

<b>Cabinet Meeting</b>	
<b>Meeting Date</b>	26 January 2021
<b>Report Title</b>	Swale Borough Local Plan Review pre-submission consultation draft
<b>Cabinet Member</b>	Cllr Mike Baldock, Cabinet Member for Planning
<b>SMT Lead</b>	James Freeman
<b>Head of Service</b>	James Freeman
<b>Lead Officer</b>	Jill Peet
<b>Key Decision</b>	Yes
<b>Classification</b>	<b>Open</b>
<b>Recommendations</b>	<p>Members are asked to:</p> <ol style="list-style-type: none"> <li>1. note the summaries of the remaining evidence for the Local Plan Review;</li> <li>2. agree the addendum to the Statement of Community Involvement that sets out how the Council will address covid-related restrictions in light of the usual need to have hard copies of documents available for inspection</li> <li>3. agree the Local Plan Review pre-submission draft and accompanying documents as set out in Regulation 22 and commend them to Council for approval for the purposes of public consultation and submission to the Secretary of State in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012; and</li> <li>4. grant delegated authority to the Planning Policy Manager and Head of Planning Services, in consultation with the Cabinet Member for Planning to agree minor amendments to the documents that are non-material prior to submission and during the course of the examination if required.</li> </ol>

## **1 Purpose of Report and Executive Summary**

- 1.1 This report sets out the progress made to date with the Local Plan Review document and presents the headlines for the final pieces of remaining evidence that have now been completed in full. The pre-submission version of the Local Plan Review and associated documents are appended to this report. This report provides a short summary of the various key elements that form or support the Local Plan Review and accompanying documents that include the Sustainability Appraisal and the Habitat Regulation Assessment.

- 1.2 These documents will need to be agreed by Cabinet and full Council if they are to be consulted upon and subsequently submitted to the Secretary of State for Housing, Communities and Local Government following public consultation required by Regulation 19 of the Town and Country Planning (Local Plans)(England) regulations 2012.
- 1.3 The formal consultation of the Local Plan Review pre-submission documents is expected to commence on Monday 8 February and end on Tuesday 23 March 2021. Every effort has been made to produce complete and accurate documents. Given the scale and complexity of the documents, it is inevitable that some minor omissions or clarifications/corrections may be required prior to the start of the formal Regulation 19 consultation. An example may be where additional words or terms could usefully be added to the glossary in the Local Plan Review document. Delegated authority to make such minor and non-material amendments would be welcomed by officers. The documents would otherwise not be altered from the attached version contained in appendix i, representing what the Council believes to be a 'sound' plan and fit for submission to the Secretary of State subject to the Regulation 19 consultation.
- 1.4 This report explains the component parts of the Local Plan Review, the arrangements for the consultation and next steps.

## **2 Background**

### The need for an up-to-date local plan

- 2.1 The local plan is the document that contains the policies for how the borough will change over a period of time (usually 15 years). The Council's current local plan, Bearing Fruits, was adopted in July 2017. Local plans are required to be kept up to date and reviewed on a regular basis (every five years). Therefore, the review of Bearing Fruits started as soon as it was adopted. Since July 2017, a significant (and proportionate) amount of evidence has been prepared and used to inform the content of the Local Plan Review. Formal Regulation 18 consultation was undertaken in spring 2018 through the publication of the document 'Looking Ahead' that set out issues and discussed choices for addressing those issues. The main issues raised from this consultation have been addressed in the Local Plan Review. Informal consultation has been ongoing with key stakeholders including infrastructure providers and statutory consultees such as the Environment Agency, Highways England and Kent County Council, their input helping to shape the content of the documents.
- 2.2 The local plan remains one of the most important functions of the Borough Council and producing a local plan review that delivers the Council's spatial objectives as per the Corporate Plan is a key priority for the Council. Having an up-to-date local plan provides communities and developers with certainty around where new development can take place. It allows for greater clarity and certainty around the use of planning obligations to secure infrastructure and to protect and enhance natural and historic assets.

- 2.3 A local plan helps to realise the benefits of development and make sure that the new (and inevitable) development will serve the Borough's existing communities as well as the new communities. Without a local plan, the Borough risks development being permitted through the planning appeal process. This would put at risk the quality of that development, reduce the likelihood of infrastructure being provided in a planned and co-ordinated manner, and weaken the environmental safeguards that are proposed through the local plan.
- 2.4 In due course, the Local Plan Review will supersede Bearing Fruits, but it incorporates some of its elements and unimplemented development land allocations. The opportunity has been taken to develop some of the policy content to reflect the priorities of the new administration and to update as necessary in light of new evidence and/or changes to government guidance, best practice and other relevant information.

#### The need for development and for a local plan to guide it

- 2.5 The National Planning Policy Framework (NPPF) sets out the Government's policies and priorities regarding development and the planning system. Since the introduction of the first NPPF in 2012, successive governments have made it clear that significantly increasing the supply of housing is a national priority and that the planning system must address this.
- 2.6 The housing needs must be calculated using the government's standard method and local planning authorities are expected to meet their Local Housing Needs (LHNs) in full.
- 2.7 The NPPF required local planning authorities to have a five year supply of deliverable housing sites and to assist nearby local authorities less able to meet the need for development as part of the duty to cooperate. The focus, therefore is on where development should take place and this is a key component of the local plan that is expressed in its development strategy.
- 2.8 For Swale, the development strategy in Bearing Fruits focussed development at the western end of the Borough at Sittingbourne and west Sheppey. This was done in the context of the wider Thames Gateway growth area. The Isle of Sheppey and Sittingbourne form the lower value areas of the borough in viability terms and sites along the A249 corridor at Sittingbourne and Iwade have been constrained by highway capacity issues. As the highway improvements progress at M2 junction 5, sites in this area will start to come forward. To allocate significant further additional housing in this location would have a negative impact on the ability of the market to deliver the required quantum of development in this location and at a pace that would support a rolling five year supply of housing land. This is counter-intuitive to the government's aims of increasing housing delivery and would likely have a negative impact on the Council's 5 year Housing Land Supply position, thereby undermining the local plan and the plan-led system.

- 2.9 To avoid this scenario, the Council is focusing growth at the west of the Borough on brownfield sites that support economic and social regeneration and in locations with a good range of shops and services and/or genuine travel alternatives to the private car. The east of the Borough within the hinterland of, Faversham, enjoys strong viability and falls within the higher land value area. Focussing development at this location creates opportunities to deliver new infrastructure where housing affordability issues are more acute. Government recommends that local planning authorities allocate housing in areas such as this to improve affordability.
- 2.10 The development strategies for Bearing Fruits and the Local Plan Review combined create a more equal distribution of housing across the Borough, with Sittingbourne allocated a higher number, reflecting its role as the Borough's principal town.
- 2.11 The Local Plan Review contains policies to support other key Council objectives including addressing climate change, improving health and wellbeing, the provision of affordable housing in all parts of the Borough, supporting the provision of homes for older people, those with mobility issues and development on small and medium sites in recognition of the important role SME builders make to housing delivery in the Borough. Additionally, the Local Plan Review includes a full suite of thematic policies to manage development decisions and a set of allocations for proposed development that, in combination with the allocations in Bearing Fruits, ensures the development needs of the Borough are met in full. The pre-submission consultation draft of the Local Plan Review is contained in appendix i.

### Evidence

- 2.12 The NPPF requires local plans to be prepared in accordance with its evidence. Since work began on the Local Plan Review, completed and emerging evidence has been reported to the Local Plan Panel. Evidence is the reporting of information and research carried out by experts in that field and prepared in accordance with the requisite government guidance and best practice. The evidence base that has informed the Local Plan Review is set out in appendix I of the LPR document itself. Due to the complex nature of plan preparation and how certain evidence fits with other studies and stages in the process, there are a few pieces that have not yet been reported to Members in their full and/or final form. These are:
- Whole Plan Viability Assessment
  - Locally important countryside gaps study
  - Transport modelling run of allocated sites
- 2.13 Members of the Local Plan Panel will recall that during 2020, the Council's specialist viability consultants ran a workshop (to which all members were invited) to introduce whole plan viability. A further presentation was made to the Local Plan Panel in December that identified the development costs for various site typologies and identified the 'surplus' monies that could be used to secure policy costs over and above those typical costs such as KCC contributions and

contributions to the CCG for healthcare. The presentation concluded that there was adequate surplus for additional policy requirements. Members were then asked to identify their priorities for further testing. The draft report concludes that there is satisfactory surplus to support the policy requirements in the Local Plan Review.

- 2.14 Members are asked to note the draft Whole Plan Viability Assessment Report that forms part of the evidence base, the full draft report is contained in appendix vi and the final version will be available shortly.
- 2.15 Once members provided a steer on the potential housing allocations (Local Plan Panel of 30 October 2020), a study was commissioned to undertake an independent review of the land around the settlements of Faversham and Teynham within the context of identifying an appropriate designation of 'Important Local Countryside Gaps' to safeguard the open and undeveloped character of the land between settlements and to guard against coalescence. The study did not review existing 'Important Local Countryside Gaps' as they were already found to be sound at the local plan examination for Bearing Fruits and there have been no significant changes in circumstances or government policy to justify a review.
- 2.16 The study has been prepared by specialist consultants and identifies land between Teynham and Lynsted village that should be designated as 'Important Local Countryside Gaps'. Between Teynham and Bapchild, two options for the potential gap are identified. The option recommended by officers is the larger gap as it is more easily identified by physical features (i.e. Dully Road, wood Street and Mill Lane (see page 18 of LUC report in appendix v). At Faversham, three specific areas are recommended for designation between Faversham and Goodnestone, between Faversham and Oare, and between Faversham and Ospringe.
- 2.17 Members are asked to note the content of this report, contained in appendix v that forms part of the evidence base.
- 2.18 The transport modelling run of the allocated sites is important evidence that is now underway following the Member steer of sites for inclusion in the Local Plan Review. It is due to be completed in the late spring of this year. Transport modelling work of this nature requires a lead in time of 6 months minimum. It is not ideal to progress with the Local Plan Review without such evidence being completed, however, the Government consistently emphasises the importance of progressing with the local plan at pace. The evidence could not be completed without knowing what the allocations were likely to be. There is no particular advantage to waiting for this evidence to be completed because earlier transport evidence provides sufficient information in high level terms to provide an adequate degree of confidence that this final modelling run should support the development strategy and site allocations and that they can be delivered.
- 2.19 In the interim, the Council has been able to make a number of assumptions based on this previous modelling work that the development strategy and site allocations will be achievable/acceptable in transport terms. A further layer to this

includes the response to the Council's climate change emergency declaration and Climate Change Action Plan. The Local Plan Review supports significant shifts in terms of its transport strategy, moving away from road based solutions and encouraging greater active travel and reducing the need to travel overall. It is expected that the final transport modelling run will further support this approach and will be reported to the Local Plan Panel and Cabinet at a later date with any implications in terms of modifications required for the Local Plan Review and how this should be addressed.

### The 'weight' of the Local Plan Review in planning decisions

- 2.20 As the Local Plan Review process moves forward, the plan will gain more weight in development management decisions. Following pre-submission consultation, the Council will submit to the Secretary of State and it will be afforded more weight at this point depending on the number and nature of representations made to the individual policies and when the Inspector's report is subsequently received after Examination. Full weight is only given after adoption of the plan, at which point it will supersede Bearing Fruits.

### Key elements of the Local Plan Review

- 2.21 There are several components to the Local Plan Review. The document itself is called the Swale Local Plan Review pre-submission version. Proposed changes to the proposals map is contained in one of the document appendices. The Local Plan Review is also accompanied by the Sustainability Appraisal and by a Habitat Regulations Assessment. Other elements include the Transport Strategy Plan and the Infrastructure Development Plan. Both of these are 'living' technical documents and may evolve somewhat between now and submission to the Secretary of State to provide finer grain detail.

### **Infrastructure Delivery Plan**

- 2.22 The Infrastructure Delivery Plan (IDP) establishes what improved or new infrastructure and service needs are required to support the level of development to be included in the reviewed Swale Local Plan over the plan period (to 2038). It is part of the technical evidence base to support the preparation and then implementation of the Local Plan, helping to ensure that the identified additional infrastructure and service needs are delivered in a timely, co-ordinated, and sustainable way.
- 2.23 The IDP is not intended to be a comprehensive list to capture every infrastructure project being planned across the Borough or a 'shopping list' for developer contributions. It focusses on the types of infrastructure that will be fundamental to the delivery of the development strategy and supports the intended levels and locations of growth. It does not consider the provision of infrastructure that would be part of the normal site development process i.e. water supply or utility connections, unless this is a strategic issue having a cumulative impact on a number of sites and potentially impacting on when sites could be delivered.

- 2.24 The information in the IDP is based on factual information and the professional opinion provided by the relevant infrastructure providers using their own assessment methodologies and mitigation assessments. As a technical evidence base document, it does not require public consultation although it is part of the submission documents and part of the future examination in public. A copy of the IDP is contained in appendix ii.

### **Swale Transport Strategy**

- 2.25 Sitting alongside the Local Plan Review as part of the evidence base, is the Swale Transport Strategy. It provides a framework to guide the development of transport-based improvements and interventions within the borough for the period up to 2038. It supports the growth set out in the Local Plan Review by identifying a number of priority schemes and projects, whose implementation will be dependent upon the rate of development coming forward, the identification of funding and the availability of resources. It is therefore a 'living' document which can be updated in accordance with changing circumstances. It is a joint document with Kent County Council as the Highways Authority.
- 2.26 The Strategy will form a statement of intent and ambition, seeking to inform decision making at a local level to ensure resources are used effectively and efficiently. It will demonstrate to the Government that a sound approach to local spatial planning and transport planning is being promoted. The heart of the strategy is to set out how transport can help deliver a positive vision for Swale by delivering transport objectives that contribute strongly to a vision that prioritises a sense of place, better access to services, facilities, employment opportunities and the wider countryside and an improved quality of life.
- 2.27 The Swale Transport Strategy will have an important role to play in transforming Swale into a more sustainable place which supports its growth. The Strategy's overall vision is to:

*Deliver a sustainable transport network in Swale that creates an attractive, green and vibrant borough. The transport strategy will enable and encourage people to travel sustainably and actively, nurture healthy lifestyles, create less polluted places and upgrade the transport network to meet the boroughs needs.*

The Strategy has six overarching objectives which will meet this aim, these are:

- Objective 1** To promote active and sustainable travel enabling residents to take up these modes
- Objective 2** To reduce and mitigate the impact of poor air quality related to transport
- Objective 3** To improve the journey time reliability across the transport network

**Objective 4** To support the economic growth and development projected in the Local Plan Review

**Objective 5** To consider the needs of all users across the transport network

**Objective 6** To substantially reduce all road casualties and progress towards zero killed and seriously injured casualties

- 2.28 Part of the evidence base for the Strategy is the Transport Model. The model has been used to forecast the development and traffic growth in the borough from a base year (2017). In the 'Do Something' scenario, the allocated development can be accommodated with a number of mitigations set out in this Strategy. The mitigations are needed in order to create a 20% drop in vehicle journeys. The Transport Model is being re-run currently with the chosen housing and employment allocations for the LPR and the Transport Strategy may need minimal editing to reflect the results of this once complete.
- 2.29 This Transport Strategy is Swale's most forward thinking yet and has a much greater focus on sustainable and active travel and making them real choices for people so that Swale can become a less car dependent place to ensure that travel becomes healthier, safer, and more affordable than ever. Appendix iii contains a copy of the document.

### **Sustainability Appraisal**

- 2.30 The Sustainability Appraisal (SA) is an integral part of local plan preparation. It provides the evidence to inform, and the framework to develop and test options, ultimately helping to deliver a more sustainable strategy. It is a legal requirement and a vital part in demonstrating to the local plan inspector that the plan is sound. The focus to date has been on exploring options ('growth scenarios'), and a report exploring the merits of five growth scenarios is available to inform decision-making at the current time. There remains more work to do on appraising the plan as a whole, taking account of detailed policy wording, however this work will be completed over the next two weeks, such that the SA Report can be published for consultation alongside the plan, in line with the legal requirement. Appendix vii contains a copy of the draft SA.

### **Habitat Regulations Assessment**

- 2.31 The need for Habitats Regulations Assessment is part of an EU directive that has been interpreted into British law by the Conservation of Habitats & Species (Amendment) Regulations 2011. It requires a Habitat Regulations Assessment to undertake an initial 'screening' stage followed by an Appropriate Assessment (AA) if proposals are likely to have a significant (adverse) impact on internationally significant sites, that is, to assess the impact of development proposals on a Special Protection Area (SPA), Special Area of Conservation (SAC) or Ramsar site.



- 2.32 The HRA will determine whether or not the proposals have an adverse impact on any of the above sites and if there is, will investigate whether or not proposals can avoid or mitigate any adverse impacts. A copy is contained in appendix viii.

### Regulation 19 consultation arrangements

- 2.33 The pre-submission version of the Local Plan Review is often referred to as the Regulation 19 stage. Regulation 19 of the Town and Country Planning (Local Planning)(England) Regulations 2012 requires the Council to consult on the pre-submission version of the plan for a statutory six week period. Members of the public, town and parish councils, statutory consultees and other interested parties will be invited to comment on the “soundness” of the document in relation to the tests set out in the National Planning Policy Framework. Guidance on how to comment will be provided as part of the package of documents made available. Those that respond to the consultation will be required to comment on why they consider the part of the plan they are objecting to fails the soundness test. A full plain-English guide will be provided to assist along with a specific proforma.
- 2.34 Government have amended the regulations to remove the legal requirement to make copies of the documents available for inspection and provide hard copies on request unless the local planning authority consider it safe to do so. The Council’s Statement of Community Involvement states that the Council will do this at this stage in the process. It would be prudent to publish an addendum to the Statement of Community Involvement to provide clarity on how the Council proposes to ensure those without access to a computer are not disenfranchised from the process, noting contributions can only be made in writing if they are to be considered by the Planning Inspector. A draft addendum is contained in appendix iv.

### Next Steps

- 2.35 Once the recommendations are formally agreed by full Council, the Regulation 19 stage will commence on Monday 8 February and end on Tuesday 23 March 2021. Officers will prepare a summary of the main issues raised through this process and report to the Local Plan Panel in the summer along with the final transport modelling evidence that will be completed by then. Depending on the volume and nature of the representations received, there may be minor modifications to accompany the submission documents to deal with minor issues raised in representations. The summary of the main issues raised is likely to form the basis of the issues to be discussed at the examination hearing sessions. The approved Local Development Scheme commits the Council to submitting in August 2021.

## **3 Proposals**

- 3.1 There are extensive links between the Local Plan Review and the Corporate Strategy. The Local Plan Review forms a key delivery mechanism for the

Corporate Strategy, promoting and facilitating the development and economic growth which is necessary to improve the prosperity of the Borough's residents.

- 3.2 It is necessary to move forward with the Local Plan Review to maintain momentum and to keep positively planning for the future of the Borough. The reasons for having a Local Plan Review are clear – to make sure that development is planned and coordinated across the Borough and to make sure that the development that will inevitably happen will be of as high a quality as possible.
- 3.3 Members are asked to note the remaining evidence for the Local Plan Review available on the local plan pages of the Council's website. (Whole Plan Viability Assessment and Important Local Countryside Gap Study).
- 3.4 Members are asked to agree the Local Plan Review document and accompanying reports (Sustainability Appraisal and Habitat Regulation Assessment) and commend them to full Council for approval for the purposes of public consultation and submission to the Secretary of State in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012.
- 3.5 Members are asked to grant delegated authority to the Planning Policy Manager and Head of Planning Services, in consultation with the Cabinet Member for Planning to agree minor amendments to the documents that are non-material.

## **4 Alternative Options**

- 4.1 New development is an emotive topic and the Local Plan Review proposes development on sites that for some will be unpalatable. The Council will not be able to deliver a 'sound' plan without meeting the identified quantum of development. The quantum of development for the Borough is not realistically a decision for the Council but a response to the Government's policy of significantly boosting the supply of new homes. With approximately 60% of the Borough falling within land identified by the NPPF as being subject to high level constraints, difficult decisions about where the additional development should be located has had to be made. Over the past couple of years, the various options for content in the Local Plan Review have been considered.
- 4.2 Members could choose to reject the documents presented to them. Other options for the Local Plan Review would need to be revisited. This would delay the progress of the Local Plan Review and leave the Council in a vulnerable position not just in relation to having an up-to-date local plan but also in ensuring a rolling 5 year housing land supply. Members will already be aware of the consequences associated with not having a 5 year housing land supply and the application of the tilted balance that can lead to planning by appeal.
- 4.3 The Government are on the cusp of introducing a brand new planning system. Whilst much of the detail is yet to be forthcoming, it is highly likely that there will be a period of uncertainty as the system transitions. It is in the Council's best interests to have an up-to-date plan under the current system to provide the

certainty to communities and developers that otherwise might be missing as the new system is introduced.

- 4.4 Alternative options to agreeing the recommendations will result in abortive work, additional expense and will cause delays to adopting the Local Plan Review and leave the Council in a more vulnerable position regarding future planning applications on unallocated sites.

## 5 Consultation Undertaken or Proposed

- 5.1 The preparation of a Local Plan is governed by the Town and Country Planning (Local Planning)(England) Regulations 2012 (as amended). The proposed consultation would form a consultation under Regulation 19 of those regulations.
- 5.2 The draft of the LPR contained in appendix i includes input from both formal and informal consultation at Regulation 18 stage (“Looking Ahead” that took place during spring 2018 and subsequent engagement with stakeholders such as infrastructure providers, Environment Agency, Highways England, KCC and so on).
- 5.3 The Local Plan Panel will meet in advance of this Cabinet meeting (on 19 January) to discuss the emerging Local Plan Review document, the minutes of which will be circulated in advance of this Cabinet meeting.

## 6 Implications

Issue	Implications
Corporate Plan	The Local Plan Review has been prepared with the aim of delivering the spatial aims and objectives of the Corporate Plan. In particular it supports the Council’s corporate priorities of: Building the right homes in the right places and supporting quality jobs for all (Priority 1) Investing in our environment and responding positively to global challenges (Priority 2) Tackling deprivation and creating equal opportunities for everyone (Priority 3)
Financial, Resource and Property	The preparation of the local plan is a statutory function of local planning authorities and the Local Plan Review has been prepared within budget.
Legal, Statutory and Procurement	The preparation of the local plan is a statutory requirement and is to be prepared within a legal, regulatory and national policy framework.  All work procured has been undertaken within the Council’s own procurement framework.

Crime and Disorder	The Local Plan Review includes policies relating to design that aim to reduce crime and disorder.
Environment and Sustainability	The Local Plan Review seeks to deliver sustainable development and has been subject to a Sustainability Appraisal and Habitats Regulations Assessment.
Health and Wellbeing	The Local Plan Review includes policies and proposals that seek to improve the health and wellbeing of our communities. This includes a strategic policy on health and wellbeing as well as policies on related matters such as increasing and improving open space etc.
Risk Management and Health and Safety	Risk management of the process has been undertaken as part of the Council's wider risk register and risk management policies, procedures and practices.
Equality and Diversity	An Equalities Impact Assessment will be undertaken and presented as part of the suite of supporting documents when the plan is submitted to the Secretary of State. The need to address equality and diversity in the Local Plan Review has been a main consideration throughout its development.
Privacy and Data Protection	Local Plan Review preparation (including preparation of evidence) has complied with privacy and data protection laws and regulations as required.

## 7 Appendices

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

- Appendix i: Swale Local Plan Review: Pre-submission consultation draft
- Appendix ii: Infrastructure Delivery Plan
- Appendix iii: Transport Strategy
- Appendix iv: Addendum to the Statement of Community Involvement
- Appendix v: Locally Important Countryside Gaps Study
- Appendix vi: Whole Plan Viability Assessment (draft)
- Appendix vii: Sustainability Appraisal
- Appendix viii: Habitat Regulations Assessment

## 8 Background Papers

None