

**Council Meeting****Agenda Item:**

<b>Meeting Date</b>	<b>23 September 2015</b>
<b>Report Title</b>	<b>Formalisation of adoption of the Swale Local Development Scheme (April 2015) pursuant to the Swale Local Plan Examination in Public</b>
<b>Cabinet Member</b>	<b>Cllr Gerry Lewin, Cabinet Member for Planning</b>
<b>SMT Lead</b>	<b>Pete Raine</b>
<b>Head of Service</b>	<b>James Freeman</b>
<b>Lead Officer</b>	<b>Gill Harris</b>
<b>Key Decision</b>	<b>No</b>
<b>Classification</b>	<b>Open</b>
<b>Forward Plan</b>	<b>Yes</b>

<b>Recommendations</b>	<b>1. Members adopt the Swale Borough Council Local Development Scheme April 2015 and confirm the date that it came into effect as 1 April 2015.</b>
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## **1 Purpose of Report and Executive Summary**

- 1.1 Council Minute 368 (November 2014) agreed Bearing Fruits 2031: The Swale Borough Local Plan and its supporting evidence and documentation for publication and submission to the Planning Inspectorate. Part of this documentation was an updated Local Development Scheme (the programme for production of local planning documents). However, recent experience at the Canterbury Local Plan Examination in Public highlighted the need for a specific council minute adopting the LDS, which in the City Council's case had to be established after their examination had commenced. In order to make sure Swale has thoroughly and explicitly met this requirement, legal advice has been sought and it is recommended that we establish a council minute specifically for the LDS.

## **2 Background**

- 1.2 It was intended that the Council Minute 368 apply to approval for submission of the Bearing Fruits 2031: Swale Borough Local Plan Part 1 and all its supporting documentation as required by the statute and regulations. One of the required supporting documents is the Local Development Scheme (LDS) which is the programme for producing local planning documents. This should be kept updated and displayed on the web site.

- 1.3 Prior to its closure, the Government Office for the South East was responsible for approving LDS documents and any updates to them. Following the closure of GOSE, the LDS still needs to be prepared, but its approval is for the local planning authority concerned.
- 1.4 In accordance with common practice (and PAS advice), the Swale LDS was revised immediately before submission, so as to be completely up to date and submitted with the local Plan on 20 April 2015 (with the Cabinet Member for Planning's agreement on its content).
- 2.4 Officers attending the recent Canterbury Local Plan Examination in Public, observed that Canterbury City Council had taken similar actions in respect of their LDS, but were challenged on compliance with statute, by opponents of their local plan. This was on the grounds that they did not have a Council Minute specifically including adoption of a revised LDS and the date from which it became operative. This is required by S.111(5) of the Localism Act, which amends S.15(7) of the Planning and Compulsory Purchase Act 2004. This requires that in order to bring the Local Development Scheme into effect, the local planning authority must resolve that the scheme is to have effect and that the resolution must specify the date from which the scheme is to have effect. The requirement is unfortunately not included in the Statutory Regulations which guide the local plan process. The City Council were able to provide a suitable resolution through an urgent council minute whilst their EIP was in progress.
- 2.5 Whilst the Swale Council Minute 368 (26 November 2014) was intended to cover the Local Plan and supporting documentation, it does not include specific mention of the LDS and a date for the latest revision to have effect. Legal advice has been sought and whilst this is a formality, officers consider that it would be prudent to ensure that there is a Council Minute which puts the matter beyond doubt before commencement of the Swale Local Plan EIP.

### **3 Proposal**

- 1.5 That Members adopt the Swale Borough Council Local Development Scheme April 2015 and confirm the date that it came into effect as 1 April 2015

### **4 Alternative Options**

- 1.6 Members could opt to rely on the Council Minute 368 we already have. There is a risk that opponents seeking to undermine the Swale Local Plan at EIP could argue that this is not specific enough to meet the change resulting from the Localism Act and argue that the plan is consequently not legally compliant. It is considered that this is a small risk, but one not worth taking, so this course of action is not recommended.

### **5 Consultation Undertaken or Proposed**

- 1.7 No public consultation is required on Local Development Schemes.

## 6 Implications

Issue	Implications
Corporate Plan	Successful adoption of the Swale Local Plan contributes to all elements of the Corporate Plan.
Financial, Resource and Property	None anticipated at this time
Legal and Statutory	Preparation of an LDS is required by S.15(2) of the Planning and Compulsory Purchase Act (2004). This item ensures compliance with S.15(7) of the Planning and Compulsory Purchase Act 2004 (as amended by S.111(5) of the Localism Act) in respect of adopting an LDS and establishing a date from which it is effective.
Crime and Disorder	None anticipated at this time
Sustainability	None anticipated at this time
Health and Wellbeing	None anticipated at this time
Risk Management and Health and Safety	None anticipated at this time
Equality and Diversity	None anticipated at this time

## 7 Appendices

None

## 8 Background Papers

[Swale Borough Council Local Development Scheme April 2015](#) (document as submitted to Planning Inspectorate with Bearing Fruits 2031 Swale Local Plan on 20 April 2015).