirement	No Further Action	Aug-18	
	Link: Swale ELR v3 28Aug18 format.pdf							
22	Swale Retail & Leisure Needs Assessment - 2023 Retail Capacity Update	Update of retail needs assessment published in 2018/19	Published	None	Statutory /NPPF requirement	No Further Action	Dec-22	
	Link: Swale Retail Leisure Needs Assessment 2023 WEB.pdf							
23	Retail and Leisure Needs Assessment	Specialist technical report to identify future retail and commercial leisure needs Informs allocations and policy to support our town centres and to deliver retail and leisure floorspace needs and to deliver sustainable development.	Published	None	Statutory /NPPF requirement	No Further Action	Dec-18	
	Link: Microsoft Word – Retail Leisure Needs Assessment – Rev 3 – 01.03.19 (swale.gov.uk)							
	Retail Leisure Needs Assessment – Appendix 2- Final Issue 22.2.19 A.pdf (swale.gov.uk)							

Flood Risk

Page 54	24	Strategic Flood Risk Assessment and Sequential Test	Update of previous study to take account of latest data, policy and guidance	Commissioned	Completion of EA modelling must come first and LP allocations are required for the sequential test	Statutory /NPPF requirement	Informal PTPWG	Commencing May 2024 First draft January 2025	
		Sequential Test (flooding)	Analysis of sites that are at risk of flooding. Ranking of sites in terms of flood risk	Published	None	Statutory /NPPF requirement	No Further Action	May-20	
		Link: Sequential Test 2020.pdf (swale.gov.uk)							
	26	Strategic Flood Risk Assessment	Assessment of flood risk from all sources across the borough	Published	None	Statutory /NPPF requirement	No Further Action	Mar-20	
		Link: Planning and Regeneration – Strategic Flood Risk Assessment Completed (swale.gov.uk)							
	27	Strategic Flood Risk Assessment Level 1 (SFRA)	Specialist technical assessment of flood risk from all sources at a strategic level Informs whether or not more detailed flood risk assessment work is needed at a site specific level (sequential test)	Published	None	Statutory /NPPF requirement	No Further Action	Nov-19	
		Link: JBA Consulting Report Template 2015 (swale.gov.uk)							

Heritage

28	Swale Heritage Strategy	Heritage Strategy to inform policies in the LPR	Published	None	Statutory /NPPF requirement	No Further Action	Jan-20	
	Link: Heritage and landscape – Swale’s Heritage Strategy							

Infrastructure

29	Infrastructure Delivery Plan	To set out what infrastructure is needed, when and how it will be funded to support development proposed in the Local Plan	Not started yet	Local Plan Review preferred allocations and topic based policies must come first	Statutory/NPPF requirement	Formal PTPWG and P&R	Scoping Autumn to Winter 2024	
30	Transport Modelling	To identify potential impacts on road network through potential development proposed in the Local Plan	Commissioned	Local Plan preferred allocations/ HELAA/ELR must come first	Statutory /NPPF requirement	Potentially as a for info to JTB. Informal PTPWG	Regulation 18 modelling Late Spring 2025	
31	Swale LCWIP (Local Walking and Cycling Plan)	A strategic approach to identifying cycling and walking improvements at a local level which can then be reflected in the LP in the Infrastructure Delivery Plan and in site allocation policies	Started	None	Desirable/ good practice/helps meet sustainable development	Environment Committee, JTB	Autumn 2024	
32	Kent Minerals and Waste Local Plan	The Minerals and Waste Local Plans, plan for sustainable waste management capacity and mineral supply to ensure that Kent has the waste infrastructure and raw materials that it needs, whilst protecting the environment.	Ongoing	Site allocations are shared with KCC to ensure no conflicts	Statutory /NPPF requirement	Informal PTPWG	Publication of draft updated Kent Mineral Sites Plan for representations on soundness Jan/Feb 2024	
	(Swale are consultees and actively engage in the process)						EiP for Mineral Plan May 2024	
33	Swale Borough Local Plan Review: Transport Modelling Evidence	Assessment of development impacts on traffic and transport across the borough	Ongoing		Statutory /NPPF requirement	Some evidence has already been published .Future runs would go through Informal PTPWG and potentially a presentation to JTB	Jun-20	
	Link: Appendix I Swale Local Plan Model Rerun Summary Report draft .pdf							
34	Swale Highway Model: Local Plan future testing scenario report	Specialist technical report to assess the capacity within Swale of the road network and the potential impacts of new development. Informs strategic development options and allocations to deliver sustainable development	Published	None	Statutory /NPPF requirement	No Further Action	May-19	
	Link: Appdx 1 Local Plan Scenario Testing 20may19.pdf (swale.gov.uk)							
	Appdx II Swale LMVR v9.14 4jul18.pdf							
Land								

35	Holistic Land Use Study	To look at all of the land requirements of housing, employment, agriculture, renewables, BNG, LNRS, etc.	Not started yet	Could potentially partner with Exceptional Circumstances paper	Desirable	Informal PTPWG	TBC	
36	Built up Area Boundary review	To account for under construction and built out Local Plan allocations, windfall development, change of use of agricultural buildings since adoption of the Local Plan in 2017.	Started	Latest monitored extant development site activity	Desirable	Informal PTPWG	Drafting commenced August 2024	
37	Housing and Employment Land Availability Assessment (HELAA)	Identify available land for development within the borough to meet future development needs	Ongoing	Whole Plan Viability Assessment must come first as it will provide area based viability assumptions for development	Statutory/ NPPF requirement	Informal PTPWG	1st Draft July 2024	
38	Swale Borough Settlement Hierarchy Link: Settlement Hierarchy Study 2020.pdf (swale.gov.uk)	Analysis of the centres across the borough to identify their place in the settlement hierarchy	Published	None	Statutory/ NPPF requirement	No Further Action	Aug-20	
Page 58	New Garden Communities Assessment of Stage 2 submissions Link: Appendix I – PBA REPORT 2nd stage assessment Sept 2019.pdf (swale.gov.uk)	Specialist technical assessment of the risks, opportunities and uncertainties associated with the four submitted garden communities in Swale Informs strategic development options and allocations to deliver sustainable development	Published	None	Desirable	No Further Action	Oct-19	
	New Garden Communities Assessment of Submissions Link: Meeting Title: (swale.gov.uk)	Specialist technical report to assess the submissions received in response to a 'call for sites' for potential NGCs. Informs strategic development options and allocations to deliver sustainable development.	Published	None	Desirable	No Further Action	Feb-19	
41	Strategic Development Options prospectus Link: Local Plans - Strategic Development Options (formerly known as New Garden Communities) (swale.gov.uk)	Call for submission of strategic sites for consideration as a way to deliver the future development needs of the borough	Published	None	Statutory /NPPF requirement	No Further Action	Spring 2018	
Landscape								
42	Landscape Character Assessment – update the 2011 version	Identify and describe variation in character of the landscape and explain the unique	Not started yet	None (Not critical)	Desirable	Informal PTPWG	TBC	

		combination of elements and features that make landscapes distinctive by mapping and describing character types and areas.		for the Local Plan but DM use it regularly for PAs)				
43	Swale Important Local Countryside Gap Study Link: McAfee Web Gateway - Notification (swale.gov.uk)	Review of land around Faversham and Teynham to identify 'gap' designations to safeguard the open and undeveloped character and to guard against coalescence	Published	None	Desirable	No Further Action	Jan-21	
44	Important Countryside gap review	Review remaining gaps in the borough excluding those covered in the January 2021 study	Commissioned	None	Desirable	Informal PTPWG	First draft August 2024	
45	Swale Landscape Sensitivity Link: Swale Landscape Sensitivity Assessment	Analysis of land parcels most vulnerable to development pressure for their sensitivity to change in landscape terms Informs suitability of potential development sites in terms of the impact development would have on the landscape	Published	None	Statutory/ NPPF requirement	No Further Action	Nov-19	Area specific update required once site allocations have been decided
46	Swale Landscape Sensitivity Area specific update	Area specific update to determine impacts of proposed development as set out in site allocations and accompanying policy criteria	Commissioning	Local Plan preferred allocations/ HELAA/ELR must come first	Statutory/ NPPF requirement	Informal PTPWG	First draft December 2024	
Page 57	Landscape Designation Review Link: Swale Local Landscape Designations	Technical assessment of landscape across the borough to identify landscape of highest local value	Published	None	Statutory/ NPPF requirement	No Further Action	Nov-18	
	Viability							
48	Whole Plan Viability Assessment	Update of the 2020 Viability evidence to determine the value in land across the borough and determine the viability of policy options and choices for the LPR	Complete draft	Draft LP policies	Statutory/ NPPF requirement	Informal PTPWG	Workshop January 2024	This will need to be updated as later versions of the LP are drafted
				Site allocation selection			Draft report May 2024	
				Infrastructure Delivery Plan			Partial update maybe required before Reg 19	
49	Local Plan viability study Link: 180504 Report Template V24 (swale.gov.uk)	To determine the value in land in the borough and the viability of development and to set out the costs of policy choices in relation to viability for new developments and the delivery of new infrastructure such as affordable housing, BNG etc.	Published	None	Statutory /NPPF requirement	No Further Action	Dec-20	
Open Space, Sport and Recreation								
50	Local Green Spaces	Assessment of proposed and designated LGS	Published	None	Statutory /NPPF requirement	No Further Action	Feb-21	

	Link: Local Green Spaces.pdf (swale.gov.uk)							
51	Built Sports Facilities Study	Update of the requirements of Built Sports Facilities in the future across the borough	Published	None	Statutory /NPPF requirement	Informal PTPWG presentation And Community and/or Environment Committee	Mar-24	
52	Open Space strategy	To update the Open Space requirements for the Borough	Commissioned	None	Statutory/NPPF requirement	Informal PTPWG	TBC	
53	Open Space and Built Facilities Strategic Needs Report	Specialist technical report to identify future needs for open space and built facilities at a strategic level	Published	None	Statutory /NPPF requirement	No Further Action	February 2019 (reported November 2019)	
	Link: ADD CLIENT ORGANISATION (swale.gov.uk)	Informs open space and built facilities standards to support future development (policy requirement)						
54	Strategic Future Needs Assessment	Assessment of future needs for open space and Built Leisure Facilities	Published	None	Statutory /NPPF requirement	No Further Action	Feb-19	
	Link: ADD CLIENT ORGANISATION (swale.gov.uk)							
Miscellaneous/Procedural								
Page 58	Authority Monitoring Report	Assesses the progress of our planning services over the previous financial year (1 April to 31 March), including progress on preparing the Local Plan against the benchmarks in the Local Development Scheme.	Not started yet	LPR monitoring indicators	Statutory/ NPPF requirement	Informal PTPWG	To be published as part of Examination submission	
	56	Sustainability Appraisal and HRA	Provide an update of the sustainability criteria against which the LPR should be measured	Commissioned	Scoping report - None Preferred options – HELAA/ELR must come first Submission plan – Reg 18 and Reg 19 must come first	Statutory /NPPF requirement	Informal PTPWG and P&R (Full Council when it is accompanying the formal stages of the LP)	Spring 2025 for Reg 18
57	Scoping Report for the Swale Borough Local Plan Sustainability Appraisal	Suggested scope for the SA that considers and communicates likely effects of a draft plan and alternatives	Published	None	Statutory /NPPF requirement	No Further Action	Jul-18	
	Link: Chris McNulty Report Sustainability Appraisal for the Swale Borough Local Plan 2018-05-31	Provides the checks and balances to the whole process to ensure sustainable development is delivered						

Evidence progress status Key –

	Pieces of Evidence at this Stage
Not started yet	7
Commissioning	2
Commissioned/External	10
In Preparation/Internal	4
Final Draft	1
Published	31
Ongoing	2

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Planning and Transportation Policy Working Group	
Meeting Date	17 th September 2024
Report Title	Statement of Community Involvement – Update for Emerging Local Plan
EMT Lead	Emma Wiggins, Director of Regeneration & Neighbourhoods
Head of Service	Joanne Johnson, Head of Place
Lead Officer	Rachel Scott, Principal Policy Consultant
Classification	Open
Recommendations	<ol style="list-style-type: none"> 1. That members discuss and note the Statement of Community Involvement report. 2. That members recommend to Policy and Resources Committee that the Statement of Community Involvement is published for public consultation.

1 Purpose of Report and Executive Summary

- 1.1 The purpose of this report is to present the draft Statement of Community Involvement (SCI) update for public consultation to members. The current SCI from 2018, together with the 2021 update are quite dated now, and so an update has been produced which members are being asked to approve for public consultation.
- 1.2 An SCI sets out how consultation will be carried out on all planning matters, including: planning applications, planning policy documents, and enforcement.

2 Background

- 2.1 The Council’s current SCI, having been published in 2018, is in need of a refresh. Local Planning Authorities are required to review SCIs every 5 years from adoption. Whilst an update was published in 2021, this was a minimal update, mostly to do with changes to consultation approaches during Covid, and the update is also now 3 years old. A link to the 2018 SCI and 2021 update is provided in this report at section 8.1.
- 2.2 The draft SCI update reflects the more modern approach to writing such documents, reflecting the latest guidance and legislation, and using up-to-date terminology and current names for organisations.
- 2.3 The draft SCI update follows the relevant legislation, the Town and Country Planning (Local Planning) (England) Regulations 2012, and the national planning practice guidance. The document specifies what consultation the Council must do to meet the requirements of the legislation by listing what the Council “will” do, but then indicates what it “may” do if it was to go further than required.
- 2.4 A lot of what goes in an SCI is to do with meeting mandatory requirements on consultation, but it also sets out ways the Council can encourage participation in

consultations on planning matters, including 'hard to reach' groups. The document can be used to help explain to people how they can get involved with the different types of planning issues the Council deals with. For example, the SCI explains what the different types of policy documents are which shape a Local Plan, and explains the engagement process for each different type of document. It does the same for planning applications, and enforcement.

- 2.5 The SCI does *not* cover operational matters on planning issues, and does not commit to things like a specific timeframe to publish consultation responses on planning applications once received. If the SCI is made too specific and stringent, then it would open the Council up to judicial review if what is promised in the SCI is not then delivered. Operational matters can be discussed with the relevant head of service, and Councillor aspirations to go beyond statutory requirements can be covered outside of the SCI.

3 Proposals

- 3.1 The proposal is to publish the new updated SCI document for consultation before the end of the calendar year. As proposed in an earlier paper, it is recommended that the Local Development Scheme is amended to show a delay to the Local Plan Regulation 18 consultation. This means that consultation on the SCI can now be undertaken in advance of the Regulation 18 Local Plan consultation, which allows officers to run a consultation under the upgraded 'Objective' software. The software has been upgraded since the last Local Plan consultation which alters how responses will be processed internally, it does not change how the public will interact with the software, it is an internal change only. Having had a consultation running before the Regulation 18 consultation, it will hopefully help the Regulation 18 consultation run more smoothly, as officers will be able to pick up any 'teething problems'.

4 Alternative Options Considered and Rejected

- 4.1 The option of not updating the SCI was considered and rejected. It is a requirement to update SCIs every five years, and it is beneficial to have an up-to-date SCI published in advance of the Local Plan being consulted on. The Local Plan can then be consulted on in line with the new document.

5 Consultation Undertaken or Proposed

- 5.1 Once approval has been obtained from all necessary parts of the Council, the document will be published for consultation, which will be before the end of the calendar year.
- 5.2 The document has already been consulted on internally with the relevant teams, notably with the Planning Applications and Planning Investigations teams.

6 Implications

Issue	Implications
Corporate Plan	<p>The proposals in the report align with the following Corporate Plan action:</p> <ul style="list-style-type: none"> <li data-bbox="537 422 1357 457">• A Local Plan with local needs and capacity at its heart.
Financial, Resource and Property	No implications identified at this stage.
Legal, Statutory and Procurement	Updating the SCI every five years is a requirement, therefore publishing an update SCI will help meet the Council's statutory requirements.
Crime and Disorder	No implications identified at this stage.
Environment and Climate/Ecological Emergency	No implications identified at this stage.
Health and Wellbeing	No implications identified at this stage.
Safeguarding of Children, Young People and Vulnerable Adults	No implications identified at this stage.
Risk Management and Health and Safety	No implications identified at this stage.
Equality and Diversity	The aim of the SCI is to improve the quality of consultation on planning matters, in particular in terms of equality and diversity.
Privacy and Data Protection	No implications identified at this stage.

7 Appendices

7.1 Appendix I: Statement of Community Involvement update draft for consultation.

8 Background Documents

8.1 The current version of the SCI and the February 2021 update can be found at: [Local Plans - Statement of Community Involvement \(swale.gov.uk\)](https://www.swale.gov.uk/local-plans-statement-of-community-involvement).

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Draft Statement of Community Involvement

September 2024

Draft Statement of Community Involvement 2024

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1 Introduction

What is a Statement of Community Involvement?

1.1 A Statement of Community Involvement (SCI) sets out how the community can get involved in the preparation of local planning policy documents and in decisions on planning applications. It explains how the community can be involved in the preparation of Local Plans, Neighbourhood Plans, Supplementary Planning Documents, and the consideration of planning applications. It also sets out what is expected from those proposing developments.

Why is the Statement of Community Involvement relevant?

1.2 Land use planning can affect everyone's daily lives, as the decisions that are made shape the place everyone lives and works in, visits or passes through. The Council wants to encourage people to participate early and throughout the preparation of the documents which will allocate land for development and in the processing of planning applications. This will help strengthen evidence and encourage a sense of local ownership and commitment. The aim of this approach is to reduce, if not resolve conflicts, and reach a consensus on essential issues in the early stages of the process.

1.3 There are many benefits of involving communities in planning matters, these include:

- A greater focus on local needs and priorities;
- Decisions being informed by local knowledge;
- Increased community understanding of how planning policies are developed and how they are linked to other Council documents;
- Increased community understanding of how decisions on planning applications are made;
- A sense of ownership of key planning policy documents;
- Removing barriers (physical, language or social) and giving communities access to information and opportunities to voice their needs and opinions;
- Creating accountability by generating a wider interest in monitoring outcomes.

1.4 The Council aims to make consultation and involvement in the planning process transparent, accessible, collaborative, inclusive and consistent. This will be done through the methods set out in this SCI.

1.5 In the sections that follow, we set out what the law says we must do, these are listed as bullet points that the Council "will" do. Any other options the Council may choose to do over and above what the law says are listed as bullet points the Council "may" do. The Council will use these other options where practicable or appropriate.

2 Principles of Community Involvement

2 Principles of Community Involvement

2.1 The planning process is more effective when the people that might be affected by change are an integral part of the engagement process. Greater involvement can help shape planning solutions that maximise the positive outcomes and minimise any negatives.

2.2 The Council does not pretend that planning decisions are free of difficult choices. Decisions need to be made within legal requirements, to have regard to national planning policy and guidance, and to consider technical evidence. In most cases the planning judgement and decision will balance both the positive and negative effects. There may well be differences in opinion, however, through positive engagement it is hoped that interested parties become engaged so that the quality of decisions is improved by taking account of local knowledge and opinion, and that the outcomes are understood.

Our principles for involving communities

2.3 As a minimum, the Council will comply with any legislation that is currently in force, or comes into force in the future. This will include any national legislation in an emergency, such as was the case with the coronavirus pandemic.

2.4 The Council will tailor the approach where needed for specific issues, audiences and the scale of proposals, so that it is fit for purpose for the subject being consulted on, making it easier for people to take part. For example, where proposals have a local or limited impact, then the Council will seek to more closely involve those most affected. When the Council is planning for a large area, or considering choices which might affect much of the Borough, then engagement will be carried out more widely.

2.5 The Council's main principles of involving the various communities in the planning process are set out below:

- Encouraging communities to contribute by providing opportunities to put their ideas forward where there is scope to influence the Council's decisions;
- Being transparent and clear about the planning process, what is being proposed and the scope to influence;
- Using a variety of methods to make it easier for people to take part in the planning process, with the method used being appropriate to the subject being consulted upon;
- Designing engagement exercises to be accessible;
- Encouraging better inclusion of everyone affected by a planning matter, making the effort to include 'disengaged groups' such as young people, ethnic minorities, disabled people and the travelling community;
- Making information available that is appropriate and understandable, raising awareness of planning matters and ensuring people are kept up to date. All data stored and published will be compliant with the Council's data protection policy;
- Analysing carefully, and where appropriate providing clear feedback for participants after an engagement exercise. This may include changes we have made as a result of comments;
- Protecting residents by redacting sensitive information before it is made public, such as personal addresses, phone numbers, email addresses, and dates of birth;
- Encouraging appropriate representations (comments) by only accepting comments that are relevant to the subject being consulted on. No profanities, or statements considered derogatory or offensive to persons sharing a protected characteristic (such as disability, race, religion and others) will be accepted. If any representation is rejected for such reasons, the person making the representation will be notified of the reason for this once it has been processed.

Engagement by landowners and developers

2.6 The Council looks for its commitment to engagement to be matched by landowners and developers who are considering bringing forward development proposals. Landowners and developers should engage early so that the views of residents and other stakeholders can be taken into account when deciding whether or not to proceed with a proposal, and in the detail of the proposal itself. The purpose of the engagement should be made clear and it should be highlighted that this is prior to any planning application being submitted to the Council.

Digital and online technology

2.7 Greater use of digital technology is likely to continue to play an important role in the planning process in the future. Online events can allow the Council to provide information more easily, and in a way which can be less intimidating and more convenient, as people do not have to travel or make their voice heard in the crowd. It can also lead to greater engagement from young people who do not typically get involved with planning matters.

2.8 The Council recognises that relying entirely on digital technology potentially excludes those who do not have access to it, so the Council will continue to engage with people via other methods as well.

Equalities

2.9 As required by law, the SCI has been drafted to have regard to the need to eliminate unlawful discrimination, harassment and victimisation and to advance equality of opportunity and foster good relations between different groups.

3 Planning for the future of Swale Borough Council

3 Planning for the future of Swale Borough Council

3.1 In this section more detail is provided about the main types of policy plans and documents we produce.

Documents we produce

a) Statement of Community Involvement (SCI)

3.2 The preparation of a new SCI is itself subject to consultation, but reviews to an existing SCI do not require consultation. Consultation requirements set out in an SCI will need to be followed when preparing policy documents and when consulting on planning applications.

b) Local Development Scheme

3.3 The Local Development Scheme (LDS) sets out the Council's work programme for preparing the Local Plans the Council aims to prepare over the next three years or so. Local Plans form part of the development plan for the Borough which is the starting point for determining planning applications.

3.4 The LDS explains:

- What Local Plans the Council will prepare;
- What will be in those plans and where they will apply;
- How long it will take to prepare the plans;
- What kind of plans they will be.

3.5 An LDS does not include details of other plans and policy documents such as Neighbourhood Plans, Supplementary Planning Documents and other guidance documents, or the Community Infrastructure Levy charging schedule.

c) Local Plans

3.6 Local Plans describe the places where development is intended to be directed, and where it needs to be carefully controlled. Policies within Local Plans set out how development is to be managed over a minimum period of 15 years from adoption.

3.7 Local Plans must include both strategic policies to address the development and land use priorities, and non-strategic policies which will include things like sustainable design and construction. Local Plans will allocate land to help deliver strategic requirements, including land for housing and employment.

3.8 Local Plans are a key consideration when determining planning applications, with decisions expected to be in accordance with Local Plans, and 'made' Neighbourhood Plans, unless other material planning considerations indicate otherwise. Other material planning considerations are matters that should be considered in making a planning decision.

d) Sustainability Appraisal

3.9 A Sustainability Appraisal (SA) is a process through which the effects of a Local Plan on economic, social, and environmental objectives are considered. An SA also incorporates a further assessment process known as Strategic Environmental Assessment (SEA) which focuses on environmental impacts. SAs are iterative (i.e. subject to change and adjustment over time), with the appraisal updated alongside each consultation stage of a Local Plan.

e) Supplementary Planning Documents

3.10 Supplementary Planning Documents (SPDs) set out more detailed guidance to further explain the policies and proposals in Local Plans. SPDS cannot change policies contained within Local Plans but can give detail on how those policies are implemented. SPDs are a material consideration when assessing a planning application.

f) Non-statutory guidance

3.11 The Council may publish other development briefs and guidance which are not formal SPDs, and consultation may be carried out on these documents. Like SPDs, non-statutory guidance cannot change policies contained within Local Plans but can give detail on how those policies are implemented. Such documents and policies are also a material consideration when assessing a planning application.

g) Community Infrastructure Levy

3.12 The Community Infrastructure Levy (CIL) is a charge per square metre which can be levied by local authorities on new development to help deliver the infrastructure needed to support growth. CIL only applies in areas where a local authority has consulted on, and adopted a charging schedule which sets out its levy rates. At the time of publishing this SCI, Swale Borough Council was yet to implement CIL, or issue any draft documents.

4 Engagement process for local Plans

4 Engagement process for local Plans

4.1 In this section more detail is provided on how the Council will engage in the preparation of Local Plans.

4.2 Local Plans are prepared in accordance with a regulatory process. The process includes consultation with the community and stakeholders. Following its preparation, a Local Plan is subject to examination by an independent Planning Inspector.

4.3 The process of preparing a Local Plan involves five broad stages:

1. Plan preparation;
2. Proposed Submission Plan publication and submission for examination;
3. Plan examination;
4. Publication of recommendations - Inspector's report stage;
5. Plan adoption.

4.4 Once a Local Plan is adopted, it becomes part of the development plan alongside other Local Plans and made Neighbourhood Plans. Together these are the starting point for deciding planning applications.

How we will involve people in the preparation of Local Plans

4.5 The Council is required by law to engage on the preparation of a Local Plan. This includes engaging with a range of specific consultees, some of which are listed below:

- National statutory bodies and agencies (e.g. Environment Agency, National Highways, Natural England, Historic England etc);
- Other local authorities, including neighbouring authorities, Kent County Council, the Greater London Authority, and any others which may be considered appropriate;
- Parish and Town Councils;
- Service providers of all kinds, including the emergency services, utility companies and health providers;
- Local organisations and societies such as civic or amenity groups;
- Businesses and economic groups including the Local Enterprise Partnership;
- Environmental stakeholders e.g. Kent Downs National Landscape (formerly AONB), wildlife trusts;
- Groups who are less likely to be heard (hard to reach groups), and groups with a specific role in equalities;
- Individuals (who have asked to be notified);
- House builders / developers / agents / landowners / registered providers of affordable housing.

Plan preparation

4.6 The plan preparation stage typically includes: evidence gathering on key issues, the development of options and a sequence of engagement exercises. Engagement may include both informal methods as well as formal methods such as consulting on a draft Local Plan.

4.7 The Council will:

- Write to consultees to say it intends to produce a Local Plan and invite them to say what issues they think the plan should cover;
- Advertise the Council's intention to produce a Local Plan, including a notification on the Council website, so that the public and organisations may register their interest;
- Engage with statutory consultees on evidence base and the consideration of potential policy direction;
- Consult on draft policies;

- Hold engagement events to support consultations in person and/or online;
- Engage with Town and Parish Councils and other stakeholders, for example, through meetings, workshops and forums.
- Issue information through press releases, newsletters, and social media.

4.8 The Council may:

- Prepare summaries of technical reports;
- Create online surveys;
- Produce further publicity such as posters, leaflets or postcards.

4.9 After consultations have closed the Council will consider representations received and set out the main issues raised in a report of the consultation.

Proposed Submission Plan publication and submission for examination

4.10 At this stage the Council will publish the Proposed Submission Plan and invite representations on its legal compliance and soundness as defined in the National Planning Policy Framework. The Council will pass all representations to the Planning Inspectorate who will arrange for their consideration by an Inspector through an examination process.

4.11 The Council will:

- Publish a notification on the Council website indicating that the Proposed Submission Plan (the version that we consider ready for examination) is being consulted on and invite comments for a minimum of six weeks (excluding bank holidays);
- Get in touch directly with consultees to let them know of the publication of the Proposed Submission Plan;
- Clearly set out how people and organisations can make valid representations (comments);
- Make all statutory publication documents, including the consultation statement, available for inspection electronically or in paper form or both at the Council's offices.
- Issue a press release and email people on the Council's consultation database to inform people that consultation is taking place.

4.12 The Council may:

- Make paper copies of the Proposed Submission Plan available at main libraries;
- Produce further publicity such as posters, leaflets or postcards;
- Publish a press notice in a local newspaper;
- Undertake briefings with Town and Parish Councils and other stakeholders either online or in person.

Plan examination stage

4.13 The examination stage is run by the appointed Inspector, supported by an independent Programme Officer. The Inspector will consider all representations and evidence and then identifies area to be investigated further. The Inspector will set specific questions and a programme to do this, typically involving hearing sessions.

4.14 The Council will:

- Get in touch directly with all those who have made representations at the Proposed Submission Plan publication stage to give details of the date, time and place of the hearings, and the name of the person appointed to hold the examination;

4 Engagement process for local Plans

- At least six weeks before the first hearing, give details on the Council website and at the Council offices of the date, time and place of the hearings and the name of the person appointed to hold the examination;
- Make examination documents available on the Council website.

4.15 The Council may:

- Use press releases to inform people;
- Use digital platforms to allow online viewing of hearing sessions.

Publication of recommendations - Inspector's report stage

4.16 Based on their examination, the appointed Inspector will form a view on whether the Local Plan is legally compliant and is sound. Where necessary to make the Local Plan sound, the Inspector will recommend amendments to proposed policies and supporting text. This will be recorded through a formal report.

4.17 The Council will:

- Make the Inspector's report available for inspection at the Council offices and on the Council website;
- Notify all those who requested to be informed of the publication of the Inspector's report;
- Issue a press release and email people on the Council's consultation database to inform people.

4.18 The Council may:

- Make paper copies of the Inspector's report available at the main libraries.
- Use social media to inform people.

Plan adoption stage

4.19 Adoption is when the Council confirms that the Local Plan has statutory status and full weight can be given to it in the determination of planning applications and appeals.

4.20 The Council will:

- Make available the Local Plan, adoption statement, Sustainability Appraisal and Habitat Regulations Assessment reports at the Council offices and on the Council website.
- Send a copy of the adoption statement directly to those who asked to be notified.
- Issue a press release to inform people.

4.21 The Council may:

- Make paper copies of the Local Plan available at main libraries;
- Use social media to inform people.

5 Engagement process for supplementary planning documents

5.1 In this section more detail is provided on how the Council will engage in the preparation of Supplementary Planning Documents (SPDs).

5.2 There are three types of SPD that might be prepared:

1. Site or area specific guidance e.g. development briefs;
2. Design guidance;
3. Topic based policy guidance e.g. affordable housing.

5.3 The process of preparing SPDs is simpler than that of Local Plans because they are not subject to examination. The process involves three broad stages:

1. Early engagement and preparation of a draft SPD;
2. Consultation on the draft SPD;
3. Adoption.

5.4 As with Local Plans, the law governs how SPDs are prepared, including minimum requirements for engagement.

Early engagement and preparation of a draft SPD

5.5 The Council will:

- Identify specific groups and individuals who are likely to have an interest in what the SPD will say;
- Undertake a targeted engagement process with those groups and individuals to explore issues and options;
- Produce a draft statement of consultation setting out who we have engaged with in preparing the draft SPD, issues raised and how we have addressed those issues.

5.6 The Council may:

- Invite views from the public through surveys or by notifications on our website inviting comments or through social media channels.

Consultation on the draft of the SPD

5.7 The Council will:

- Publish the draft SPD for consultation on the Council's website for a minimum of four weeks (excluding bank holidays), together with the required supporting documentation and make paper copies available to view at the Council offices;
- Issue a press release and email people on the consultation database telling them about the consultation.

5.8 The Council may:

- Make paper copies of the draft consultation SPD and supporting documentation available at main libraries, as appropriate;
- Produce further publicity such as posters, leaflets or postcards;
- Hold exhibitions, workshops or forums, face-to-face or online;
- Use social media to inform people that the consultation is taking place.

5.9 After the consultation the Council will:

5 Engagement process for supplementary planning documents

- Consider the representations received;
- Update the statement of consultation document, setting out the main issues raised and how it has addressed those;
- Amend the SPD, where considered appropriate to do so, to reflect the point raised in the representations.

SPD adoption

5.10 The Council will:

- Publish the adopted SPD, the amended consultation statement and adoption statement by making them available to view at the Council offices and on the Council website;
- Send a copy of the adoption statement directly to those who asked to be notified.

5.11 The Council may:

- Make paper copies of the adopted document available at other Council offices and appropriate libraries;
- Issue a press release and newsletter to inform people;
- Use social media to inform people.

Non-statutory guidance

5.12 Engagement relating to the preparation of non-statutory guidance will follow that set out for SPDs as set out above, where appropriate.

6 Engagement process for neighbourhood development plans

6.1 Neighbourhood Development Plans, also known as Neighbourhood Plans, give communities the ability to further shape their local area by setting out planning policies to help guide decisions on planning applications. Neighbourhood Plans must be in general conformity with the strategic policies within Local Plans and cannot promote less development.

6.2 Once a Neighbourhood plan is 'made' (adopted), it becomes part of the development plan alongside Local Plans and other made Neighbourhood Plans, which together are the starting point for determining planning applications.

If you want to make a neighbourhood development plan

6.3 There are formal stages required by law when developing a Neighbourhood Plan. These stages are:

1. Designating the Neighbourhood Area;
2. First draft of the Neighbourhood Plan (Pre-Submission version);
3. Final draft of the Neighbourhood Plan (Submission version);
4. Examination;
5. Referendum;
6. Making (adoption).

6.4 More information on how to prepare a Neighbourhood Plan can be found in the Locality Neighbourhood Plan toolkit and guidance.

Our legal duties to groups making a neighbourhood development plan

6.5 The Council is required by law to offer help and advice to groups producing Neighbourhood Plans. This includes:

- Advising on what is involved in making a Neighbourhood Plan and potential scope, and sharing learning and best practice;
- Advising on policy development, including the sharing of data and technical reports, creating maps (costs of printing will not be covered by the Council and will need to be paid for by the group preparing the Neighbourhood Plan), and attending appropriate meetings;
- Advice on methods of public consultation and engagement;
- Advice on how to publicise the proposed plan to the community, how to consult and publicise;
- Making venues available for public engagement (costs may apply);
- Advising on the availability of grant funding for neighbourhood planning groups.

6.6 This is in addition to the Council's commitments during the individual plan stages.

Designating the neighbourhood area

6.7 The Council will:

- Where an application for area designation differs from Parish or Town Council boundaries, consult on the application for the Neighbourhood Area designation for a minimum of 6 weeks (excluding bank holidays) and publicise the application on the Council website.
- Provide a paper copy of the application at the Council's offices for inspection.

6.8 The Council may:

6 Engagement process for neighbourhood development plans

- Issue a press release and email people on the Council's consultation database to inform people that the consultation is taking place;
- Use social media to inform people that the consultation is taking place;
- Provide a paper copy of the application at the main library nearest to the proposed neighbourhood area;
- In discussion with the neighbourhood body, amend the boundary of the neighbourhood area if it is inappropriate (for example, if it includes parts of other parishes that have not consented to their inclusion).

initial draft(s) of the neighbourhood development plan (Pre-submission version)

6.9 The Council will:

- Support the preparation of a Strategic Environmental Assessment (SEA) and Habitat Regulations Assessment (HRA) screening reports of the emerging Neighbourhood Plan;
- Assist the parish or town council with undertaking an SEA and Habitats Regulations Report where found necessary;
- Advise on the consultation process and who to consult;
- Comment on the draft Neighbourhood Plan.

6.10 The Council may:

- Publicise the consultation on the Council website;
- Issue a press release and email people on the consultation database to inform people that the consultation is taking place;
- Provide a paper copy of the Pre-Submission Plan at the Council offices for inspection.

Final draft of the neighbourhood development plan (Publication version)

6.11 The Council will:

- Consult on the Publication version (the Submission Plan) for a minimum of 6 weeks (excluding bank holidays);
- Publish the plan on the Council website;
- Provide a hard copy of the plan and supporting documents at the Council offices for inspection;
- Collate all responses and prepare them for submission to the examiner.

6.12 The Council may:

- Issue a press release and email people on the Council's consultation database to inform people that the consultation is taking place;
- Use social media to inform people that the consultation is taking place;
- Summarise the comments received for the examiner.

Examination

6.13 The Council will:

- Liaise with the neighbourhood planning group to appoint an examiner;
- Publish details of the examination on the Council website;
- Pass any representations made at the Publication stage to the examiner;
- Manage and fund the process of the examination;
- Act as a key contact for the examiner;

Engagement process for neighbourhood development plans **6**

- Answer any questions raised by the examiner;
- Publicise the examiner's report on the Council's website.

6.14 The Council may:

- Notify consultees;
- Provide the examiner with a summary of the main issues raised in the representations.

6.15 There may be instances where the Council disagrees with the appointed examiner's findings. If this is the case, clear reasons would need to be given for rejecting the examiner's recommendations, and the Council would discuss any modifications with the neighbourhood planning body. Additional consultation would also need to take place.

Referendum

6.16 The Council will:

- Arrange and fund the referendum;
- Publish information about the Neighbourhood Plan;
- Give notice that a referendum is taking place;
- Publish the results of the referendum.

Making (adoption)

6.17 The Council will:

- 'Make' (adopt) the plan, subject to the outcome of the referendum;
- Publish the decision to 'make' a Neighbourhood Plan on the Council website;
- Notify all individuals and organisations who asked to be notified.

6.18 The Council may:

- Issue a press release and email people on the Council's consultation database that the Neighbourhood Plan has been made (adopted).

7 Engagement process for planning applications

7 Engagement process for planning applications

7.1 The Council is responsible for determining planning applications as the Local Planning Authority. This includes applications such as those for:

- Certain extensions and home alterations;
- New houses and businesses;
- Changing a building from one use to another.

7.2 The Council is not responsible for County Matters such as minerals and waste developments which are the responsibility of Kent County Council, nor is the Council responsible for Nationally Significant Infrastructure Projects (NSIPs), such as changes to a motorway.

7.3 Not all types of development require applications to be made to the Council, as they are permitted automatically under national legislation. This includes some types of house extensions and changes in the use of land or buildings. These are generally referred to as 'permitted development'.

7.4 In addition, some types of development only require the Council's approval on limited aspects of a proposal, such as: design and external appearance, transport impacts and flooding information. These are generally referred to as 'prior approval' developments. This includes certain changes of use, and certain telecoms apparatus.

7.5 Information on permitted development rights and prior approval can be found on the Planning Portal website.

How we make decisions on planning applications

a) What we must consider

7.6 Decisions on planning applications must be made in accordance with the development plan (adopted Local Plans and made Neighbourhood Plans), unless there are 'material considerations' that indicate otherwise.

7.7 A material consideration is a matter that should be taken into account when deciding a planning application. Material considerations can include, but are not limited to:

- Overlooking/ loss of privacy;
- Loss of light or overshadowing;
- Parking;
- Highway safety;
- Traffic;
- Noise/odour;
- Layout and density of building;
- Design, appearance and materials;
- Access arrangements;
- Effects on public rights of way;
- Effects on trees and hedgerows;
- Government policies, e.g. those set out in the National Planning Policy Framework;
- Human rights (including best interests of children);
- Sustainability;
- Impact on character and appearance of an area;
- Impact on heritage assets.

Engagement process for planning applications 7

7.8 Anything relevant to making the decision can be a material consideration. However, in general it relates to matters in the public interest rather than private matters. Examples of private matters are: property values, obstruction of private rights of way or the loss of view, none of which are material planning considerations.

b) How long we have to decide

7.9 The time periods for determination are set out in law. The time limits are usually:

- 8 weeks for most planning applications;
- 13 weeks for 'major' (larger) developments;
- 16 weeks for applications that need an Environmental Impact Assessment.

7.10 If more time is needed to determine an application, an 'extension of time' can be agreed between the Council and the applicant.

7.11 If the Council fails to determine the application in time, the applicant can appeal to the Secretary of State against 'non-determination'.

c) How and when we will involve you in the planning application process

7.12 To assist people considering developing land or buildings, the Council offers a paid-for discretionary planning advice service/ pre-application advice service, to help people understand whether a proposal is likely to be acceptable, and what information they need to provide should they proceed to submit an application. The Council encourages site promoters to be open about their proposals and to engage with the local community. The Council also suggests that developers seek advice from other statutory consultees such as the Environment Agency.

Before the application is submitted

7.13 The Council encourages those preparing applications to positively engage with local people to help prepare and refine their proposals. For household extensions this may simply mean speaking to neighbours. For larger proposals, engagement should involve the wider area and should start at an early stage with engagement forming an integral part of the initial design process.

7.14 The Council encourages anyone proposing development to actively engage the community when preparing their proposals as set out in Table 1 below. The suggested methods vary depending on the scale and type of proposal, with larger proposals expected to use methods that would engage with more people.

7.15 Table 1: Indicative methods of engagement for proposed planning applications by applications

Method of Engagement	Householder applications	Minor applications	Major applications	Large scale major applications	Other applications
Letters, email or postcards	✓	✓	✓	✓	✓
One-to-one meetings*	✓				
Website			✓	✓	

7 Engagement process for planning applications

Advert in local press				✓	
Public meetings/ forums			✓	✓	
Public exhibitions			✓	✓	
Social media			✓	✓	
Workshops				✓	
Leaflets			✓	✓	

Table 7.2.1

7.16 * People considering the extension of their home are encouraged to meet with their neighbours to discuss their ideas.

7.17 In all instances, the comments and concerns raised through engagement should be considered, and if necessary, changes made to the proposed development before an application is submitted. Information on how engagement has been undertaken, the issues raised and how these have been responded to should be submitted as part of any application.

7.18 The Council will:

- Encourage applicants to consult the community, including the Town and Parish Council, where relevant.

7.19 The Council may:

- Liaise with Town and Parish Councils, where relevant.

Once the application is submitted

7.20 Details of all submitted planning applications can be viewed on the Council website by entering the site, address, the reference number or via an interactive map.

7.21 The law requires that for most types of planning application, the Council consult for a 21 day period (unless a longer period applies) before a decision can be made. For applications requiring Environmental Impact Assessment (EIA), a longer period of 28 days applies.

7.22 The Council will:

- Make planning applications and the supporting documentation available to view on the Council website;
- Consult upon applications for a 21 day period as set out in law (excluding bank holidays), or in the case of EIA applications extend this to a 28 day period (excluding bank holidays);
- Notify Town or Parish Council of relevant planning applications in their area, inviting comments;
- Where required by law the Council will either: display a planning notice on or near the application site, or post letters to neighbours adjoining the application site.

7.23 The Council may:

- Depending on the nature and scale of the proposed development, post letters to properties beyond those adjoining the application site which may be affected by the proposed development;
- Notify nearby Town or Parish Councils of relevant planning applications in proximity to their area, inviting comments;
- Publish a press notice;
- Consult with other organisations such as the Environment Agency, Natural England, Historic England etc. where applicable;
- Publicise a weekly list of planning applications on the Council's website.

7.24 The decision on which properties 'may be affected by the proposed development' is made by the Council. This is based on professional assessment of the proposal and its likely impacts on the area surrounding the site, and planning law and guidance.

During the determination process

7.25 The Council will:

- Publish relevant documents on the Council website, including comments received in response to an application;
- Consider the issues raised in response to an application;
- If the application is considered at Planning Committee, provide applicants, Town and Parish Council representatives, and those who have commented on a planning application, an opportunity to register to speak at Planning Committee.

7.26 Due to the volume of representations received it is not possible to acknowledge or enter into correspondence regarding all representations submitted. However, all relevant matters raised will be fully considered.

7.27 Representations from local people are very important in highlighting material planning considerations. Ultimately applications are determined in accordance with current legislation, development plan policy and all the material considerations identified.

7.28 The consideration of each application is led by a case officer. Their role is to assess the application against development plan policy and other material considerations. They will read all representations and summarise the key points raised when preparing their report which will consider and explain whether the application should be permitted or refused. The case officer report will be checked and signed off by another officer.

7.29 Some applications will be determined by the Planning Committee, rather than officers. The Planning Committee is made up of elected Councillors. For these applications, the case officer provides their report and recommendation to Planning Committee who decide whether the application is permitted or refused. The Planning Committee must also determine applications in accordance with the development plan unless material considerations indicate otherwise.

7.30 Where an application is to be considered by the Planning Committee, anybody that has submitted a representation will be notified of proceedings, and will have the opportunity to view the report prior to the committee meeting. Planning Committee meetings are open to the public.

After we have made the decision

7.31 The Council will:

7 Engagement process for planning applications

- Publish the decision notice and officer report on the Council's website;
- Inform the agent (or in the absence of an agent, the applicant) of the decision, usually by email.

If the planning decision has been appealed

7.32 If the application does not agree with the Council's decision to refuse an application, they have the right to appeal to the Planning Inspectorate. An appeal can also be made against the Council's failure to determine an application within the prescribed timetable, or against a planning condition imposed by the Council. In all these cases, the Council will write to everyone who has been consulted or has submitted representations on the planning application, letting them know about the appeal. Further representations are sent at this stage directly to the Planning Inspectorate for consideration. The Council will publish any relevant appeal documents on the Council website.

8 Dealing with unauthorised development

8.1 Sometimes development goes ahead without planning permission, or without meeting all the specified planning conditions of a planning permission. This is known as 'unauthorised development'. When this happens and where resources permit, the Council's Planning Investigations team will investigate and, where appropriate, expedient, and in the public interest, may take formal enforcement action. Planning enforcement action is taken at the Council's discretion.

How we make decisions on unauthorised development

8.2 The Council undertakes its enforcement duties as set out in the Council's Planning Enforcement Strategy.

8.3 More information on the planning enforcement process and the types of actions available with unauthorised development can be viewed on Gov.uk website.

How and when we will involve you in enforcement matters

8.4 If you suspect a breach of planning control, the best way to report concerns is via the Council's website. If you are unable to do this, please write to: Planning Investigations, Swale House, East Street, Sittingbourne, ME10 3HT.

8.5 An overview of the service and what you can expect from this process is set out in the Council's Local Planning Enforcement Strategy.

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Planning and Transportation Policy Working Group	
Meeting Date	17 th September 2024
Report Title	Local Plan Review – Agricultural Land Report - Stage 1: Baseline Information
EMT Lead	Emma Wiggins, Director of Regeneration & Neighbourhoods
Head of Service	Joanne Johnson, Head of Place
Lead Officer	Rachel Scott, Principal Policy Consultant
Classification	Open
Recommendations	1. Members to discuss and note the Agricultural Land Report Stage 1.

1 Purpose of Report and Executive Summary

- 1.1 The purpose of this report is to present the Agricultural Land Report - Stage 1: Baseline Information to members (see Appendix 1). The report will form part of the Local Plan Review evidence base, and is proposed to be published later this calendar year.

2 Background

- 1.1 As part of the Local Plan Review evidence base, it is important to understand what resources the Borough has in terms of agricultural land. The Agricultural Land Report: Stage 1 is a factual report which looks at how much high grade agricultural land (known as ‘best and most versatile’ land) is in the borough, and where, and considers potential implications of this for the Local Plan Review.
- 1.2 The report looks at the requirements of the current version of the NPPF as well as the recently published proposed amendments, and provides the evidence base to meet those requirements. It also refers to other Local Plan evidence base documents which cover the topic, notably the Sustainability Appraisal, and the Housing and Economic Land Availability Assessment.
- 1.3 As explained in the report, the Stage 1 report looks at the baseline situation. An extract from the Stage 1 report is provided below, showing how much of each grade of agricultural land there is in the Borough.

Table 1 Agricultural Land Grades across Swale Borough

Agricultural Land Grade	Area of land (rounded to nearest whole hectare)	% of the Borough
Grade 1	8,255	22.3
Grade 2	7,724	20.9
Grade 3	10,218	27.6
Grade 4	6,509	17.6
Grade 5	552	1.5

Urban	1,747	4.7
Non-agricultural	1,999	5.4
Total	37,005	100%

1.4 A Stage 2 report will be published at a later date which will look at the agricultural land grade of potential site allocations once those have been selected, so that the scale of any potential loss of best and most versatile land can be understood.

3 Proposals

3.1 The proposal is to publish the Agricultural Land Report - Stage 1: Baseline Information before the end of the calendar year to form part of the Council's Local Plan Review evidence base.

4 Alternative Options Considered and Rejected

4.1 The option of not preparing the Agricultural Land Report was considered and rejected. It is a requirement of national policy to consider agricultural land quality when preparing a Local Plan, and the aim of the report is to demonstrate that the Council has met this requirement.

5 Consultation Undertaken or Proposed

5.1 It is proposed to publish the report by the end of the calendar year, but as this is an evidence base document it will not be subject to consultation. If anyone has comments about the document, like with any other evidence base document, they can make these through the consultation on the Regulation 18 Local Plan.

6 Implications

Issue	Implications
Corporate Plan	The proposals in the report align with the following Corporate Plan action: <ul style="list-style-type: none"> A Local Plan with local needs and capacity at its heart.
Financial, Resource and Property	No implications identified at this stage.
Legal, Statutory and Procurement	No implications identified at this stage.
Crime and Disorder	No implications identified at this stage.

Environment and Climate/Ecological Emergency	No implications identified at this stage.
Health and Wellbeing	No implications identified at this stage.
Safeguarding of Children, Young People and Vulnerable Adults	No implications identified at this stage.
Risk Management and Health and Safety	No implications identified at this stage.
Equality and Diversity	No implications identified at this stage.
Privacy and Data Protection	No implications identified at this stage.

7 Appendices

7.1 Appendix I - Agricultural Land Report - Stage 1: Baseline Information.

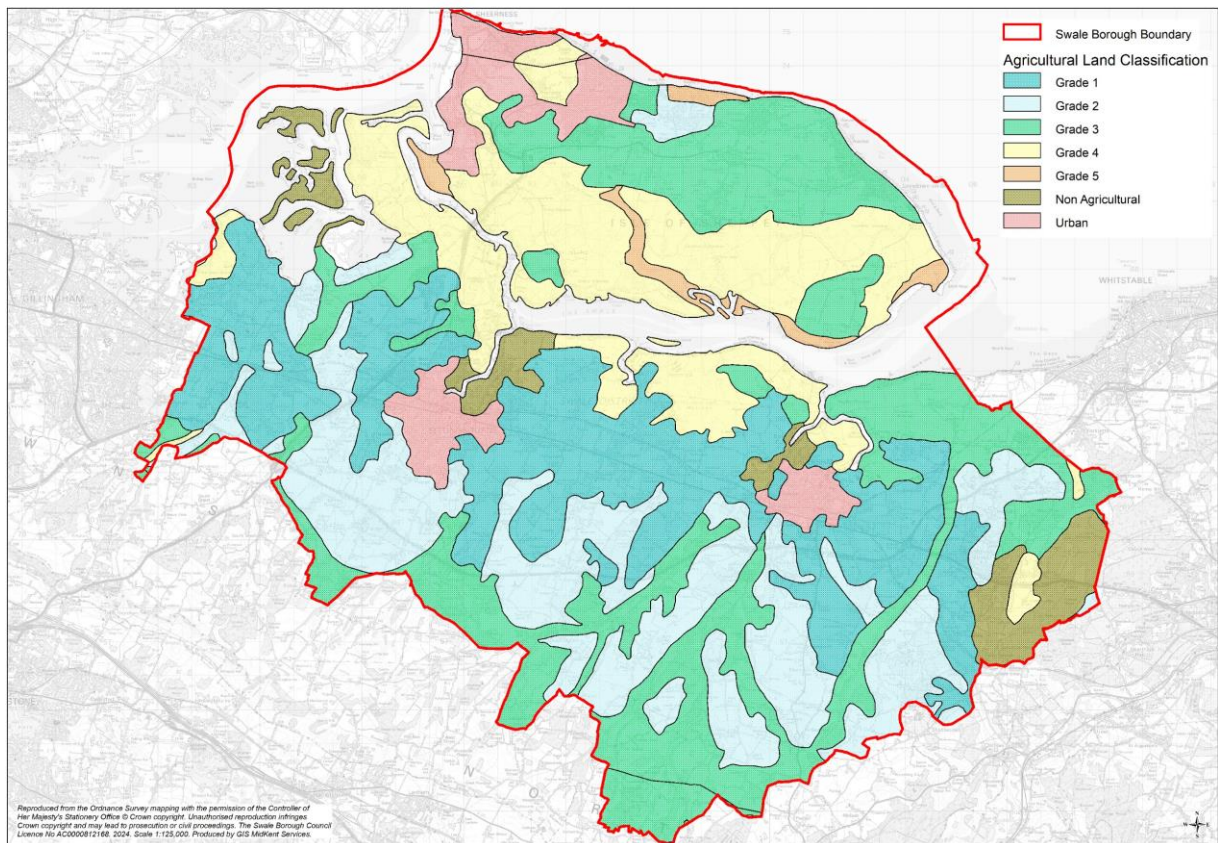
8 Background Documents

8.1 None.

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Agricultural Land Report - Stage 1: Baseline Information

September 2024



Agricultural Land Report - Stage 1: Baseline Information (September 2024)

1 Introduction	1
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Contents

1 Introduction

1.1 The purpose of this report is to address national planning policy on agricultural land to inform Local Plan preparation with regard to this topic. The Agricultural Land Report is split into two stages:

- Stage 1: Baseline Information; and
- Stage 2: Site Analysis.

1.2 This report is Stage 1 which looks at the overall baseline information, and sets out the methodology which will be used for Stage 2. Stage 2 will be prepared at a later date, once sites have been selected for allocation in the Local Plan. Stage 2 will look at the amount of agricultural land which may be lost as a result of site allocations.

1.3 This document firstly looks at the policy context, followed by the definition of high quality agricultural land. The methodology to apply to both stages is then set out, followed by the results of Stage 1, and the conclusions of Stage 1.

2 Policy Context

2 Policy Context

2.1 The current national policy is the National Planning Policy Framework (NPPF) (2023), but the Government is currently consulting on a new NPPF (2024) which is anticipated to be published by the end of 20245. This section considers both documents.

2.2 The requirement to consider agricultural land quality comes from paragraph 181 of the NPPF (2023) which states that:

"Plans should: distinguish between the hierarchy of international, national and locally designated sites; allocate land with the least environmental or amenity value, where consistent with other policies in this framework."

2.3 Agricultural land quality is one element of environmental value. Swale has a large amount of high value agricultural land, and so it is necessary to understand where the highest value land is, so that the approach set out in paragraph 1841 of the NPPF can be followed.

2.4 Footnote 62 of paragraph 181 of the NPPF (2023) provides further detail on agricultural land, stating:

"Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality. The availability of agricultural land used for food production should be considered, alongside the other policies in this framework, when deciding what sites are most appropriate for development."

2.5 Paragraph 181 of the existing NPPF (2023) is not proposed to be changed in the new NPPF (2024). However, the proposed new NPPF (2024) proposes deleting the second sentence of the footnote (proposed footnote 63). Assuming the new NPPF is published as currently proposed, this footnote would be changed from the 2023 version to simply read:

"Where significant development of agricultural land is demonstrated to be necessary, areas of poorer quality land should be preferred to those of a higher quality."

3 What is high quality agricultural land?

3.1 There are five grades of agricultural land (grades 1-5), plus 'non-agricultural' and 'urban'. The highest grades, known as '**best and most versatile agricultural land**' (BMV) are Grades 1, 2 and 3a, with Grade 1 being the highest quality. Grade 3 is the only grade sub-divided into two (a and b). Grade 3a is best and most versatile, whereas Grade 3b is not.

4 Methodology

4.1 Firstly, GIS mapping data has been reviewed to establish the amount of each agricultural land grade there is in the Borough. Defra data based on the pre-1988 Agricultural Classification has been used, as this is the most up-to-date information available on a Borough-wide basis. The pre-1988 data does not distinguish between grades 3a and 3b, so where grade 3 is listed, this includes both grades 3a and 3b without carrying out detailed soil surveys.

4.2 Following the review of the GIS data, a review of other documents informing the Local Plan has then been conducted. This covers both the Sustainability Appraisal (SA), and the Housing and Economic Land Availability Assessment (HELAA). The key points raised from both of these is brought together in this Stage 1 report.

4.3 Stage 2 will provide an assessment of the sites selected for allocation. The assessment of site allocations will look at the amount of best and most versatile land on each proposed site allocation likely to be lost, and consider this against the overall amount of best and most versatile land in the Borough.

5 Results - Stage 1: Baseline Information

GIS Data Review

5.1 GIS showing the pre-1988 Agricultural Land Classification has been used to measure how much of each agricultural land grade is present in the Borough. The results of this are shown below in Table 1. A map showing the different grades and their location is provided in Appendix 1.

Agricultural Land Grade	Area of land (rounded to nearest whole hectare)	% of the Borough
Grade 1	8,255	22.3
Grade 2	7,724	20.9
Grade 3	10,218	27.6
Grade 4	6,509	17.6
Grade 5	552	1.5
Urban	1,747	4.7
Non-agricultural	1,999	5.4
Total	37,005	100%

Table 1 Agricultural Land Grades across Swale Borough

5.2 As can be seen from Table 1 above, a large part of the Borough is BMV land. If you assume that all grade 3 land is grade 3a (as it is not possible to distinguish between grades 3a and 3b without performing detailed soil surveys), this equates to 70.8% being best and most versatile land.

Sustainability Appraisal

5.3 The Scoping Report for the Swale Borough Local Plan Sustainability Appraisal (Dec, 2018) https://services.swale.gov.uk/assets/Planning_Policy_2019/SCI_Documents_Sept_2024/Aecom_Scoping_Report_for_SBLP_SA_July2018.pdf, includes a map of the Borough, and its grades, which is consistent with that provided at **Appendix 1** of this report. As can be seen from the map at **Appendix 1**, the highest grade agricultural land is focussed around the Borough's main settlements, notably around Sittingbourne and Faversham. On this basis, the SA suggests that "It is considered likely therefore that a degree of future development within the Borough will be directed towards areas of the best and most versatile land."

5.4 The Scoping Report also includes a review of the current baseline which finds that:

"There is considerable diversity of agricultural land quality within the Borough, Areas of Grades 1 to 5 are all present as well as land classified as 'non-agricultural' and as 'urban'. A band of Grade 1 and 2 runs through the centre of the Borough forming the spine of the Fruit Belt, punctuated by the urban areas of Sittingbourne and Faversham. To the south of this, as the Fruit Belt gives way to the Kent Downs AONB, and the land transitions to Grade 3.

5 Results - Stage 1: Baseline Information

5.5 Land immediately to the north of the Fruit Belt is generally of poorer quality. A large strip of land either side of the Swale estuary on both the mainland and the Isle of Sheppey is Grade 3 and there are areas of Grade 5 around some coastal areas of Sheppey along with urban and non-agricultural land around Sheerness. The north east of the Island sees a return to better quality land with an area of Grade 3 and a pocket of Grade 2 land occupying much of the north east."

5.6 It is apparent that the Council needs to allocate sites for development which includes BMV land, as at a high level, to the south of the central band of BMV land is the Kent Downs National Landscape (formerly Area of Outstanding Natural Beauty), and to the north the land is largely affected by flooding. To allocate sites in areas with the lowest grade agricultural land, would generally mean allocating sites away from existing settlements, in remote areas of the countryside, or in areas with other significant constraints such as flooding or National Landscape.

5.7 The SA has an objective specifically on 'land', which is to be used to assess the Local Plan:

"Promote the efficient and sustainable use of natural resources, including supporting development which avoids the best and most versatile agricultural land and development which makes effective use of previously developed land."

5.8 The strategic growth options and potential sites for allocation, as well as draft policies will all be assessed through the SA against this objective.

Housing and Economic Land Availability Assessment

5.9 Agricultural land grades are considered as part of site assessments in the HELAA. GIS has been used to establish how much of each site is high grade agricultural land, and what grade that is. Whilst not used as a sole reason to reject a site, the specific grade of each HELAA site is taken into account.

5.10 The HELAA is carried out in stages, stage 1 eliminating sites with significant constraints, such as: being remote from settlements (more than 400m away), already having planning permission, or having severe constraints such as flood zone 3b occupying most of the site. Sites remaining after such constraints have been taken into account are then taken forward to stage 2 for further consideration.

5.11 At the time this report was prepared, 186 sites had been taken forward to stage 2 of the HELAA, only 26 of the 186 HELAA sites considered at stage 2 including no BMV land, whereas 110 of the sites included grade 1 agricultural land, 46 sites included grade 2, and 37 sites included grade 3. This demonstrates the lack of options for site allocations outside of areas of BMV land.

6 Conclusions – Stage 1: Baseline Information

6.1 The results of the review of baseline information as set out above show that it is difficult to avoid loss of BMV land (grades 1-3a) in the Borough when allocating sites for development without disregarding other important constraints.

6.2 Whilst the current NPPF (2023) makes it clear that consideration must be given to higher grade agricultural land, it also indicates that this should be considered alongside other policies in the framework when assessing where to allocate land for development. In Swale's case, other important policies include those directing development away from areas at risk of flooding, and areas of National Landscape. The proposed new NPPF (2024) does not change this.

6.3 Swale has large areas of BMV land, mostly located around the Borough's main towns. Site allocations for development will inevitably sterilise some of this land, however, opportunities presented from developing sites such as meeting housing need (as per the NPPF definition) and promoting economic growth, may well be considered to outweigh the impact on BMV land. Opportunities to minimise the loss of BMV land will need to be taken where possible, by maximising development on brownfield land, and on lower grade agricultural land.

Appendix 1: Agricultural Land Classification across Swale

Appendix 1: Agricultural Land Classification across Swale

