

Swale Borough Council
Swale Borough Local Development Scheme

October 2016

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Part 1: Background

1. Introduction

1.1 The Planning and Compulsory Purchase Act 2004 (as amended ¹) requires the Council to prepare and maintain a local development scheme.

1.2 The main purpose of the Local Development Scheme (LDS) is to set out the existing development plan position for the area and the timetable for other documents it is preparing. It explains:

- The statutory planning documents (called development plan documents) that the Council intends to prepare or review;
- The subject matter and geographical area that these documents will cover;
- The anticipated timetable for the preparation of each document.

The LDS also provides information on the other non-statutory planning documents the Council intends to prepare. These are summarised on the gantt chart at Appendix 3.

2. Changes to the Planning System

2.1 There have been numerous changes to the planning system at the national level over the last few years which has had a very significant impact on both the timetable and format for production of development plan documents for Swale.

- Changes to the legislation (eg through the Localism Act and through new Local Development Regulations)
- Replacement of most of the national Planning Policy Guidance Notes with the National Planning Policy Framework (2012) and National Planning Practice Guidance (ongoing).
- Revocation of the South East Plan in March 2013
- Introduction of the legal context for neighbourhood fora to prepare Neighbourhood Plans;
- Removal of the requirement for local planning authorities to submit the LDS to the Secretary of State.

The Council has amended the LDS to take account of these changes.

3. The Development Plan

¹ As amended by the Planning Act 2008 and the Localism Act 2011

3.1 The development plan for the Swale Borough Council area currently consists of:

- The 'saved' Swale Borough Local Plan (2008) policies²;
- A Proposals Map which is prepared and maintained to accompany development plan documents;
- Sittingbourne Town Centre and Milton Creek Supplementary Planning Document (2010)
- Developer Contributions Supplementary Planning Document (2009)
- Swale Landscape Character and Biodiversity Appraisal Supplementary Planning Document (2011)
- Queenborough and Rushenden Masterplan Supplementary Planning Document (2010) plus Addendum adopted March 2015.
- Kent Design Guide Supplementary Planning Document (2008)

3.2 Kent County Council is responsible for the Minerals and Waste Local Plan (adopted July 2016).

4. Types of Planning Documents

4.1 There are six different types of planning documents.

- Development plan documents
- Neighbourhood Plans
- Supplementary Planning Documents
- Community Infrastructure Levy Charging Schedule
- Statement of Community Involvement
- Annual Monitoring Reports

Development Plan Documents

4.2 Development Plan documents will represent the development plan for the area. Currently, this is the saved policies of the Swale Borough Local Plan (2008), which will be superseded by the emerging local plan 'Bearing Fruits 2031; Swale Borough Local Plan. This is set out in more detail in section 5.

Neighbourhood Plans

4.3 This is a relatively new type of planning document introduced by the government through the Localism Act 2011 and supporting statutory regulations. This allows for a community (frequently led by a parish or town council) to prepare a formal statutory plan for a designated area, provided the neighbourhood plan is in general

² Under transitional arrangements from the system prevailing prior to the Planning and Compulsory Purchase Act, a large proportion of the policies in the Swale Borough Local Plan were 'saved' from February 2011 as part of the Development Plan with the agreement of the Secretary of State.

conformity with strategic policies in the district wide development plan document. Neighbourhood Plans (NPs) are intended to give communities greater control over planning in their own areas and freedom to bring forward proposals for additional development to that set out in the district wide development plan covering their area. They cannot however, veto development proposed in the latter.

Neighbourhood plans are subject to independent examination and referendum. In principle, the Council supports the preparation of Neighbourhood Plans³, subject to their being in conformity with the Borough Local Plan and any other relevant DPDs/SPDs. However, the Council is not relying on Neighbourhood Plans for the purpose of meeting strategic development needs. Three NPs have been designated within Swale at Faversham Creek; Boughton and Dunkirk Parishes; and Minster Parish. The Faversham Creek NP has completed the Examination stage and the Examiners report found it sound to for Referendum, subject to one or two modifications. This is currently the subject of a Judicial Review. Discussions have been held with other parishes, but with a total of two town councils, and 33 parish councils the scope for more to come forward is considerable.

Supplementary Planning Documents (SPDs)⁴

- 4.4 SPDs provide guidance to supplement the policies in the development plan, and guide their interpretation and implementation. They may be topic based or be in the form of a development brief for a site or area. They do not form part of the statutory development plan and do not create new policy or allocate land, but do form part of the planning framework for the area. It is not a requirement that SPDs are listed in this LDS schedule, enabling Councils to prepare them as circumstances change. SPDs are not subject to examination, but are subject to consultation hosted by the Council before they are adopted. Swale has already adopted several SPDs which will be retained and or reviewed once the new Local Plan is adopted and the draft local plan has committed to preparing a number of these and they will be progressed when the Local Plan has been examined. No firm timetable has yet been set for these and therefore they are listed for information only in the Gantt Chart at Appendix 3.

Community Infrastructure Levy (CIL) Charging Schedule

- 4.5 The CIL is a charge that local planning authorities may choose to levy on new development to fund infrastructure needed to support growth. The emerging Swale local plan is supported by a costed infrastructure delivery plan. The Local Plan itself

³ Neighbourhood Plans are formal plans produced under Statutory Instrument 2012 No.637 The Neighbourhood Planning (General) Regulations 2012. However, the Council also recognises the value of informal local documents such as Village Design Statements and Parish Plans.

⁴ The NPPF indicates that development plan documents other than a local plan should only be used where clearly justified and SPDs should only be used where their production can help to bring forward sustainable development at an accelerated rate and must not be used to add to the financial burden on development.

indicates what infrastructure is needed to support the first five years or so of the plan period post adoption. It is the Council's intention that S.106 planning obligations would continue to be used for infrastructure which is site specific and CIL will, in time, be used to pool contributions for more strategic pieces of infrastructure; along with the use of S.278 for highways works. The viability assessment supporting the emerging local plan indicates a challenging viability situation over significant areas of the Borough, where only a small or no CIL charge would be possible. Consequently, the plan does not at this time indicate what infrastructure would continue to be funded by S106 and which would be CIL funded. The Implementation and Delivery Schedule accompanying the plan nevertheless forms the catalogue of requirements from which a Regulation 123 List of infrastructure to be CIL funded, could be drawn. Swale Borough Council intend to prepare a CIL Charging Schedule and work is at an advanced stage on this.

Statement of Community Involvement

- 4.6 This sets out the ways in which the Council will engage the community and stakeholders in the preparation, alteration and continuing review of development plan documents and development management decisions. The document sets out how this will be achieved for different types of planning document and stages of preparation, subject to the most appropriate and efficient methods and resources available. The Statement of Community Involvement was adopted in 2008 following consideration by an Inspector and has guided the production of the emerging local plan (formerly the Core Strategy) alongside compliance with regulatory changes which have occurred during that period. The council intends to review the SCI prior to embarking on any future local plan review (see Appendix 3).

Annual Monitoring Report (AMR)

- 4.7 The AMR is produced annually to report on progress in the financial year just completed. It records the progress on development plan documents and SPDs and whether any changes need to be made to the LDS. It also reports on the monitoring of a selection of key policies from the adopted local plan including delivery of housing and employment development targets. It now also includes an account of activities undertaken under the Duty to Cooperate on cross boundary planning issues. As and when a CIL charge is implemented, there will also be a monitoring report on any funds collected and how they have been spent.

Part 2: Proposed Development Plan Documents

5. New Planning Documents

- 5.1 New planning documents which the Council is preparing or proposing to prepare are listed below:

Development Plan Documents

Bearing Fruits 2031: The Swale Borough Local Plan (2014-2031)

- 5.2 The National Planning Policy Framework (NPPF) indicates that Councils should produce a single local plan for their area. This will be similar to the local plans produced under the system which predated the core strategy / local development documents system. In response to frequent changes to the national policy and process context for preparing and reviewing planning documents, the emerging Swale Local Plan has had a long gestation. It was initially conceived as a core strategy which would be supported by development plan documents dealing with site allocations and development management policies. As a result of the Localism Act 2011 and changes to the statutory regulations⁵ and the NPPF itself, the imperative was to achieve an up to date set of policies and proposals which accorded with national policy within a very short timescale; and a rolling five year housing land supply. Several stages of public consultation were carried out in the early production of the core strategy in accordance with the then extant regulations. Since a significant amount of the necessary work had already been done to provide a suitable evidence base for a core strategy, the decision was made in February 2013 to pursue the main district development plan as a local plan in accordance with the most up to date regulations and national policy. Public consultation was carried out on a draft local during August – October 2013 and these stages are shown at Appendix 1 for information. The plan was subject to publication in December 2014; and submitted for Examination in Public in April 2015. A first round of Examination in Public was held in December 2015 and the Inspector's Interim Findings published in February-March 2016. These recommended that Main Modifications be made and consulted upon, and this consultation was undertaken June – August 2016. Part of the Interim Findings was also that in view of national policy change and suitable evidence and provision of sites, there would no longer be a need for Local Plan Part 2 (Gypsy and Traveller site allocations) and that the LDS be amended to delete it, which this of the LDS complies with.
- 5.3 The remaining stages in preparing the new Local Plan are as follows;

⁵ Town and Country Planning (Local Planning) (England) Regulations Statutory Instrument No 767 2012

- Resumption of the Independent Examination in Public following proposal of Main Modifications in accordance with the Inspector 's Interim Findings (Regulation 24);
 - Receiving and publishing the Inspectors' final report (Regulation 25); and
 - Amend the draft Plan in accordance with the Inspector's recommendations if appropriate and adopt it (Regulation 26).
- 5.4 The Local Plan sets development targets for housing and employment; sets a development strategy to implement those targets through sustainable development patterns; has a suite of strategic policies for the various sub areas of the Borough; allocates land for housing, employment, retail, leisure, community services and facilities; open space and biodiversity conservation; and transport and other infrastructure. Implementation and delivery for at least the first five years of the plan period is covered. There is also a comprehensive suite of development management policies which guides development and conservation of the built and natural environment. It is supported by a comprehensive evidence base and various technical assessments. All outstanding land allocations from the Local Plan (2008) have been reviewed, recast where appropriate and incorporated in the emerging local plan; and likewise all 'saved' development management policies have been reviewed. Once the emerging Bearing Fruits Local Plan is adopted therefore, the former Local Plan (2008) will be obsolete.
- 5.5 Appendix 1 and the Gantt chart at Appendix 3 plot the main stages in the Local Plan preparation. The timetable post resumption of the Examination will depend on the Inspector's findings. It is however, based on Service Level Agreement standards provided by the Planning Inspectorate.
- 5.6 Part of the Inspector's Interim Findings (2016) was that, although there have been challenging viability and deliverability issues the Local Plan should plan for the whole plan period. The entry in the LDS for an early review was therefore recommended to be deleted. This has been done and commencement of local plan review has been recast to a more 'normal' updating to ensure accordance with statutory requirements to maintain an up to date local plan.

Community Infrastructure Levy (CIL) Charging Schedule

- 5.7 To date, Swale Borough Council has used Section 106 Agreements negotiated with developers to obtain funding necessary to deliver infrastructure and affordable housing. From April 2015, new rules (based on the Localism Act 2011, but implementation thus far delayed) will commence. This will limit the number of S106 Agreement contributions which can be pooled to provide a single infrastructure project to no more than five (backdated to April 2010), although affordable housing will remain a S106 matter. This is to encourage the use of the CIL charge which can apply to almost all built development where it is viable to do so. Government advice

has previously been that any CIL Charging Schedule should be based upon an up to date Local Plan. The Council will be looking to advance the introduction of a CIL schedule as soon as practicable which takes into account the proposed modifications to the local plan and updated viability work to reflect this. Further advice and policy change is expected in autumn 2016 which could also have a bearing on the preparation and implementation of CIL schedules and could be subject to further change.

- 5.8 The process for preparing CIL Schedule is similar to that for development plan documents and is set out in the Community Infrastructure Regulations (2010 – as amended) and includes the following key stages:
- Informal public consultation on the proposed Levy rates in a Draft Preliminary charging schedule (Regulation 15);
 - Formal public consultation on a draft schedule for a period of at least 4 weeks during which representations can be made (Regulations 16 and 17);
 - Submission to and examination in public of the draft charging schedule by and independent person appointed by the charging authority (Regulations 19 and 20);
 - Publication of the examiner’s recommendations where appropriate and adoption of the Charge.

Supplementary Planning Documents

- 5.9 The Council anticipates preparation of a number of new SPDs to assist with implementation of the emerging Local Plan policies. These include:
- Vehicle Parking SPD;
 - Affordable Housing SPD;

Whilst it is not statutorily required for the SPDs to be included in the LDS, they are listed for information. These will be prioritised as resources permit after the local plan examination, and the programme set out at Appendix 3 is therefore to be confirmed.

Strategic Environmental Assessment/ Sustainability Appraisal/ Habitat Regulations Assessment

- 5.10 The Council is required to assess and appraise its development plan documents to comply with Strategic Environmental Assessment (SEA)/ Sustainability Assessment and Habitat Regulations Assessment (HRA) requirements on development plan documents. Carrying out the SEA/SA/HRA ensures that the social economic and environmental implications of a plan’s proposals are taken into account at every

stage of the preparation from considering suitable alternative options onwards to the final policy and land allocation choices.

- 5.11 The SA/SEA carry their own consultation requirements, which have been carried out at each relevant consultation stage of the plans produced to date. The results of this will be submitted to the Planning Inspectorate alongside the Submission version of the Local Plans and, upon adoption, any final adjustment to the plans will be reflected in an updated SA/SEA. Neighbourhood plans will also be subject to this requirement.
- 5.12 The Planning Act 2008 removed the need for SPDs to be subject to its own SA, unless it is likely to have significant social economic or environmental impacts which were not sufficiently considered at the time the relevant 'parent' development plan policy was considered in SA.

Neighbourhood Plans

- 5.13 Although the Borough Council is not directly responsible for the preparation of neighbourhood plans, they have a duty under the statutory regulations⁶ to assist with the formal parts of the process including designation, application for some grants, and examination and referendum stages. Additionally, practical assistance in plan preparation is also expected, all of which have time and budgetary implications for the local planning authority. Currently Swale has three neighbourhood plans in progress, at varying stages and their programmes are shown, where known, at Appendix 3 for information, with two others in the early stages of discussion.

Monitoring Progress – Annual Monitoring Report

- 5.14 Progression of the preparation of development plan documents and the CIL Schedule is undertaken by the Planning Policy Team in relation to the LDS.
- 5.15 The Annual Monitoring Report is the means by which progress on meeting the plan preparation milestones and also the progress on delivery of housing and employment development targets and policy objectives of the plan are publicly reported.
- 5.16 The AMR is also an appropriate vehicle to review the existing evidence base and establish whether additional background and evidence base documents are likely to be required. Although the AMR is usually published at the end of a calendar year in respect of the preceding calendar year, the pace and scope of national policy, practice and regulatory change has been such in the recent past, that such decisions

⁶ The Neighbourhood Planning (General) Regulations 2012 Statutory Instrument No. 637

have had to be made independently of the AMR and the latter is effectively an account of what has been done. Once a CIL Charging Schedule is adopted, there is also a statutory requirement that this will need to be subject to its own annual monitoring report of funds collected and how they have been spent.

6. Reporting Structures

- 6.1 The Council already has well established reporting structure for developing planning policy documents. Specialist officers from service provision departments throughout the Council are involved in research and development of policy as and when necessary. Progress on plan preparation and key issues is reported on a monthly basis to the Council's Senior Management team.
- 6.2 Member oversight of the process is via the Local Development Framework Panel, which receives all research and draft documents at public meetings and makes recommendations to Cabinet on the way forward. The Chairman of the Panel is also currently Deputy Leader of the Council. All members receive Panel papers and any Member may come to Panel and speak (but not vote) with the Chairman's agreement.

7. Resources

- 7.1 The responsibility for the preparation of the development plan lies primarily with the Spatial Planning Manager, with Head of Planning Services. The team also comprises
- 1 fte Principal Planning Officer
 - 2.6 fte Senior Planning Officers
 - 1fte Technical Officer
 - 0.6 GIS Technican
 - 0.6 Technical support officer
- 7.2 The team draws on the expertise of colleagues in house for evidence and policy development including Development Management team colleagues; Conservation and Design Officer; Housing Services; Economy and Community Services; Environmental Health; and Legal Services as necessary. The team also works closely with Kent County Council colleagues, especially in respect of developing appropriate transportation evidence and policy; and for requirements for other KCC community services likely to arise from proposed development and also with other statutory service and utility providers.
- 7.3 External consultants are used to assist with specialist subject areas where expertise is not available in house and/ or a wider perspective that the Borough is needed to set the findings and any policy action in context. These include;

- Transport modelling;
- Viability assessment;
- Employment land and job creation work;
- Strategic housing market Assessment;
- Gypsy and traveller accommodation assessment;
- Retail needs assessment; and
- The SEA/SA/HRA process forms and integral part of the development plan process and has significant resource implications. It is necessary to make use of external consultants to validate the work and to bring an independent view to the appraisal work.

7.4 Future resource needs may vary with any further change to policy and practice and whilst this should be recorded through the AMR, a pragmatic approach to speedy and cost effective procurement will be taken.

8. Risk Assessment

8.1 There are a number of areas of risk which can (and indeed have) affect delivery of the development plan and CIL Schedule. These are set out below with the proposed risk reduction measures.

Key Risks	Likelihood	Impact	Risk Reduction Measures
Staffing changes; loss off staff either temporarily to sickness; career progression or reducing local government finances. The LDS is prepared on the basis of full contingent of staff. Vacancies in the team, even if swiftly approved by corporate management for replacement will take typically 4- 6 months to replace.	Med	High	Involvement of whole team, as far as possible in the whole programme to provide continuity. Consider use of temporary staff /secondment or consultants for medium term or discrete issues. Longer term staffing issues, especially if funding related may require re-casting and re-prioritising the programme.
Budgetary Constraints- insufficient funding. Cost of collecting	Low	High	Spatial Planning Manager and Head of Service will seek to ensure appropriate long term funding for the duration of plan preparation and review through the Council's annual

<p>evidence base especially is high and continues to rise with changes to government policy, which may not have been foreseen at budget setting time and new pieces of specialist work which require outsourcing (eg viability and transport modelling).</p>			<p>budget review process and ensure rollover of funds year to year for plan making.</p> <p>Look for ways to minimise costs eg by joint commissioning of work with neighbouring districts.</p> <p>Review LDS if funding is not available as required and/ or seek alternative sources of funding (eg Neighbourhood Plan grants).</p>
<p>ICT failure. Most of the development plan documents and consultation facilities are electronically and/ or web based, with externally hosted publication and consultation facilities</p>	<p>Low</p>	<p>Med</p>	<p>MKIP ICT Service is required to provide the necessary ICT infrastructure and capacity to properly support the Council's requirements including preparation of the Local Plan.</p> <p>Documentation is backed up daily by internal and external hosts. Outage during consultation events may need to be compensated for by appropriate time extensions to the consultation event affected.</p> <p>Short term power outage has been known to result in a couple of days loss of work time, which could affect key times in the programme eg submission or EIP, which could result in the need for short extensions to deadlines.</p>
<p>New national policy guidance, legislation, or practice being published part way through plan preparation. Changes since 2011, especially the NPPF have already caused serious delays to plan preparation and change to the policy context continues. Lead in time for plan preparation and collation of evidence base cannot keep up</p>	<p>High</p>	<p>High</p>	<p>Keep abreast of high level policy change and incorporate in the plan making process as far as practicable, through amendment to LDS if appropriate.</p> <p>The Council considers that the need to have an up to date plan in place is critical and therefore plan making needs to continue irrespective of these risks. Early review of a plan would be sought rather than abandonment of a substantial body of work at an advanced stage of preparation.</p> <p>Seek advice of Planning Inspectorate and / or PAS on key issues.</p>

with this and could result in delay to programme, or potentially unsoundness.			
Documents being found unsound or subject of legal challenge. Development targets reflect the challenging viability and deliverability issues prevailing in Swale.	Med	High	Ensure that regulatory requirements are met. Ensure evidence base is as robust as possible. Build criteria into strategic policy to 'trigger' local plan review. Use of PAS 'critical friend' review. Ensure corporate management and membership are fully appraised of risks associated with decisions on policy content of the plan. Review LDS as urgent priority if plan rejected.
Insufficient capacity at government agencies (PINS)	Low	Med	Continuing liaison with PINS administrative team and early establishment of a Service Level Agreement for Examination in Public.

Part 3: Future Preparation of Planning Documents

9. Priorities and Timetables

- 9.1 The proposed programme is subject to change arising from a variety of sources including change to government policy and practice; change to local circumstances and other factors which may give rise to change in policy priorities. National planning legislation, policy and practice guidance continues to change at a rapid rate and further updates to the programme may be needed to accommodate these. The LDS will be amended accordingly, with Local Development Framework Panel approval (or at least the Chairman's delegated approval) and made available on the Council's website.

Appendix 1: Bearing Fruits 2031: The Swale Borough Local Plan Part 1

Title	Bearing Fruits 2031: The Swale Borough Local Plan Part 1
Topic and issues covered	The plan sets out strategic visions and objectives for the area; a development strategy with targets for the achievement of sustainable development; a key diagram indicating broad locations for growth, protection and enhancement; a series of linked core policies relating national planning policy themes to local objectives and policies; detailed land allocation policies and areas of search; a suite of criteria based policies for development management decision making; and a framework for implementation and delivery, with supporting infrastructure requirements.
Geographical Area of Coverage	The administrative area of Swale Borough Council
Is it a development plan document	Yes
Chain of conformity	The Local Plan is in general conformity with the NPPF and other relevant national guidance. It will have regard to the Council's corporate plan and other relevant strategies of the Council.
Will it be produced jointly with other authorities and will this involve a joint committee? If so, with whom?	No, although the Duty to Cooperate on cross boundary issues is observed.
Timetable and Milestones	
Reg 18 – consultation on draft Local Plan	August – October 2013
Reg 19 – 20 Consultation on Publication Version plan	December 2014 – January 2015
Reg 22 – Submission of plan	April 2015
Reg 23, 24 - Examination in Public* Inspector's Interim Findings	December 2015 February March 2016
Main Modifications Consultation	24 June - 8 August 2016
Resume Examination in Public	January 2017
Reg 25 - Inspectors Final Report*	Spring 2017*

Reg 26 – Adopt DPD*	Early Summer 2017 *These stages will be influenced by the Planning Inspectorate and therefore dates are estimates.
Resources	This DPD is developed by the Council's Planning Policy Team, in conjunction with other Council serves and other public bodies. Where specialist consultants' advice or assistance is needed to construct a robust evidence base, this will be funded from the development plan budget and overseen by the Planning Policy Team.
Consultations	The Council has and will continue to consult across a wide range of stakeholders in line with the adopted Statement of Community Involvement (SCI), as amended by changes to relevant regulations.
Review	The plan will be monitored annually and will be the subject of a review if this highlights such a need. Review will otherwise be undertaken in accordance with national policy requirements to maintain an up to date plan.