

Developments in the Planning System

National Planning Policy Framework (NPPF) Revised

On 24th July 2018 the Government issued the revised NPPF. This sets out the new standard methodology for housing targets for future Local Plans. The Bearing Fruits Local Plan horizon date is 2031, although it would have needed to be reviewed and rolled forward before then under existing national policy which required local councils to keep local plans up to date. In fact an immediate review was recommended to address concerns raised very late in the process by Kent Highways in respect of the A2 corridor especially at the western end of the Borough.

The extent of review needed was nevertheless unclear. The revision of the NPPF in fact makes this academic, as under the revised version a new Plan has to be adopted by Spring 2023. The revised NPPF makes many technical changes but one in particular will have the greatest impact on Faversham. This is the change to a centrally determined number of housing sites required to be provided by Swale in a new Local Plan from 776 to approximately 1050 per annum. The NPPF also introduces a Housing Delivery Test and will be monitoring delivery of dwellings against the adopted Local Plan target from November 2018. Should the delivery drop below 85% for the last three years, then an additional 'buffer' is applied to the Housing Land Supply - with the result that our Five Year Supply may drop below the requisite five year total.

The Local Plan Review must also address a dramatic increase in targets, but Swale has no choice but to find these sites as it must have a 'five year land supply', i.e. sites allocated for building houses where building houses is viable. If Swale does not have a five year land supply of sites, a developer could seek permission to build anywhere in Swale, and Swale would be obliged to grant permission for the development as the developer could cite this in an appeal against refusal and get approval on appeal with Swale having to pay its own costs, and those of the developer who makes the successful appeal.

This means that Swale has to identify approximately 300 additional sites for houses every year from 2022. In the last local Plan Faversham had received a comparatively lower proportion of allocations than Sittingbourne and Sheppey. There must be sufficient sites allocated in the Local Plan which are suitable, available and deliverable within five years of its adoption. Most of the more easily deliverable sites have now been allocated in the western end of the Borough, and nearly all are either at planning application stage or being worked up. Supporting infrastructure is expensive and beyond these allocations, it is difficult to see how the NPPF uplift in targets can be accommodated without further large scale investment. Viability is also an issue - it is not possible for example to allocate sites in the remote parts of the Isle of Sheppey, as the sites must, under the terms of the NPPF, be viable and deliverable, i.e. it must be possible for developers to build houses and sell them at sufficient a profit to enable them to make a commercial return.

Swale as the strategic Planning Authority covering Faversham, has started the process of developing the Local Plan Review in good time to enable the best solution of the various dilemmas that it and Faversham face, can be found. It will be a considerable undertaking to complete the process in less than 5 years.

One new concept that the Government has introduced is that of new Garden Communities, and in April 2018 Swale issued a prospectus to test whether there was any market appetite for such in Swale. The concept is that instead of having new housing sites to cope with the increase number of houses allocated to Swale being scattered across

Swale, they should be concentrated in suitable self contained sites, if they could be identified, which met the garden community principles and were capable of delivering the necessary supporting infrastructure. As a result of the Swale Prospectus being issued, four sites were put forward, at :

- Bobbing;
- South East Sittingbourne which includes the construction of a new junction on the M2 Motorway;
- South East Faversham on land near Brenley Corner;
- and land south of the M2 covering land both sides of the A251 going up to Sheldwich.

These proposals are currently being evaluated by Swale's Officers with a view to Swale Borough Council deciding in January 2019 whether Garden Communities should be further considered for the next Local Plan. In the next five years there will be many meetings of Swale's Local Plan Panel with public consultations planned in September 2019 and September 2020, as the Local Plan Review is worked up to a version that will be submitted to the Secretary of State in Spring 2021, and then be subject to Examination in Public.

After the previous updates on the Planning System in the Town Council Newsletter I have received a number of queries.

The first relates to affordable housing, which the current local plan suggests should be at least 40% of houses built in rural areas and 35% in Faversham and in extensions to Faversham. While Swale tries to insist on this, developers are allowed to reduce the number of affordable homes if the site viability is such that the building of it cannot be delivered. This means that developers must be allowed to reduce the number of affordable homes when the houses on the site cannot be delivered if developers will not generate sufficient profit to finance the developer build, and the price paid to the original land owner. Applications to reduce the number of affordable houses can be made either at the time of the original application, or subsequently. The revised NPPF has extended the definition of affordable homes and generally requires any viability assessments where developers wish to diverge from policy, to be publicly available. This area has therefore been tightened a little and Swale Borough Council is looking into how it should be applied.

The second query raised is why are Planning applications being approved by Swale when it is self-evident that the road system and the surrounding infrastructure is not able to cope with the number of houses that the application is asking to be approved? Under the NPPF Swale can only refuse application to build houses on highways grounds if 'there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network are severe.' Developers are required to submit Transport Assessments with major schemes and will need to demonstrate the impact of their schemes and any mitigation, such as junction improvements, which they may propose to address them. Swale Borough Council is then advised by Kent Highways and Highways England as to whether the proposals are acceptable in highways terms. Safety is the main consideration - rather than congestion or long queues.

If a refusal is made on highways grounds, which are not supported by Kent Highways and or Highways England, the applicant may lodge an appeal that is considered by a Government Planning Inspector. If the appeal is upheld (and this would be very likely in the absence of objection from the highways authorities), not only does Swale not have the ability to put conditions on the development, but would also be vulnerable to having costs awarded against them (i.e. having to pay all the developer's costs for the appeal work).

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