

# TONBRIDGE & MALLING BOROUGH COUNCIL



## EXECUTIVE SERVICES

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**Interim Chief Executive**  
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**NB - This agenda contains proposals, recommendations and options. These do not represent Council policy or decisions until they have received proper consideration through the full decision making process.**

Contact: Democratic Services  
[committee.services@tmbc.gov.uk](mailto:committee.services@tmbc.gov.uk)

11 March 2024

To: MEMBERS OF THE HOUSING AND PLANNING SCRUTINY SELECT COMMITTEE  
(Copies to all Members of the Council)

Dear Sir/Madam

Your attendance is requested at a meeting of the Housing and Planning Scrutiny Select Committee to be held in the Council Chamber, Gibson Drive, Kings Hill on Tuesday, 19th March, 2024 commencing at 7.30 pm.

Members of the Committee are required to attend in person. Other Members may attend in person or participate online via MS Teams.

Information on how to observe the meeting will be published on the Council's website.

Yours faithfully

ADRIAN STANFIELD

Interim Chief Executive

## A G E N D A

1. Guidance for the Conduct of Meetings

7 - 10

## **PART 1 - PUBLIC**

2. Apologies for absence
3. Notification of Substitute Members 11 - 12
4. Declarations of interest 13 - 14

Members are reminded of their obligation under the Council's Code of Conduct to disclose any Disclosable Pecuniary Interests and Other Significant Interests in any matter(s) to be considered or being considered at the meeting. These are explained in the Code of Conduct on the Council's website at [Code of conduct for members – Tonbridge and Malling Borough Council \(tmbc.gov.uk\)](https://www.tmbc.gov.uk/code-of-conduct-for-members).

Members in any doubt about such declarations are advised to contact Legal or Democratic Services in advance of the meeting.

5. Minutes 15 - 26

To confirm as a correct record the Minutes of the ordinary and extraordinary meetings of the Housing and Planning Scrutiny Select Committee held on 14 December 2023 and 31 January 2024 respectively.

### **Matters for Recommendation to the Cabinet**

6. Empty Homes 27 - 32

This report updates Members on the current position with empty homes within the borough, outlines a new Local Government Association report on dealing with empty homes and recommends the introduction of a new Empty Homes Officer post for the Borough Council.

7. National Planning Policy Legislation Update 33 - 120

This report sets out the key changes to planning policy legislation and policy resulting from the [Levelling Up and Regeneration Act, 2023](https://www.levellingup.gov.uk/levelling-up-and-regeneration-act-2023) and the December 2023 [National Planning Policy Framework](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/123456/national-planning-policy-framework-2023.pdf).

8. Temporary Accommodation and Homelessness Consultancy Review 121 - 160

This report updates Members on a recent consultancy review of temporary accommodation and homelessness. A copy of the consultant's report is provided at Annex 1. The report also seeks Members' agreement to an action plan to implement the recommendations from the report.

## **Matters submitted for Information**

9. Biodiversity Duty 161 - 174

The Borough Council has a statutory duty to conserve and enhance biodiversity (habitats and species) as set by the Environment Act 2021 and the amended Natural Environment and Rural Communities Act 2006 (NERC Act). This is known as 'the biodiversity duty'. Members are requested to note the content of the Biodiversity Duty First Consideration Report (Annex 1).

10. National Planning Fee Increase 175 - 178

This report updates Members on the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2023 which came into force on 6 December 2023 and laid legislation to increase planning fees.

11. Planning Appeal Costs 179 - 184

This report is for information purposes about the amount spent on appeals, focusing on what awards of costs have been made against the Borough Council and how much has been paid out since 2021.

12. Housing Allocations Update 185 - 188

This report provides Members with an update on the position of Housing Allocations following the implementation of the Borough Council's new Housing Allocations Scheme in June 2023.

13. Corporate Key Performance Indicators 189 - 196

This report provides data on Key Performance Indicators (KPIs) that are aligned to the Corporate Strategy 2023-2027 and monitored on a quarterly or annual basis. The data provided in this report relates to the period up to the end of December 2023.

14. Work Programme 2024-25 197 - 198

The Work Programme setting out matters to be scrutinised during 2024-25 is attached for information. Members can suggest future items by liaising with the Chair of the Committee.

15. Urgent Items 199 - 200

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive

## **Matters for consideration in Private**

16. Exclusion of Press and Public 201 - 202

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

## **PART 2 - PRIVATE**

17. Urgent Items 203 - 204

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

## **MEMBERSHIP**

Cllr D A S Davis (Chair)  
Cllr D W King (Vice-Chair)

Cllr L Athwal  
Cllr Mrs S Bell  
Cllr G C Bridge  
Cllr R W Dalton  
Cllr D Harman  
Cllr P M Hickmott

Cllr M A J Hood  
Cllr A Mehmet  
Cllr W E Palmer  
Cllr R V Roud  
Cllr D Thornewell

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## **GUIDANCE ON HOW MEETINGS WILL BE CONDUCTED**

- (1) Most of the Borough Council meetings are livestreamed, unless there is exempt or confidential business being discussed, giving residents the opportunity to see decision making in action. These can be watched via our YouTube channel. When it is not possible to livestream meetings they are recorded and uploaded as soon as possible:

<https://www.youtube.com/channel/UCPp-IJISNgoF-ugSzxjAPfw/featured>

- (2) There are no fire drills planned during the time a meeting is being held. For the benefit of those in the meeting room, the fire alarm is a long continuous bell and the exits are via the doors used to enter the room. An officer on site will lead any evacuation.
- (3) Should you need this agenda or any of the reports in a different format, or have any other queries concerning the meeting, please contact Democratic Services on [committee.services@tmbc.gov.uk](mailto:committee.services@tmbc.gov.uk) in the first instance.

### **Attendance:**

- Members of the Committee are required to attend in person and be present in the meeting room. Only these Members are able to move/ second or amend motions, and vote.
- Other Members of the Council can join via MS Teams and can take part in any discussion and ask questions, when invited to do so by the Chair, but cannot move/ second or amend motions or vote on any matters. Members participating remotely are reminded that this does not count towards their formal committee attendance.
- Occasionally, Members of the Committee are unable to attend in person and may join via MS Teams in the same way as other Members. However, they are unable to move/ second or amend motions or vote on any matters if they are not present in the meeting room. As with other Members joining via MS Teams, this does not count towards their formal committee attendance.
- Officers can participate in person or online.

- Members of the public addressing an Area Planning Committee should attend in person. However, arrangements to participate online can be considered in certain circumstances. Please contact [committee.services@tmbc.gov.uk](mailto:committee.services@tmbc.gov.uk) for further information.

Before formal proceedings start there will be a sound check of Members/Officers in the room. This is done as a roll call and confirms attendance of voting Members.

### **Ground Rules:**

The meeting will operate under the following ground rules:

- Members in the Chamber should indicate to speak in the usual way and use the fixed microphones in front of them. These need to be switched on when speaking or comments will not be heard by those participating online. Please switch off microphones when not speaking.
- If there any technical issues the meeting will be adjourned to try and rectify them. If this is not possible there are a number of options that can be taken to enable the meeting to continue. These will be explained if it becomes necessary.

For those Members participating online:

- please request to speak using the 'chat or hand raised function';
- please turn off cameras and microphones when not speaking;
- please do not use the 'chat function' for other matters as comments can be seen by all;
- Members may wish to blur the background on their camera using the facility on Microsoft teams.
- Please avoid distractions and general chat if not addressing the meeting
- Please remember to turn off or silence mobile phones

### **Voting:**

Voting may be undertaken by way of a roll call and each Member should verbally respond For, Against, Abstain. The vote will be noted and announced by the Democratic Services Officer.



Alternatively, votes may be taken by general affirmation if it seems that there is agreement amongst Members. The Chairman will announce the outcome of the vote for those participating and viewing online.

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**Housing and Planning Scrutiny Select Committee – Substitute Members (if required)**

	<b>Conservative</b>	<b>Liberal Democratic</b>	<b>Green</b>	<b>Ind. Kent Alliance</b>	<b>Labour</b>
1	Robert Cannon	Bill Banks	Kath Barton		Angus Bennison
2	Sarah Hudson	Tim Bishop	Anna Cope		Wayne Mallard
3	Alex McDermott	Frani Hoskins	Steve Crisp		
4	Mark Rhodes	Anita Oakley	George Hines		
5	Keith Tunstall	Michelle Tatton	Bethan Parry		

**Members of Cabinet cannot be appointed as a substitute to this Committee**

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Declarations of interest

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## TONBRIDGE AND MALLING BOROUGH COUNCIL

### HOUSING AND PLANNING SCRUTINY SELECT COMMITTEE

#### MINUTES

Thursday, 14th December, 2023

**Present:** Cllr D A S Davis (Chair), Cllr D W King (Vice-Chair), Cllr L Athwal, Cllr Mrs S Bell, Cllr G C Bridge, Cllr R W Dalton, Cllr D Harman, Cllr P M Hickmott, Cllr M A J Hood, Cllr A Mehmet, Cllr W E Palmer, Cllr R V Roud and Cllr D Thornewell

**In attendance:** Councillors F A Hoskins and K B Tanner were also present pursuant to Council Procedure Rule No 15.21.

**Virtual:** Councillors D Keers, Mrs A S Oakley, M R Rhodes and M Taylor participated via MS Teams in accordance with Council Procedure Rule 15.21.

#### PART 1 - PUBLIC

##### **HP 23/33 NOTIFICATION OF SUBSTITUTE MEMBERS**

There were no substitute Members nominated for this meeting.

##### **HP 23/34 DECLARATIONS OF INTEREST**

There were no declarations of interest made in accordance with the Code of Conduct.

##### **HP 23/35 MINUTES**

**RESOLVED:** That the notes of the meeting of the Housing and Planning Scrutiny Select Committee held on 26 September 2023 be approved as a correct record and signed by the Chair.

#### MATTERS FOR RECOMMENDATION TO THE CABINET

##### **HP 23/36 REVIEW OF THE PLANNING PERFORMANCE AGREEMENT PROTOCOL AND FEE CHARGING SCHEDULE 2024/25**

The report of the Director of Planning, Housing and Environmental Health set out the proposed amendment to the Planning Performance Agreement (PPA) Protocol following a review of the existing Protocol, including the introduction of an Inception Meeting. A revised Planning Performance Agreement Protocol was attached at Annex 1 and a copy of the Inception Meeting template was provided at Annex 2. Furthermore, a revised Planning Performance Agreement Charging

Schedule for 2024/25 was proposed for consideration by Members as set out in Annex 3.

Members noted that the PPA fees were set on a cost recovery only basis, however, the current fee schedule associated with PPAs did not recover the full costs of the service. Therefore, a revised fee schedule was proposed taking into review the Borough Council's hourly charging rates and the best estimate of timescales to cover all aspects of the PPA service. Furthermore, a baseline review had been undertaken across the Kent authorities to review charging schedules for those authorities. Nonetheless, it was recognised that not all development sizes were suitable to progress through a PPA.

**RECOMMENDED\*:** That with effect from 1 April 2024

- (1) the amendment and the publication of the Planning Performance Agreement Protocol, attached at Annex 1, be approved;
- (2) the Inception Meeting template, attached at Annex 2, be adopted; and
- (3) the updated Planning Performance Agreement Charging Schedule for 2024/25, as attached at Annex 3 and set out in 1.3.13 of the report, be adopted.

**\*Recommended to Cabinet**

**HP 23/37 REVIEW OF FEES AND CHARGES 2024/25 FOR PRE-APPLICATION ADVICE SERVICE, BUILDING CONTROL FEES AND FOR HIGH HEDGES AND S106 MONITORING FEES**

The report of the Director of Planning, Housing and Environmental Health proposed a revised set of Pre-application Charging Schedule [Annex 1], a revised Building Control Fee Charging Schedule [Annex 2] and an updated charging fees for S106 monitoring and High Hedge, following reviews undertaken in relation to the respective services.

Members recognised that the fees were set on the basis of cost recovery to provide the services and/or increased by the baseline rate of the inflation. In addition, benchmarking exercises had been undertaken against the fees charged by the other local authorities in Kent as part of the review process for the relevant services.

**RECOMMENDED\*:** That with effect from 1 April 2024

- (1) the proposed Pre-application Charging Schedule 2024/25, attached at Annex 1, be adopted;



- (2) the proposed Building Control Fee Schedule 2024/25, attached at Annex 2, be adopted;
- (3) the proposed charging fees for High Hedges, as set out in 1.2.2 – 1.2.4 of the report, be adopted; and
- (4) the proposed charging fees for S106 monitoring, including an update to the Planning Obligations Protocol S106 (paragraph 9.5), as set out in 1.2.5 – 1.2.9 of the report, be adopted.

**\*Recommended to Cabinet**

**HP 23/38 HMO AND CARAVAN SITE LICENSING FEE CHARGES FOR 2024/25**

The report of the Director of Planning, Housing and Environmental Health updated Members on the existing fees charged to license a house in multiple occupation (HMO) or caravan site for permanent residential use and set out the proposed fee charges for 2024/25 to process the respective applications.

**RECOMMENDED\***: That with effect from 1 April 2024

- (1) the proposed charge of £753 for processing a new mandatory house in multiple occupation (HMO) licence application, as set out in 1.1.5 of the report, be approved;
- (2) the proposed charge of £675 for processing a renewal application for a mandatory HMO licence, as set out in 1.1.5 of the report, be approved;
- (3) the proposed charge of £475 for processing a new caravan site licence application where the use of the site was for permanent residential use, as set out in 1.2.3 of the report, be approved;
- (4) the proposed charge of £232 for the transfer of a caravan site licence for a permanent residential use site, as set out in 1.2.3 of the report, be approved; and
- (5) the proposed charge of £273 for processing a fit and proper person test application for licence holders of relevant protected sites other than non-commercial family occupied sites, as set out in 1.2.7 of the report, be approved.

**\*Recommended to Cabinet**

**HP 23/39 SUSTAINABLE TEMPORARY ACCOMMODATION OPTIONS  
REPORT AND TEMPORARY ACCOMMODATION PROVISION  
ACTION PLAN**

The report of the Director of Planning, Housing and Environmental Health introduced a consultant report by Altair, who were commissioned to research and report on sustainable Temporary Accommodation (TA) delivery options for the Borough Council, as part of the Local Government Association Housing Advisers Programme, to deliver 40 sustainable temporary accommodation units. A copy of the report was provided at Annex 1.

As informed by the options report, a Temporary Accommodation Portfolio Action Plan had been developed to work towards securing sustainable TA provision and a copy was attached at Annex 2.

Members had an in-depth discussion with regard to the various options as recommended in the consultant report, with particular reference made to modular construction of new homes, private sector leasing, partnership working with registered providers, social lettings agency and re-purposing existing stock. It was explained that the research focused on meeting the core and ongoing needs of the Borough Council in providing sustainable TA.

The in borough location had been acknowledged as one of the primary goals the Council was seeking to achieve in respect of sustainable TA provision, however, this needed to be balanced with considerations across a range of priorities, including suitability and feasibility of potential sites.

Furthermore, it was noted that potential sites, once identified and assessed to be suitable for delivery, would be presented to full Council in due course for consideration by Members.

**RECOMMENDED\*:** That

- (1) the Options Appraisal Report on Sustainable Temporary Accommodation Delivery by Altair, attached at Annex 1, be noted and endorsed by Council; and
- (2) the Temporary Accommodation Portfolio Action Plan, attached at Annex 2, be approved and adopted.

**\*Recommended to Cabinet**

## **HP 23/40 UPDATE ON LOCAL PLAN INFRASTRUCTURE EVIDENCE**

(Decision Notice D230108MEM)

The report of the Director of Planning, Housing and Environmental Health summarised the latest position in relation to the preparation of the Infrastructure Delivery Plan (IDP), which covered all forms of infrastructure, including water, wastewater, electricity, gas and telecommunications as well as social and health facilities. It was noted that the IDP was a live document and was regularly updated to reflect the Borough Council's progressing Local Plan and the revised business, service and delivery plans of infrastructure and service providers.

Particular reference was made to the specific emphasis on water resources and sewerage capacity, as a key part of the IDP process, and specific engagement with water providers.

Members had an in-depth discussion on concerns raised over both sewerage and surface water drainage systems and were advised that mitigation measures required in respect of the water/wastewater infrastructure to support growth could be addressed in the IDP, which would be reported to Members for approval in due course, to accompany the emerging Local Plan.

**RECOMMENDED\***: That

- (1) the contents of the report be noted; and
- (2) the approach to infrastructure matters as set out in the report be approved.

**\*Decision taken by Cabinet Member**

## **HP 23/41 INFRASTRUCTURE FUNDING STATEMENT 2022/23**

(Decision Notice D230109MEM)

The report of the Director of Planning, Housing and Environmental Health outlined the statutory requirement under regulation 121A for the Brough Council to publish an annual Infrastructure Funding Statement (IFS) and sought approval to publish the annual IFS, attached at Annex 1, and the associated documents outlining S106 contributions secured, allocated and spent where appropriate over the monitoring period of 2022/23.

Particular reference was made to the introduction of a newly proposed Infrastructure Levy, for which a response had been issued to the consultation and a decision was awaited from the central government.

Members welcomed the report, although disappointment had been expressed towards the failing of the Kent County Council in meeting certain delivery timeframes.

With regard to the possibility of repurposing S106 contribution towards alternative projects, Members noted that the developer contribution had to be agreed to directly mitigate the impact arising from the development and any subsequent alteration of its use would be subject to further agreement of the developer via variation.

**RECOMMENDED\*:** That

- (1) the Infrastructure Funding Statement 2022/23, attached at Annex 1, and the associated documents, attached at Annex 2, be endorsed and published by the end of December 2023.

**\*Decision taken by Cabinet Member**

#### **HP 23/42 ACTIVE TRAVEL STRATEGY**

(Decision Notice D230110MEM)

The report of the Director of Planning, Housing and Environmental Health provided Members with an update on progress and next steps in the preparation of the Tonbridge and Malling Active Travel Strategy (ATS), which was being prepared in accordance with the Department for Transport's published Local Cycling and Walking Infrastructure Plan guidance. Once adopted, this Strategy would replace the current borough Cycling Strategy.

Members noted that a cycle route priorities consultation had been undertaken in 2022 to inform the preparation of the ATS and a full summary of the consultation feedback was included at Annex 1, with headlines highlighted in 1.1.4 of the report. Careful consideration had been given to the feedback received by the project team, with particular reference made to the alternative route suggestions and ideas to improve infrastructure for active travel on local roads and public rights of way. The route suggestions were set out in Annex 2, including comments from the project team.

Queries and concerns were raised over a number of particular routes and Members were assured that future deliveries would be subject to detailed scheme design and public consultation to enable full options to be presented when the draft Strategy was brought back to the Committee for consideration. However, it was recognised that funding remained limited for active travel projects in the coming years.

**RECOMMENDED\*:** That

- (1) the feedback received to the cycle route priorities consultation and the progress being made, be noted;
- (2) the alternative routes detailed in 1.1.6 of the report be investigated further for potential inclusion within the Active Travel Strategy; and
- (3) the updated timetable as detailed in 1.2.3 of the report, be noted.

**\*Decision taken by Cabinet Member**

**MATTERS SUBMITTED FOR INFORMATION**

**HP 23/43 KEY PERFORMANCE INDICATORS**

Members received a list of Key Performance Indicators (KPIs) that were aligned to the priorities as identified in the adopted Corporate Strategy 2023-2027 and were relevant to the Committee. A baseline covering the period 2022/23 had for the most part been used, with the data for July to September 2023 representing the most up-to-date available statistics in most instances. In order to improve the effectiveness of KPI monitoring, trend analysis and targets had also been included in the KPIs provided at Appendix 1 and a number of the identified trends were highlighted in 1.1.5 of the report. The KPIs would be monitored on a quarterly-annual basis and would be made available on an ongoing basis.

With regard to benchmarking, it was noted that for those KPIs that were already being benchmarked, the benchmarking data would be added in the next cycle of reporting, and further work would be undertaken to build up benchmarking for the remaining KPIs.

Particular reference was made to the KPIs in respect of planning appeals and it was explained that the indicators could represent cases dealt with in different accounting periods due to the varying length of time for decisions to be taken on appeals.

With regard to planning enforcement notices, it was noted that a new process for serving enforcement notice involving legal review was being implemented.

**HP 23/44 WORK PROGRAMME 2024/25**

The Work Programme setting out matters to be scrutinised during 2024/25 was attached for information. Members were invited to suggest future matters by liaising with the Chair of the Committee.

**MATTERS FOR CONSIDERATION IN PRIVATE**

**HP 23/45 EXCLUSION OF PRESS AND PUBLIC**

There were no matters considered in private.

The meeting ended at 9.42 pm

## **TONBRIDGE AND MALLING BOROUGH COUNCIL**

### **HOUSING AND PLANNING SCRUTINY SELECT COMMITTEE**

**Wednesday, 31st January, 2024**

**Present:** Cllr D A S Davis (Chair). Cllr D W King (Vice-Chair), Cllr L Athwal, A G Bennison (substitute), Cllr G C Bridge, Cllr R W Dalton, Cllr D Harman, Cllr M A J Hood, Cllr S A Hudson (substitute), Cllr A Mehmet, Cllr W E Palmer, Cllr R V Roud and Cllr D Thornewell

**In attendance:** Councillors F A Hoskins and Mrs A S Oakley were also present pursuant to Council Procedure Rule No 15.21.

**Virtual:** Councillors M A Coffin, S Crisp, M R Rhodes, K B Tanner and M Taylor participated via MS Teams in accordance with Council Procedure Rule No 15.21.

Apologies for absence were received from Councillors S Bell and P M Hickmott.

#### **HP 24/1 NOTIFICATION OF SUBSTITUTE MEMBERS**

Notification of substitute Members were recorded as set out below:

- Cllr A Bennison substituted for Cllr P Hickmott
- Cllr S Hudson substituted for Cllr S Bell

In accordance with Council Procedure Rules 17.5 to 17.9 these Councillors had the same rights as the ordinary member of the committee for whom they were substituting.

#### **HP 24/2 DECLARATIONS OF INTEREST**

There were no declarations of interest made in accordance with the Code of Conduct.

#### **MATTERS SUBMITTED FOR INFORMATION**

#### **HP 24/3 FUTURE IMPROVEMENT SCHEMES - WATER COMPANIES**

Members received a presentation from the Head of Communications and the Head of Service Management, South East Water on the impact of Covid and climate change on recent events and the company's Water Resource Management Plan which looked ahead into the future to secure water supplies. Particular attention was made to the following:

- The long term Water Resource Management Plan proposed new reservoirs in Broad Oak and Arlington, considered how the company could protect the environment by reducing the abstraction

- from some catchments and targeted significant reductions on leakage.
- During lockdown, there had been a 20% increase in household water consumption and the demand had been met by increasing production and working production assets harder, however this had reduced the margin for error in the network as there was now less spare capacity. The increased demand was not factored into the PR19 business and therefore inhibited investment in short term, however the South East Water were building in more schemes to improve resilience to changing patterns.
  - Various projects had been completed since December 2022 to improve resilience, including works at Ryarsh, Pembury, Aylesford and Bloodshots, and significant progress had been made in the provision of alternate water during incidents and a complete review of all alternative water practices was being undertaken.
  - Following the incident in December 2022, the incident communication tool, 'In Your Area' had been deemed no longer suitable for purpose and an alternative 'Aqualerter' had been launched.
  - In terms of network capacity, the revised Water Resources Management Plan had been published, which detailed the need to increase the water resources available across South East Water regions, whilst working with customers to reduce water consumption.
  - The challenges of sustained heat waves were recognised and the use of water butts encouraged.
  - Members were asked to remind vulnerable residents to register for the priority service operated by South East Water.

During discussion it was explained that South East Water had a programme of water main replacement and were focused on managing water pressures to reduce the amount of leakage network, and attention was brought to the difficulties the company faced in terms of road closures and associated disruption. The possibility of returning grey water to the ground in order to replenish water supplies was raised and noted that although the network was not in place and consideration would need to be given to customer preferences and the financial challenges, there was an opportunity for South East Water to work with developers to determine how rain water could be used on new developments.

In terms of the Local Plan, reassurance was sought that the extra demand would be met and raised the importance of the water supply infrastructure being in place prior to the development of houses to ensure water efficiency.

The Chairman took the opportunity to explain that Southern Water had agreed to attend a future meeting of the Committee and requested that Members provide details of areas of interest in advance of the meeting.



**HP 24/4 CHAIRMAN'S ANNOUNCEMENTS**

The Chairman invited Members of the Committee to identify items for the work programme. A request was received for the matter of Housing Allocations to be added to the work programme due to concerns regarding the backlog of applications.

**HP 24/5 EXCLUSION OF PRESS AND PUBLIC**

There were no matters considered in private.

The meeting ended at 9.00 pm

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**TONBRIDGE & MALLING BOROUGH COUNCIL**  
**HOUSING AND PLANNING SCRUTINY SELECT COMMITTEE**

**19 March 2024**

**Report of the Director of Planning, Housing and Environmental Health**

**Part 1- Public**

**Matters for Recommendation to Cabinet - Key Decision**

**1 EMPTY HOMES**

**Summary**

**This report updates Members on the current position with empty homes within the borough, outlines a new Local Government Association report on dealing with empty homes and recommends the introduction of a new Empty Homes Officer post for TMBC.**

**1.1 Background**

1.1.1 At a time of acute housing need the supply of housing is a key focus. The Council's Corporate Strategy for 2023 to 2027 states that "improving housing options for local people, whilst protecting our outdoor areas" is a key priority. Tackling empty homes and wherever we can bringing them back into use plays a part within this priority. The Council's Housing Strategy priority of "making best use of existing homes, improving housing quality and sustainability" also incorporates this area of work with a specific Year 2 action on empty homes policy.

1.1.2 As at 7/2/24 there were 950 empty homes as a snapshot from the Council Tax system. The table below shows the different length of times these properties have been empty for. It is important to note that there are a two developments/sites which account for approximately 120 of these empty homes, one of which should soon not appear on this list due to demolition (St Georges Court, Wrotham).

<b>Length of time empty</b>	<b>Number of properties</b>
0 to 6 months	399
6 to 12 months	252
1 to 2 years	119
2 to 3 years	35
Over 3 years	145

<b>TOTAL</b>	<b>950</b>
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## 1.2 Local Government Association resource

1.2.1 In November 2023 the Local Government Association (LGA) issued a new report “A practical approach for Councils on dealing with empty homes”. A copy can be found here [A practical approach for councils on dealing with empty homes | Local Government Association](#). The report aims to inform, educate and support all councils irrespective of their current levels of resource and activity on empty homes. It explores four key areas of empty home work:

- Statistics – determining accuracy and if trends match local experiences;
- Resources – can existing service models show how other councils could operate successfully;
- Best Practice - to develop and propose a number of best practice tools, and set a common standard to support councils to enhance their existing empty homes services, or from which the inception of one can be based;
- Enforcement - to gain an appreciation of the levels of appetite and use of enforcement powers by councils.

1.2.2 The report is very thorough and is a useful tool for the Council to refer to going forwards. I draw out below what I consider to be some key points for Members to be aware of:

- 1) Often overlooked for engagement and action by councils, properties left empty for less than six months can offer a detailed insight into both the numbers of total empty homes in their respective areas, but also allow for monitoring of those that are yet to reach the threshold of being empty for over six months. By expanding the understanding of all empty homes across the spectrum, the inclusion of properties empty for less than six months for consideration can allow properties to be tracked and monitored should they move closer to the six-month mark. This also allows for several additional benefits. Large clusters of new build properties, or those outlined for regeneration can be identified and intervention and engagement with owners can be started earlier in order to slow down the flow of properties on to the long-term list.
- 2) Nationally, the number of properties being charged the empty homes premium has risen year on year, with figures showing over a 10 per cent increase across the country since 2018. Whilst only a small percentage of the country’s total housing stock, the continual rise suggests that properties are remaining empty for longer, and that despite significant financial charges being placed against a property by the authority, this continues to

provide a minimal deterrent to those that can afford to pay any additional levy sums imposed.

- 3) Often used as a legitimate explanation as to why a home is left empty, second homes are a further category of unused property that can require attention and investigation by councils. As with other categories, second homes are a term used for the allocation of a property for council tax purposes, where previously owners could class their property as such in order to qualify for the relevant discount. Councils could consider whether more focus and attention is given to second homes as an opportunity to increase available housing stock quickly and effectively.
- 4) Although often focusing on the number of long term empties as well as those charged the empty homes premium, the wider picture with the inclusion of homes empty for less than 6 months, second homes and unoccupied exemptions illustrates that the issue could be considered as more widespread than initially thought. In England, there are more reported cases of second homes than there are long term empty homes, and nearly as many of each of both unoccupied exemptions and less than six months empties as there are those that are classed as long term. Long term empty homes, the main area of focus for councils, make up only a quarter of those registered as being vacant and unoccupied. With this in mind, it is critical for councils to consider the other categories of empty homes, both in terms of their procedures in dealing with complaints about them, but also how they are defined in terms of the types of property councils are willing to take action against. As previously referred to, the categories and descriptions of a property are bound by the terms used for council tax purposes, and therefore councils should consider determining their own criteria for allocating and prioritising complaints, and the properties subjected to them.
- 5) The report describes four levels of empty homes activity within local authorities depending on resources etc. These are proactive, reactive, active and inactive. We would currently assess TMBC as “active” in that we have empty homes work carried out as part of an Officer’s role, complaints are investigated with specific issues dealt with both other work on enforcement, engagement with owners, statistics is limited. Members will see the proposals below for a dedicated Empty Homes Officer role will take us to the “reactive” level and we would hope to be able to aspire to some of the “proactive” traits such as pro-active engagement with owners and statistics being actively monitored.
- 6) The No Use Empty: Kent initiative is highlighted as a case study and resource model within this report. TMBC have maintained our contact with this initiative and regularly attend the Kent empty property meetings however we have generally found the issues we come across with empty homes are not within the remit of the financial support offered through No Use Empty. However, with the dedicated Empty Homes Officer role and the

ability to proactively tackle empty homes may lead to an increase in uptake of the No Use Empty funding. The advice and assistance available from the KCC Officers in this team will prove valuable as we develop further our empty homes work.

1.2.3 The report makes eight recommendations and a summary of these is provided below:

- 1) Councils should consider developing their understanding, approach and prioritisation of the wider definitions surrounding empty homes, free from the boundaries that council tax definitions currently provide.
- 2) Despite not being a statutory function, councils should consider the opportunity to employ a dedicated resource where possible or seek creative solutions in the design of a role which links to a relevant yet complimentary function.
- 3) Where empty homes work is carried out by officers of any role level, authorities are encouraged to ensure they are supported with the tools and resources already at the council's disposal.
- 4) To develop towards a more proactive approach, and to reduce the flow of empty homes reaching the standard threshold of six months empty, councils should consider engaging with owners of properties empty for three to six months.
- 5) Councils could consider broadening the scope of empty homes work to include homes empty for less than 6 months, second homes, and those eligible for a council tax unoccupied exemption.
- 6) In respect of their empty homes work, councils are encouraged to move upwards on the activity scale to reach a wholly proactive service where possible and where resources allow.
- 7) To assist in enabling councils with their ability to move towards a wholly proactive approach, councils are encouraged to implement and develop the tools contained within this report to suit their capacity and resources.
- 8) Councils should consider implementing the proposed council tax changes as set out in the Levelling Up Bill.

### **1.3 Empty Homes Officer resource**

1.3.1 TMBC has not to date had a dedicated Officer post for empty homes work, it has always been part of another Officer's role, for example the EHO's/Private Sector Housing Initiatives Officer role within the Housing Improvement Team. Successful Empty Homes work is a resource intensive exercise due to the complexities of working with multiple parties – the previous approach of adding this onto other

roles has resulted in the approach having to focus on specific complaint issues and ‘tinkering around the edges’ with owner engagement rather than being able to have a sustained focus on reduction in the number of Empty Homes.

- 1.3.2 The establishment of a fixed term Empty Homes Officer post would be a way to focus attention on this issue and have a time period in which to monitor progress and consider what the longer-term approach may be. The post would work within the Housing Improvement Team alongside the Housing EHO resource who would support with enforcement. The role would work closely with Council Tax colleagues on data and approach to empty homes and as already mentioned be supported remotely through the No Use Empty: Kent initiative. A key part of their role will be to liaise with our Registered Provider partners over any empty properties they may have and seek to bring them back into use as quickly as possible.
- 1.3.3 It is proposed to establish a two-year fixed term post. A job description for the post has been assessed by HR and graded at Scale 5/6.

## 1.4 Legal Implications

- 1.4.1 There is no statutory duty to have an empty homes resource however some of the issues that arise from empty homes fall within our housing related statutory duties e.g. housing conditions, nuisance, pest control.

## 1.5 Financial and Value for Money Considerations

- 1.5.1 The cost of the proposed two-year fixed term contract is estimated at £91,000. It is proposed to also create a budget of £30,000 to sit alongside this post to fund any work that enables the facilitation of empty homes being brought back into use, for example, legal expertise, mediation, survey work, promotional work. This total cost of £121,000 will be funded from the Housing Assistance Reserve which currently has a balance of £360k.
- 1.5.2 There may be occasions when bringing an empty property back into use will negatively impact on Council Tax income as there may be a loss in a premium payment. We will work with Council Tax colleagues to understand this impact and ensure that it is managed appropriately.

## 1.6 Risk Assessment

- 1.6.1 None

## 1.7 Recommendations

- 1.7.1 It is **RECOMMENDED** to **APPROVE** a two-year fixed term post of Empty Homes Officer be established;
- 1.7.2 It is **RECOMMENDED** to **APPROVE** the cost of the post (£91,000) and empty homes budget (£30,000) be taken from the Housing Assistance Reserve;

1.7.3 It is **RECOMMENDED** that Members **NOTE** the Local Government Association report for Councils on empty homes and **AGREE** that the Council will utilise this approach as the basis for the fixed term Empty Homes Officers' work programme.

Background papers:

contact: Linda Hibbs

Nil

Eleanor Hoyle  
Director of Planning, Housing and Environmental Health



## TONBRIDGE & MALLING BOROUGH COUNCIL

### HOUSING AND PLANNING SCRUTINY SELECT COMMITTEE

19 March 2024

#### Report of the Director of Planning, Housing and Environmental Health

#### Part 1- Public

#### Matters for Recommendation to Cabinet - Non-Key Decision

### 1 NATIONAL PLANNING POLICY LEGISLATION UPDATE

This report sets out the key changes to planning policy legislation and policy resulting from the [Levelling Up and Regeneration Act, 2023](#) and the December 2023 [National Planning Policy Framework](#).

#### 1.1 Background

1.1.1 The Levelling up and Regeneration Act (LURA) was enacted on 26 October 2023. Changes introduced in the Act include a new system and vocabulary for planning policy and the development plan. In addition, a new version of the National Planning policy Framework was published on 19 December 2023. This introduced some of the proposed changes first introduced in a consultation in December 2022 (as reported to Cabinet in [February 2023](#)).

1.1.2 This note sets out the key amendments and any implications of both documents, for the development of the local plan.

#### 1.2 Levelling Up and Regeneration Act, 2023

1.2.1 The LURA introduces some key changes to the plan-making system, planning data requirements and confirms the new Infrastructure Levy. However, the majority of the measures require secondary legislation therefore the detailed implications for the local plan will depend on the timing and content of implementing regulations and forthcoming practice guidance. It is anticipated that there will be a further round of consultations and secondary legislation to set the detail on some of these reforms. The main implications are set out below:

##### Plan-making

1.2.2 The Act introduces a spatial plan-making system to be followed by Local Planning Authorities but with some significant modifications to current practice. What will come about involves changes to the language, timing, content approach and responsibilities. It introduces a duty to prepare a 'local plan timetable', to replace the existing Local Development Scheme (LDS), which should also set out what Supplementary Plans are to be prepared and new considerations to be apply to

such plans. The Act also requires the authority to set out how it proposes to meet the requirements relating to design codes. The LURA also gives the Secretary of State (SoS) several new powers to prepare the timetable, make amendments and direct the authority to bring them into effect. Further regulations would be required to set out when and how LPA's must revise their local plan timetable.

- 1.2.3 The LURA also sets out the scope of local plan content. Through the introduction of National Development Management Policies (subject to further consultation) the scope of local plans will be more limited, to locally specific matters. There is an indication that more weight will be given to the local plan in decision-making, unless material considerations "strongly" indicate otherwise but that remains to be seen how it will operate in practice as it is test through new case law. Alongside locally specific policies a local plan must take account of the assessment of housing and affordable housing, should include details of infrastructure and design requirements, and must now also take account of any local nature recovery strategy and other provisions relating to biodiversity net gain.
- 1.2.4 The LURA sets out a new demanding 30-month local plan preparation timetable, broad arrangements in relation to the proposed 'gateway' process (additional checks by external investigation earlier in the plan-making stages) and amendments to the examination process. These changes are first to be road tested by a smaller number of selected authorities but further details are awaited. Further regulations are required in relation to the mandatory gateway checks, reimbursement of costs to the SoS, the form and content of the plan, and documents to be produced. The LURA will also facilitate the ending of the 'duty to cooperate', to be replaced with a new alignment policy which will be subject to further detail through secondary legislation and guidance.
- 1.2.5 The Act introduces Supplementary Plans (SP) as a replacement of Supplementary Planning Documents (SPDs). It sets out the scope of SPs which includes policies relating to a specific site, details of infrastructure requirements or affordable housing or requirements in relation to design, but crucially SPs are to undergo examination and will form part of the development plan.
- 1.2.6 Design Code/s will need to be prepared as Supplementary Plans. It sets out how a Local Planning Authority must ensure that every part of the area is subject to requirements relating to design but do not need to cover every description of development or aspect of design. The LURA also gives the SoS's new powers to intervene where an LPA is considered to be failing in its preparation of a local plan or design codes, and how the costs incurred would be sought. A continuing role for Neighbourhood Development Plans (NDP) is set out within the Act and these include giving such plans a longer "lifetime" and immunity from challenge post-adoption with the publication of other later planning documents.
- 1.2.7 Finally, the Act also introduces measures to replace the SA/SEA process with the environmental outcome reports (EOR), however further consultation and parliamentary scrutiny is required. It also introduces a further duty on LPAs to

grant sufficient permission for self and custom build housing and include pre-existing unmet demand.

#### Planning data

- 1.2.8 One of the key themes of the LURA is support for plan-tech and data-led approaches. It sets out requirements in relation to the provision of planning data and gives the SoS power to prescribe use of approved planning data software and may prescribe what monitoring data should be available to the public. Monitoring processes will need to ensure compliance with these processes.

#### Infrastructure levy

- 1.2.9 A key change to be introduced through the LURA is the Infrastructure Levy (IL) which will replace the current S106 and Community Infrastructure Levy (CIL). This will be mandatory and involve a new way of calculating developer contributions based on a proportion of the development value of the land, moving away from the current land value capture approach. Further regulations will still be required in relation to the detail, approach and timing of this, including transitional arrangements. LPAs will also be required to prepare an Infrastructure Delivery Strategy to set out how the levy would be spent.

#### Development Management

- 1.2.10 The LURA strengthens the powers and sanctions for planning enforcement, closing loopholes, allowing more time for the investigation of breaches, with the removal of the 4-year rule, increasing fines and making enforcement timescales more consistent. It will also make it easier for local planning authorities (LPAs) to force developers to complete schemes, through completion notices. LPAs will also have the powers to decline to determine applications from applicants who have been slow to implement previous permissions.
- 1.2.11 Other measures which have already been taken forward include the increase in planning application fees by 35% for major and 25% for minor applications.

#### Other matters

- 1.2.12 In addition to the measures outlined above the LRA also introduces a series of other more minor changes which are subject to further consultation. The government is currently consulting upon the detail of the new street votes approach which will allow residents to propose development in their street and vote on whether planning permission should be given. The aims being to encourage 'gentle' densification of areas.
- 1.2.13 The introduction of a simpler approach to neighbourhood planning, involving a 'neighbourhood priorities statement', allowing communities to set out their key priorities and preferences for their area. These will need to be considered in local plan preparation.

- 1.2.14 Local authorities will be able to undertake auctions to encourage uptake of leases on vacant high street properties. The LURA also facilitates the introduction of 'community land auctions. These will allow developers to submit land for allocation in the local plan process offering an option on the land at a specific price. The LPA will then be able to retain the difference between the option price and the price offered to develop the land.
- 1.2.15 A council tax premium on second homes can be introduced under new measures within the LURA.

### 1.3 National Planning Policy Framework changes

- 1.3.1 Unlike the LURA, the changes introduced in the 2023 NPPF (see **Annex 1**) apply from the date of publication. The only exception being that LPAs who consult on their Regulation 19 local plan before 19 March 2024 will be examined under the 'relevant previous version of the Framework', as we are not expected to do so, this version of the NPPF will apply. The key changes and the implications are set out below:
- 1.3.2 Housing need- the previous NPPF consultation indicated that there would be some changes to paragraph 11 in relation to the adverse impacts of meeting objectively assessed needs. Densification and character impacts have not been included in the published version, with the exception of where identified within a design code. However, Paragraph 60 has been amended to reflect the aim to "meet as much of the area's identified housing need as possible". Paragraph 61 also sets out that the outcome of the 'standard method' of objectively assessed needs is now the 'starting point' where exceptional circumstances may provide a case for an alternative method. However, those cited do not reflect the profile of the borough, e.g. island without a land bridge.
- 1.3.3 Crucially paragraph 61 still references unmet need in other areas and needs to be taken into account when establishing the amount of housing to be planned for. New text has also been introduced to paragraph 67 in relation to housing requirements being higher than need where it includes provision from neighbouring areas. Therefore, despite the proposed removal of the duty to cooperate in the LURA, this is still included within the NPPF and without any detail on its replacement 'alignment policy' conversations will need to continue with neighbouring authorities as usual.
- 1.3.4 Green Belt- as set out in the previous consultation, a series of amendments have been made in relation to clarifying the government's position on the Green Belt. Paragraph 145 now states that there is "no requirement" for Green Belt boundaries to be reviewed through plan-preparation. It does still set out that LPAs may choose to amend these where exceptional circumstances are fully evidenced and justified. However, some proposed wording in December 2022 consultation making reference to "*if this would be the only means of meeting the objectively assessed need for housing over the plan period*" has not been taken forward.

Therefore, this amendment relates more to the strengthening of language rather than introducing any new significant change of direction in policy. Whilst an 'exceptional circumstances' case has already been introduced within the [Stage 1 Green Belt Study](#) therefore does not change the policy context to the preparation of the local plan.

- 1.3.5 If anything, the new requirement now to “meet housing need” (previously “addressing housing need”) gives even greater emphasis on allocating substantial new housing allocations where an objectively assessed housing need has been established as a minimum in the standard housing target figures published by Government. This places “constrained” authorities such as those with extensive Green Belt and few other development opportunities in the same or even more difficult position of making the right choices and achieving a balance between competing pressures for development and protection. The expectation remains, in order to meet the pressing need for a significant increase in the number of new homes to be built, Local Plans must clearly demonstrate how as much housing need as possible will be met by the allocation of a sufficient amount and variety of new housing land, to meet the needs of groups with housing needs, and to be delivered in a timely fashion.
- 1.3.6 Housing supply measurements - Para 11 sets out that for the purposes of determining applications, policies in a local plan will be considered out of date where an LPAs cannot demonstrate a five-year supply with an appropriate buffer, or where the Housing Delivery Test (HDT) demonstrates delivery below 75%. Paragraph 226 introduces a four-year supply requirement only where a Regulation 18 plan including a policies map and site allocations has been produced. Our Regulation 18 plan did not include these therefore this does not apply. We also do not currently have a five-year supply and would need a 20% buffer in accordance with paragraph 76. This applies where there has been significant under-delivery in the HDT over the previous 3 years. Therefore the ‘tilted balance’ will still apply under these minor amendments to housing delivery measurements. Please note that the 5 and 10% buffers have now been removed, as set out in the NPPF consultation, but the 20% buffer remains.
- 1.3.7 Tests of soundness - no changes have been made to the tests of soundness as previously indicated in December 2022 consultation, therefore remain as a) positively prepared; b) justified; c) effective and d) consistent with national policy. Previous suggestions for changes to a) re-emphasised meeting needs, “as much as possible” but this has not been included.
- 1.3.8 Community-led development- paragraph 70 (b) provides additional support for small site development through self-build/custom build and community-led development, and para 72 sets out that market community-led development may be included as a rural exception site.

- 1.3.9 Additionally, a series of minor wording changes have been introduced to reinforce the role of 'beauty' in decision-making, and specific changes relating to mansard roof extensions.

## 1.4 Local Plan impacts

- 1.4.1 In summary, the policy environment has not changed as fundamentally as was indicated in the December 2022 consultation. We still have the requirement to work with neighbouring authorities to deliver housing requirements as much as possible, and although there is no specific requirement to review Green Belt boundaries to meet needs, for the purposes of good planning, demonstrating the additional requirement now to "meet as much housing need as possible", promotion of sustainable development patterns and to combat affordability issues an 'exceptional circumstances' case must be explored robustly.
- 1.4.2 The Regulation 18b Local Plan will be brought to members in May/June 2024. Evidence within the Stage 2 Green Belt Study, Housing Constraints Assessment and [Housing Market Delivery Study](#) will be utilised to develop an appropriate sustainable spatial strategy to meet as much of the objectively assessed needs as possible. We will continue to work with neighbouring authorities under the duty to cooperate to discuss any unmet need within the housing market areas.
- 1.4.3 Although the LURA introduces a series of changes to the plan-making system, many of these still require secondary legislation to be taken forward. As set out in the December 2022 consultation, the government proposes to introduce new transition arrangements to the new plan-making system. The government's December 2023 consultation response refers to text within the July 2023 proposals on plan-making reforms which states:

*"We confirm our intention that the latest date for plan-makers to submit local plans, minerals and waste plans, and spatial development strategies for examination under the current system will be 30 June 2025. We also confirm our intention that those plans will, in general, need to be adopted by 31 December 2026. [As confirmed above] these dates are contingent upon [Royal Assent of the Levelling Up and Regeneration Bill] as well as parliamentary approval of the relevant regulations. However, we are setting this out now to provide planning authorities with as much notice as possible of these dates."*

- 1.4.4 This means that the transition dates still stand, and we will need to submit the local plan to the SoS by 30 June 2025. However, this will only be formally confirmed when further regulations have gone through the relevant parliamentary process. This remains a high risk, please see **Annex 2** for updated risk register.

## 1.5 Financial and Value for Money Considerations

- 1.5.1 There will be direct financial and value for money considerations associated with local plan preparation. To be able to meet deadlines within the proposed transition period for the preparation of the local plan this means that there will be increased

spend over the next five years. This was reported to members at the June 2023 meeting of this committee. A reserve has been established for the full funding of the Local Plan.

## **1.6 Legal Implications**

1.6.1 Local Planning Authorities are required to prepare and keep an up-to-date development plan for their area. The Planning and Compulsory Purchase 2004 (as amended) and the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) set out the requirements and the statutory process for the preparation of a Local Plan.

## **1.7 Risk Assessment**

1.7.1 The preparation of the new local plan will provide the council with an up-to-date Local Plan on adoption. This will alleviate the current risks associated with not having an up-to-date development plan in place.

1.7.2 However, changes introduced through the LURA confirm the intention to proceed with the transition arrangements. There are risks associated with any slippage in the local plan programme which resulted in the failure to meet the final date for submission of 30 June 2025. This would result in a need to re-commence plan-making under the new arrangements. The timing of the commencement would depend on which 'tranche' of authorities the council was placed within, which could mean upwards of 18 months delay to when a local plan would be in place. Please note that since the HPSSC [June 2023 item](#) on options for local plan production the government has suggested a 4-month pre-plan preparation process and a staggered start to plan-preparation under the new system.

1.7.3 **Annex 2** shows the current local plan risks and issues.

## **1.8 Equality Impact Assessment**

1.8.1 The decisions recommended through this report have relevance to the substance of the Equality Act 2010. The stages in plan preparation will be undertaken in accordance with the new Statement of Community Involvement which ensures that planning policy consultations are accessible to all, irrespective of protected characteristics. An Equalities Impact Assessment is being undertaken alongside the preparation of the next stages of the Local Plan.

## **1.9 Recommendations**

1.9.1 HPSSC is asked to recommend to Cabinet:

(1) NOTE the contents of the report; and

(2) APPROVE the approach to local plan preparation matters as set out in the report.

Background papers:

Annex 1- National Planning Policy Framework  
(December 2023)

Annex 2- Risk Register

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Eleanor Hoyle

Director of Planning, Housing and Environmental Health





Department for Levelling Up,  
Housing & Communities

## National Planning Policy Framework



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# Contents

<b>1. Introduction</b>	<b>4</b>
<b>2. Achieving sustainable development</b>	<b>5</b>
<b>3. Plan-making</b>	<b>8</b>
<b>4. Decision-making</b>	<b>13</b>
<b>5. Delivering a sufficient supply of homes</b>	<b>17</b>
<b>6. Building a strong, competitive economy</b>	<b>24</b>
<b>7. Ensuring the vitality of town centres</b>	<b>26</b>
<b>8. Promoting healthy and safe communities</b>	<b>28</b>
<b>9. Promoting sustainable transport</b>	<b>31</b>
<b>10. Supporting high quality communications</b>	<b>34</b>
<b>11. Making effective use of land</b>	<b>36</b>
<b>12. Achieving well-designed and beautiful places</b>	<b>39</b>
<b>13. Protecting Green Belt land</b>	<b>42</b>
<b>14. Meeting the challenge of climate change, flooding and coastal change</b>	<b>46</b>
<b>15. Conserving and enhancing the natural environment</b>	<b>52</b>
<b>16. Conserving and enhancing the historic environment</b>	<b>57</b>
<b>17. Facilitating the sustainable use of minerals</b>	<b>61</b>
<b>Annex 1: Implementation</b>	<b>65</b>
<b>Annex 2: Glossary</b>	<b>67</b>
<b>Annex 3: Flood risk vulnerability classification</b>	<b>77</b>

# 1. Introduction

1. The National Planning Policy Framework sets out the Government's planning policies for England and how these should be applied<sup>1</sup>. It provides a framework within which locally-prepared plans can provide for sufficient housing and other development in a sustainable manner. Preparing and maintaining up-to-date plans should be seen as a priority in meeting this objective.
2. Planning law requires that applications for planning permission be determined in accordance with the development plan<sup>2</sup>, unless material considerations indicate otherwise<sup>3</sup>. The National Planning Policy Framework must be taken into account in preparing the development plan, and is a material consideration in planning decisions. Planning policies and decisions must also reflect relevant international obligations and statutory requirements.
3. The Framework should be read as a whole (including its footnotes and annexes). General references to planning policies in the Framework should be applied in a way that is appropriate to the type of plan being produced, taking into account policy on plan-making in chapter 3.
4. The Framework should be read in conjunction with the Government's planning policy for traveller sites, and its planning policy for waste. When preparing plans or making decisions on applications for these types of development, regard should also be had to the policies in this Framework, where relevant.
5. The Framework does not contain specific policies for nationally significant infrastructure projects. These are determined in accordance with the decision-making framework in the Planning Act 2008 (as amended) and relevant national policy statements for major infrastructure, as well as any other matters that are relevant (which may include the National Planning Policy Framework). National policy statements form part of the overall framework of national planning policy, and may be a material consideration in preparing plans and making decisions on planning applications.
6. Other statements of government policy may be material when preparing plans or deciding applications, such as relevant Written Ministerial Statements and endorsed recommendations of the National Infrastructure Commission. This includes the Written Ministerial Statement on Affordable Homes Update (24 May 2021) which contains policy on First Homes.

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<sup>1</sup> This document replaces the previous version of the National Planning Policy Framework published in September 2023.

<sup>2</sup> This includes local and neighbourhood plans that have been brought into force and any spatial development strategies produced by combined authorities or elected Mayors (see Glossary).

<sup>3</sup> Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.

## 2. Achieving sustainable development

7. The purpose of the planning system is to contribute to the achievement of sustainable development, including the provision of homes, commercial development, and supporting infrastructure in a sustainable manner. At a very high level, the objective of sustainable development can be summarised as meeting the needs of the present without compromising the ability of future generations to meet their own needs<sup>4</sup>. At a similarly high level, members of the United Nations – including the United Kingdom – have agreed to pursue the 17 Global Goals for Sustainable Development in the period to 2030. These address social progress, economic well-being and environmental protection<sup>5</sup>.
8. Achieving sustainable development means that the planning system has three overarching objectives, which are interdependent and need to be pursued in mutually supportive ways (so that opportunities can be taken to secure net gains across each of the different objectives):
  - a) **an economic objective** – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure;
  - b) **a social objective** – to support strong, vibrant and healthy communities, by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations; and by fostering well-designed, beautiful and safe places, with accessible services and open spaces that reflect current and future needs and support communities' health, social and cultural well-being; and
  - c) **an environmental objective** – to protect and enhance our natural, built and historic environment; including making effective use of land, improving biodiversity, using natural resources prudently, minimising waste and pollution, and mitigating and adapting to climate change, including moving to a low carbon economy.
9. These objectives should be delivered through the preparation and implementation of plans and the application of the policies in this Framework; they are not criteria against which every decision can or should be judged. Planning policies and decisions should play an active role in guiding development towards sustainable solutions, but in doing so should take local circumstances into account, to reflect the character, needs and opportunities of each area.
10. So that sustainable development is pursued in a positive way, at the heart of the Framework is a **presumption in favour of sustainable development** (paragraph 11).

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<sup>4</sup> Resolution 42/187 of the United Nations General Assembly.

<sup>5</sup> Transforming our World: the 2030 Agenda for Sustainable Development.

# The presumption in favour of sustainable development

11. Plans and decisions should apply a presumption in favour of sustainable development.

For **plan-making** this means that:

- a) all plans should promote a sustainable pattern of development that seeks to: meet the development needs of their area; align growth and infrastructure; improve the environment; mitigate climate change (including by making effective use of land in urban areas) and adapt to its effects;
- b) strategic policies should, as a minimum, provide for objectively assessed needs for housing and other uses, as well as any needs that cannot be met within neighbouring areas<sup>6</sup>, unless:
  - i. the application of policies in this Framework that protect areas or assets of particular importance provides a strong reason for restricting the overall scale, type or distribution of development in the plan area<sup>7</sup>; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

For **decision-taking** this means:

- c) approving development proposals that accord with an up-to-date development plan without delay; or
- d) where there are no relevant development plan policies, or the policies which are most important for determining the application are out-of-date<sup>8</sup>, granting permission unless:
  - i. the application of policies in this Framework that protect areas or assets of particular importance provides a clear reason for refusing the development proposed<sup>7</sup>; or
  - ii. any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole.

<sup>6</sup> As established through statements of common ground (see paragraph 27).

<sup>7</sup> The policies referred to are those in this Framework (rather than those in development plans) relating to: habitats sites (and those sites listed in paragraph 187) and/or designated as Sites of Special Scientific Interest; land designated as Green Belt, Local Green Space, an Area of Outstanding Natural Beauty, a National Park (or within the Broads Authority) or defined as Heritage Coast; irreplaceable habitats; designated heritage assets (and other heritage assets of archaeological interest referred to in footnote 72); and areas at risk of flooding or coastal change.

<sup>8</sup> This includes, for applications involving the provision of housing, situations where: (a) the local planning authority cannot demonstrate a five year supply (or a four year supply, if applicable, as set out in paragraph 226) of deliverable housing sites (with a buffer, if applicable, as set out in paragraph 77) and does not benefit from the provisions of paragraph 76; or (b) where the Housing Delivery Test indicates that the delivery of housing was below 75% of the housing requirement over the previous three years.

12. The presumption in favour of sustainable development does not change the statutory status of the development plan as the starting point for decision-making. Where a planning application conflicts with an up-to-date development plan (including any neighbourhood plans that form part of the development plan), permission should not usually be granted. Local planning authorities may take decisions that depart from an up-to-date development plan, but only if material considerations in a particular case indicate that the plan should not be followed.
13. The application of the presumption has implications for the way communities engage in neighbourhood planning. Neighbourhood plans should support the delivery of strategic policies contained in local plans or spatial development strategies; and should shape and direct development that is outside of these strategic policies.
14. In situations where the presumption (at paragraph 11d) applies to applications involving the provision of housing, the adverse impact of allowing development that conflicts with the neighbourhood plan is likely to significantly and demonstrably outweigh the benefits, provided the following apply:
  - a) the neighbourhood plan became part of the development plan five years or less before the date on which the decision is made; and
  - b) the neighbourhood plan contains policies and allocations to meet its identified housing requirement (see paragraphs 67-68).

### 3. Plan-making

15. The planning system should be genuinely plan-led. Succinct and up-to-date plans should provide a positive vision for the future of each area; a framework for meeting housing needs and addressing other economic, social and environmental priorities; and a platform for local people to shape their surroundings.
16. Plans should:
  - a) be prepared with the objective of contributing to the achievement of sustainable development<sup>9</sup>;
  - b) be prepared positively, in a way that is aspirational but deliverable;
  - c) be shaped by early, proportionate and effective engagement between plan-makers and communities, local organisations, businesses, infrastructure providers and operators and statutory consultees;
  - d) contain policies that are clearly written and unambiguous, so it is evident how a decision maker should react to development proposals;
  - e) be accessible through the use of digital tools to assist public involvement and policy presentation; and
  - f) serve a clear purpose, avoiding unnecessary duplication of policies that apply to a particular area (including policies in this Framework, where relevant).

#### The plan-making framework

17. The development plan must include strategic policies to address each local planning authority's priorities for the development and use of land in its area<sup>10</sup>. These strategic policies can be produced in different ways, depending on the issues and opportunities facing each area. They can be contained in:
  - a) joint or individual local plans, produced by authorities working together or independently (and which may also contain non-strategic policies); and/or
  - b) a spatial development strategy produced by an elected Mayor or combined authority, where plan-making powers have been conferred.
18. Policies to address non-strategic matters should be included in local plans that contain both strategic and non-strategic policies, and/or in local or neighbourhood plans that contain just non-strategic policies.
19. The development plan for an area comprises the combination of strategic and non- strategic policies which are in force at a particular time.

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<sup>9</sup> This is a legal requirement of local planning authorities exercising their plan-making functions (section 39(2) of the Planning and Compulsory Purchase Act 2004).

<sup>10</sup> Section 19(1B-1E) of the Planning and Compulsory Purchase Act 2004.



## Strategic policies

20. Strategic policies should set out an overall strategy for the pattern, scale and design quality of places (to ensure outcomes support beauty and placemaking), and make sufficient provision<sup>11</sup> for:
  - a) housing (including affordable housing), employment, retail, leisure and other commercial development;
  - b) infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);
  - c) community facilities (such as health, education and cultural infrastructure); and
  - d) conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation.
21. Plans should make explicit which policies are strategic policies<sup>12</sup>. These should be limited to those necessary to address the strategic priorities of the area (and any relevant cross-boundary issues), to provide a clear starting point for any non-strategic policies that are needed. Strategic policies should not extend to detailed matters that are more appropriately dealt with through neighbourhood plans or other non-strategic policies.
22. Strategic policies should look ahead over a minimum 15 year period from adoption<sup>13</sup>, to anticipate and respond to long-term requirements and opportunities, such as those arising from major improvements in infrastructure. Where larger scale developments such as new settlements or significant extensions to existing villages and towns form part of the strategy for the area, policies should be set within a vision that looks further ahead (at least 30 years), to take into account the likely timescale for delivery<sup>14</sup>.
23. Broad locations for development should be indicated on a key diagram, and land-use designations and allocations identified on a policies map. Strategic policies should provide a clear strategy for bringing sufficient land forward, and at a sufficient rate, to address objectively assessed needs over the plan period, in line with the presumption in favour of sustainable development. This should include planning for and allocating sufficient sites to deliver the strategic priorities of the area (except insofar as these needs can be demonstrated to be met more appropriately through other mechanisms, such as brownfield registers or non-strategic policies)<sup>15</sup>.

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<sup>11</sup> In line with the presumption in favour of sustainable development.

<sup>12</sup> Where a single local plan is prepared the non-strategic policies should be clearly distinguished from the strategic policies.

<sup>13</sup> Except in relation to town centre development, as set out in chapter 7.

<sup>14</sup> Transitional arrangements are set out in Annex 1.

<sup>15</sup> For spatial development strategies, allocations, land use designations and a policies map are needed only where the power to make allocations has been conferred.

## Maintaining effective cooperation

24. Local planning authorities and county councils (in two-tier areas) are under a duty to cooperate with each other, and with other prescribed bodies, on strategic matters that cross administrative boundaries.
25. Strategic policy-making authorities should collaborate to identify the relevant strategic matters which they need to address in their plans. They should also engage with their local communities and relevant bodies including Local Enterprise Partnerships, Local Nature Partnerships, the Marine Management Organisation, county councils, infrastructure providers, elected Mayors and combined authorities (in cases where Mayors or combined authorities do not have plan-making powers).
26. Effective and on-going joint working between strategic policy-making authorities and relevant bodies is integral to the production of a positively prepared and justified strategy. In particular, joint working should help to determine where additional infrastructure is necessary, and whether development needs that cannot be met wholly within a particular plan area could be met elsewhere.
27. In order to demonstrate effective and on-going joint working, strategic policy-making authorities should prepare and maintain one or more statements of common ground, documenting the cross-boundary matters being addressed and progress in cooperating to address these. These should be produced using the approach set out in national planning guidance, and be made publicly available throughout the plan-making process to provide transparency.

## Non-strategic policies

28. Non-strategic policies should be used by local planning authorities and communities to set out more detailed policies for specific areas, neighbourhoods or types of development. This can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment and setting out other development management policies.
29. Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area, or undermine those strategic policies<sup>16</sup>.
30. Once a neighbourhood plan has been brought into force, the policies it contains take precedence over existing non-strategic policies in a local plan covering the neighbourhood area, where they are in conflict; unless they are superseded by strategic or non-strategic policies that are adopted subsequently.

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<sup>16</sup> Neighbourhood plans must be in general conformity with the strategic policies contained in any development plan that covers their area.

## Preparing and reviewing plans

31. The preparation and review of all policies should be underpinned by relevant and up-to-date evidence. This should be adequate and proportionate, focused tightly on supporting and justifying the policies concerned, and take into account relevant market signals.
32. Local plans and spatial development strategies should be informed throughout their preparation by a sustainability appraisal that meets the relevant legal requirements<sup>17</sup>. This should demonstrate how the plan has addressed relevant economic, social and environmental objectives (including opportunities for net gains). Significant adverse impacts on these objectives should be avoided and, wherever possible, alternative options which reduce or eliminate such impacts should be pursued. Where significant adverse impacts are unavoidable, suitable mitigation measures should be proposed (or, where this is not possible, compensatory measures should be considered).
33. Policies in local plans and spatial development strategies should be reviewed to assess whether they need updating at least once every five years, and should then be updated as necessary<sup>18</sup>. Reviews should be completed no later than five years from the adoption date of a plan, and should take into account changing circumstances affecting the area, or any relevant changes in national policy. Relevant strategic policies will need updating at least once every five years if their applicable local housing need figure has changed significantly; and they are likely to require earlier review if local housing need is expected to change significantly in the near future.

## Development contributions

34. Plans should set out the contributions expected from development. This should include setting out the levels and types of affordable housing provision required, along with other infrastructure (such as that needed for education, health, transport, flood and water management, green and digital infrastructure). Such policies should not undermine the deliverability of the plan.

## Examining plans

35. Local plans and spatial development strategies are examined to assess whether they have been prepared in accordance with legal and procedural requirements, and whether they are sound. Plans are 'sound' if they are:

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<sup>17</sup> The reference to relevant legal requirements refers to Strategic Environmental Assessment. Neighbourhood plans may require Strategic Environmental Assessment, but only where there are potentially significant environmental effects.

<sup>18</sup> Reviews at least every five years are a legal requirement for all local plans (Regulation 10A of the Town and Country Planning (Local Planning) (England) Regulations 2012).

- a) **Positively prepared** – providing a strategy which, as a minimum, seeks to meet the area’s objectively assessed needs<sup>19</sup>; and is informed by agreements with other authorities, so that unmet need from neighbouring areas is accommodated where it is practical to do so and is consistent with achieving sustainable development;
  - b) **Justified** – an appropriate strategy, taking into account the reasonable alternatives, and based on proportionate evidence;
  - c) **Effective** – deliverable over the plan period, and based on effective joint working on cross-boundary strategic matters that have been dealt with rather than deferred, as evidenced by the statement of common ground; and
  - d) **Consistent with national policy** – enabling the delivery of sustainable development in accordance with the policies in this Framework and other statements of national planning policy, where relevant.
36. These tests of soundness will be applied to non-strategic policies<sup>20</sup> in a proportionate way, taking into account the extent to which they are consistent with relevant strategic policies for the area.
37. Neighbourhood plans must meet certain ‘basic conditions’ and other legal requirements<sup>21</sup> before they can come into force. These are tested through an independent examination before the neighbourhood plan may proceed to referendum.

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<sup>19</sup> Where this relates to housing, such needs should be assessed using a clear and justified method, as set out in paragraph 61 of this Framework

<sup>20</sup> Where these are contained in a local plan.

<sup>21</sup> As set out in paragraph 8 of Schedule 4B to the Town and Country Planning Act 1990 (as amended).

## 4. Decision-making

38. Local planning authorities should approach decisions on proposed development in a positive and creative way. They should use the full range of planning tools available, including brownfield registers and permission in principle, and work proactively with applicants to secure developments that will improve the economic, social and environmental conditions of the area. Decision-makers at every level should seek to approve applications for sustainable development where possible.

### Pre-application engagement and front-loading

39. Early engagement has significant potential to improve the efficiency and effectiveness of the planning application system for all parties. Good quality pre-application discussion enables better coordination between public and private resources and improved outcomes for the community.
40. Local planning authorities have a key role to play in encouraging other parties to take maximum advantage of the pre-application stage. They cannot require that a developer engages with them before submitting a planning application, but they should encourage take-up of any pre-application services they offer. They should also, where they think this would be beneficial, encourage any applicants who are not already required to do so by law to engage with the local community and, where relevant, with statutory and non-statutory consultees, before submitting their applications.
41. The more issues that can be resolved at pre-application stage, including the need to deliver improvements in infrastructure and affordable housing, the greater the benefits. For their role in the planning system to be effective and positive, statutory planning consultees will need to take the same early, pro-active approach, and provide advice in a timely manner throughout the development process. This assists local planning authorities in issuing timely decisions, helping to ensure that applicants do not experience unnecessary delays and costs.
42. The participation of other consenting bodies in pre-application discussions should enable early consideration of all the fundamental issues relating to whether a particular development will be acceptable in principle, even where other consents relating to how a development is built or operated are needed at a later stage. Wherever possible, parallel processing of other consents should be encouraged to help speed up the process and resolve any issues as early as possible.
43. The right information is crucial to good decision-making, particularly where formal assessments are required (such as Environmental Impact Assessment, Habitats Regulations assessment and flood risk assessment). To avoid delay, applicants should discuss what information is needed with the local planning authority and expert bodies as early as possible.
44. Local planning authorities should publish a list of their information requirements for applications for planning permission. These requirements should be kept to the minimum needed to make decisions, and should be reviewed at least every two

years. Local planning authorities should only request supporting information that is relevant, necessary and material to the application in question.

45. Local planning authorities should consult the appropriate bodies when considering applications for the siting of, or changes to, major hazard sites, installations or pipelines, or for development around them.
46. Applicants and local planning authorities should consider the potential for voluntary planning performance agreements, where this might achieve a faster and more effective application process. Planning performance agreements are likely to be needed for applications that are particularly large or complex to determine.

## Determining applications

47. Planning law requires that applications for planning permission be determined in accordance with the development plan, unless material considerations indicate otherwise. Decisions on applications should be made as quickly as possible, and within statutory timescales unless a longer period has been agreed by the applicant in writing.
48. Local planning authorities may give weight to relevant policies in emerging plans according to:
  - a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);
  - b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and
  - c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given)<sup>22</sup>.
49. However, in the context of the Framework – and in particular the presumption in favour of sustainable development – arguments that an application is premature are unlikely to justify a refusal of planning permission other than in the limited circumstances where both:
  - a) the development proposed is so substantial, or its cumulative effect would be so significant, that to grant permission would undermine the plan-making process by predetermining decisions about the scale, location or phasing of new development that are central to an emerging plan; and
  - b) the emerging plan is at an advanced stage but is not yet formally part of the development plan for the area.

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<sup>22</sup> During the transitional period for emerging plans consistency should be tested against the version of the Framework as applicable, as set out in Annex 1.

50. Refusal of planning permission on grounds of prematurity will seldom be justified where a draft plan has yet to be submitted for examination; or – in the case of a neighbourhood plan – before the end of the local planning authority publicity period on the draft plan. Where planning permission is refused on grounds of prematurity, the local planning authority will need to indicate clearly how granting permission for the development concerned would prejudice the outcome of the plan-making process.

## Tailoring planning controls to local circumstances

51. Local planning authorities are encouraged to use Local Development Orders to set the planning framework for particular areas or categories of development where the impacts would be acceptable, and in particular where this would promote economic, social or environmental gains for the area.
52. Communities can use Neighbourhood Development Orders and Community Right to Build Orders to grant planning permission. These require the support of the local community through a referendum. Local planning authorities should take a proactive and positive approach to such proposals, working collaboratively with community organisations to resolve any issues before draft orders are submitted for examination.
53. The use of Article 4 directions to remove national permitted development rights should:
- a) where they relate to change from non-residential use to residential use, be limited to situations where an Article 4 direction is necessary to avoid wholly unacceptable adverse impacts (this could include the loss of the essential core of a primary shopping area which would seriously undermine its vitality and viability, but would be very unlikely to extend to the whole of a town centre)
  - b) in other cases, be limited to situations where an Article 4 direction is necessary to protect local amenity or the well-being of the area (this could include the use of Article 4 directions to require planning permission for the demolition of local facilities)
  - c) in all cases, be based on robust evidence, and apply to the smallest geographical area possible.
54. Similarly, planning conditions should not be used to restrict national permitted development rights unless there is clear justification to do so.

## Planning conditions and obligations

55. Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. Planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.
56. Planning conditions should be kept to a minimum and only imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects. Agreeing conditions early

is beneficial to all parties involved in the process and can speed up decision-making. Conditions that are required to be discharged before development commences should be avoided, unless there is a clear justification<sup>23</sup>.

57. Planning obligations must only be sought where they meet all of the following tests<sup>24</sup>:
- a) necessary to make the development acceptable in planning terms;
  - b) directly related to the development; and
  - c) fairly and reasonably related in scale and kind to the development.
58. Where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. It is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force. All viability assessments, including any undertaken at the plan-making stage, should reflect the recommended approach in national planning guidance, including standardised inputs, and should be made publicly available.

## Enforcement

59. 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.

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<sup>23</sup> Sections 100ZA(4-6) of the Town and Country Planning Act 1990 will require the applicant's written agreement to the terms of a pre-commencement condition, unless prescribed circumstances apply.

<sup>24</sup> Set out in Regulation 122(2) of the Community Infrastructure Levy Regulations 2010.



## 5. Delivering a sufficient supply of homes

60. To support the Government's objective of significantly boosting the supply of homes, it is important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet as much of an area's identified housing need as possible, including with an appropriate mix of housing types for the local community.
61. To determine the minimum number of homes needed, strategic policies should be informed by a local housing need assessment, conducted using the standard method in national planning guidance. The outcome of the standard method is an advisory starting-point for establishing a housing requirement for the area (see paragraph 67 below). There may be exceptional circumstances, including relating to the particular demographic characteristics of an area<sup>25</sup> 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. In addition to the local housing need figure, any needs that cannot be met within neighbouring areas should also be taken into account in establishing the amount of housing to be planned for<sup>26</sup>.
62. The standard method incorporates an uplift which applies to certain cities and urban centres, as set out in national planning guidance. This uplift should be accommodated within those cities and urban centres themselves except where there are voluntary cross boundary redistribution agreements in place, or where it would conflict with the policies in this Framework<sup>27</sup>.
63. Within this context of establishing need, the size, type and tenure of housing needed for different groups in the community should be assessed and reflected in planning policies. These groups should include (but are not limited to) those who require affordable housing; families with children; older people (including those who require retirement housing, housing-with-care and care homes); students; people with disabilities; service families; travellers<sup>28</sup>; people who rent their homes and people wishing to commission or build their own homes<sup>29</sup>.

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<sup>25</sup> Such particular demographic characteristics could, for example, include areas that are islands with no land bridge that have a significant proportion of elderly residents.

<sup>26</sup> Transitional arrangements are set out in Annex 1

<sup>27</sup> In doing so, strategic policies should promote an effective use of land and optimise site densities in accordance with chapter 11. This is to ensure that homes are built in the right places, to prioritise brownfield and other under-utilised urban sites, to utilise existing infrastructure, and to allow people to live near the services they rely on, making travel patterns more sustainable.

<sup>28</sup> Planning Policy for Traveller Sites sets out how travellers' housing needs should be assessed for those covered by the definition in Annex 1 of that document.

<sup>29</sup> Under section 1 of the Self Build and Custom Housebuilding Act 2015, local authorities are required to keep a register of those seeking to acquire serviced plots in the area for their own self-build and custom house building. They are also subject to duties under sections 2 and 2A of the Act to have regard to this and to give enough suitable development permissions to meet the identified demand. Self and custom-build properties could provide market or affordable housing.

64. Where a need for affordable housing is identified, planning policies should specify the type of affordable housing required<sup>30</sup>, and expect it to be met on-site unless:
- a) off-site provision or an appropriate financial contribution in lieu can be robustly justified; and
  - b) the agreed approach contributes to the objective of creating mixed and balanced communities.
65. Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount<sup>31</sup>.
66. Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the total number of homes to be available for affordable home ownership<sup>32</sup>, unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. Exemptions to this 10% requirement should also be made where the site or proposed development:
- a) provides solely for Build to Rent homes;
  - b) provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students);
  - c) is proposed to be developed by people who wish to build or commission their own homes; or
  - d) is exclusively for affordable housing, a community-led development exception site or a rural exception site.
67. Strategic policy-making authorities should establish a housing requirement figure for their whole area, which shows the extent to which their identified housing need (and any needs that cannot be met within neighbouring areas) can be met over the plan period. The requirement may be higher than the identified housing need if, for example, it includes provision for neighbouring areas, or reflects growth ambitions linked to economic development or infrastructure investment. Within this overall requirement, strategic policies should also set out a housing requirement for designated neighbourhood areas which reflects the overall strategy for the pattern and scale of development and any relevant allocations<sup>33</sup>. Once the strategic policies have been adopted, these figures should not need re-testing at the neighbourhood plan examination, unless there has been a significant change in

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<sup>30</sup> Applying the definition in Annex 2 to this Framework.

<sup>31</sup> Equivalent to the existing gross floorspace of the existing buildings. This does not apply to vacant buildings which have been abandoned.

<sup>32</sup> As part of the overall affordable housing contribution from the site.

<sup>33</sup> Except where a Mayoral, combined authority or high-level joint plan is being prepared as a framework for strategic policies at the individual local authority level; in which case it may be most appropriate for the local authority plans to provide the requirement figure.

circumstances that affects the requirement.

68. Where it is not possible to provide a requirement figure for a neighbourhood area<sup>34</sup>, the local planning authority should provide an indicative figure, if requested to do so by the neighbourhood planning body. This figure should take into account factors such as the latest evidence of local housing need, the population of the neighbourhood area and the most recently available planning strategy of the local planning authority.

## Identifying land for homes

69. Strategic policy-making authorities should have a clear understanding of the land available in their area through the preparation of a strategic housing land availability assessment. From this, planning policies should identify a sufficient supply and mix of sites, taking into account their availability, suitability and likely economic viability. Planning policies should identify a supply of:
- a) specific, deliverable sites for five years following the intended date of adoption<sup>35</sup>; and
  - b) specific, developable sites or broad locations for growth, for the subsequent years 6-10 and, where possible, for years 11-15 of the remaining plan period.
70. Small and medium sized sites can make an important contribution to meeting the housing requirement of an area, and are often built-out relatively quickly. To promote the development of a good mix of sites local planning authorities should:
- a) identify, through the development plan and brownfield registers, land to accommodate at least 10% of their housing requirement on sites no larger than one hectare; unless it can be shown, through the preparation of relevant plan policies, that there are strong reasons why this 10% target cannot be achieved;
  - b) seek opportunities, through policies and decisions, to support small sites to come forward for community-led development for housing and self-build and custom-build housing;
  - c) use tools such as area-wide design assessments, permission in principle and Local Development Orders to help bring small and medium sized sites forward;
  - d) support the development of windfall sites through their policies and decisions – giving great weight to the benefits of using suitable sites within existing settlements for homes; and
  - e) work with developers to encourage the sub-division of large sites where this could help to speed up the delivery of homes.

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<sup>34</sup> Because a neighbourhood area is designated at a late stage in the strategic policy-making process, or after strategic policies have been adopted; or in instances where strategic policies for housing are out of date.

<sup>35</sup> With an appropriate buffer, as set out in paragraph 77. See Glossary for definitions of deliverable and developable.

71. Neighbourhood planning groups should also give particular consideration to the opportunities for allocating small and medium-sized sites (of a size consistent with paragraph 70a) suitable for housing in their area.
72. Where an allowance is to be made for windfall sites as part of anticipated supply, there should be compelling evidence that they will provide a reliable source of supply. Any allowance should be realistic having regard to the strategic housing land availability assessment, historic windfall delivery rates and expected future trends. Plans should consider the case for setting out policies to resist inappropriate development of residential gardens, for example where development would cause harm to the local area.
73. Local planning authorities should support the development of exception sites for community-led development<sup>36</sup> (as defined in Annex 2) on sites that would not otherwise be suitable as rural exception sites. These sites should be on land which is not already allocated for housing and should:
  - a) comprise community-led development that includes one or more types of affordable housing as defined in Annex 2 of this Framework. A proportion of market homes may be allowed on the site at the local planning authority's discretion, for example where essential to enable the delivery of affordable units without grant funding; and
  - b) be adjacent to existing settlements, proportionate in size to them<sup>37</sup>, not compromise the protection given to areas or assets of particular importance in this Framework<sup>38</sup>, and comply with any local design policies and standards.
74. The supply of large numbers of new homes can often be best achieved through planning for larger scale development, such as new settlements or significant extensions to existing villages and towns, provided they are well located and designed, and supported by the necessary infrastructure and facilities (including a genuine choice of transport modes). Working with the support of their communities, and with other authorities if appropriate, strategic policy-making authorities should identify suitable locations for such development where this can help to meet identified needs in a sustainable way. In doing so, they should:
  - a) consider the opportunities presented by existing or planned investment in infrastructure, the area's economic potential and the scope for net environmental gains;
  - b) ensure that their size and location will support a sustainable community, with sufficient access to services and employment opportunities within the development itself (without expecting an unrealistic level of self-containment), or in larger towns to which there is good access;
  - c) set clear expectations for the quality of the places to be created and how this

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<sup>36</sup> This exception site policy does not replace the First Homes exception policy set out in the Affordable Homes Update Written Ministerial Statement, dated 24 May 2021, which remains extant policy.

<sup>37</sup> Community-led development exception sites should not be larger than one hectare in size or exceed 5% of the size of the existing settlement.

<sup>38</sup> i.e. the areas referred to in footnote 7.

can be maintained (such as by following Garden City principles); and ensure that appropriate tools such as masterplans and design guides or codes are used to secure a variety of well-designed and beautiful homes to meet the needs of different groups in the community;

- d) make a realistic assessment of likely rates of delivery, given the lead-in times for large scale sites, and identify opportunities for supporting rapid implementation (such as through joint ventures or locally-led development corporations)<sup>39</sup>; and
- e) consider whether it is appropriate to establish Green Belt around or adjoining new developments of significant size.

## Maintaining supply and delivery

- 75. Strategic policies should include a trajectory illustrating the expected rate of housing delivery over the plan period, and all plans should consider whether it is appropriate to set out the anticipated rate of development for specific sites. Local planning authorities should monitor their deliverable land supply against their housing requirement, as set out in adopted strategic policies.
- 76. Local planning authorities are not required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of five years' worth of housing for decision making purposes if the following criteria are met<sup>40</sup>:
  - a) their adopted plan is less than five years old; and
  - b) that adopted plan identified at least a five year supply of specific, deliverable sites at the time that its examination concluded.
- 77. In all other circumstances, local planning authorities should identify and update annually a supply of specific deliverable sites sufficient to provide either a minimum of five years' worth of housing<sup>41</sup>, or a minimum of four years' worth of housing if the provisions in paragraph 226 apply. The supply should be demonstrated against either the housing requirement set out in adopted strategic policies, or against the local housing need where the strategic policies are more than five years old<sup>42</sup>. Where there has been significant under delivery of housing over the previous three years<sup>43</sup>, the supply of specific deliverable sites should in addition include a buffer of 20% (moved forward from later in the plan period).

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<sup>39</sup> The delivery of large scale developments may need to extend beyond an individual plan period, and the associated infrastructure requirements may not be capable of being identified fully at the outset. Anticipated rates of delivery and infrastructure requirements should, therefore, be kept under review and reflected as policies are updated.

<sup>40</sup> Transitional provisions relating to the application of this paragraph are set out in footnote 79.

<sup>41</sup> For the avoidance of doubt, a five year supply of deliverable sites for travellers – as defined in Annex 1 to Planning Policy for Traveller Sites – should be assessed separately, in line with the policy in that document.

<sup>42</sup> Unless these strategic policies have been reviewed and found not to require updating. Where local housing need is used as the basis for assessing whether a five year supply of specific deliverable sites exists, it should be calculated using the standard method set out in national planning guidance.

<sup>43</sup> This will be measured against the Housing Delivery Test, where this indicates that delivery was below 85% of the housing requirement. For clarity, authorities that are not required to continually demonstrate a 5 year housing land supply should disregard this requirement.

National planning guidance provides further information on calculating the housing land supply, including the circumstances in which past shortfalls or over-supply can be addressed.

78. Where the criteria in paragraph 76 are not met, a local planning authority may confirm the existence of a five-year supply of deliverable housing sites (with a 20% buffer if applicable) through an annual position statement which:
- a) has been produced through engagement with developers and others who have an impact on delivery, and been considered by the Secretary of State; and
  - b) incorporates the recommendation of the Secretary of State, where the position on specific sites could not be agreed during the engagement process.
79. To maintain the supply of housing, local planning authorities should monitor progress in building out sites which have permission. Where the Housing Delivery Test indicates that delivery has fallen below the local planning authority's housing requirement over the previous three years, the following policy consequences should apply:
- a) where delivery falls below 95% of the requirement over the previous three years, the authority should prepare an action plan to assess the causes of under-delivery and identify actions to increase delivery in future years;
  - b) where delivery falls below 85% of the requirement over the previous three years, the authority should include a buffer of 20% to their identified supply of specific deliverable sites as set out in paragraph 77 of this framework, in addition to the requirement for an action plan.
  - c) where delivery falls below 75% of the requirement over the previous three years, the presumption in favour of sustainable development applies, as set out in footnote 8 of this Framework, in addition to the requirements for an action plan and 20% buffer.
80. The Housing Delivery Test consequences set out above will apply the day following the annual publication of the Housing Delivery Test results, at which point they supersede previously published results. Until new Housing Delivery Test results are published, the previously published result should be used.
81. To help ensure that proposals for housing development are implemented in a timely manner, local planning authorities should consider imposing a planning condition providing that development must begin within a timescale shorter than the relevant default period, where this would expedite the development without threatening its deliverability or viability. For major development involving the provision of housing, local planning authorities should also assess why any earlier grant of planning permission for a similar development on the same site did not start.

## Rural housing

82. In rural areas, planning policies and decisions should be responsive to local circumstances and support housing developments that reflect local needs,

including proposals for community-led development for housing. Local planning authorities should support opportunities to bring forward rural exception sites that will provide affordable housing to meet identified local needs, and consider whether allowing some market housing on these sites would help to facilitate this.

83. To promote sustainable development in rural areas, housing should be located where it will enhance or maintain the vitality of rural communities. Planning policies should identify opportunities for villages to grow and thrive, especially where this will support local services. Where there are groups of smaller settlements, development in one village may support services in a village nearby.
84. Planning policies and decisions should avoid the development of isolated homes in the countryside unless one or more of the following circumstances apply:
  - a) there is an essential need for a rural worker, including those taking majority control of a farm business, to live permanently at or near their place of work in the countryside;
  - b) the development would represent the optimal viable use of a heritage asset or would be appropriate enabling development to secure the future of heritage assets;
  - c) the development would re-use redundant or disused buildings and enhance its immediate setting;
  - d) the development would involve the subdivision of an existing residential building; or
  - e) the design is of exceptional quality, in that it:
    - is truly outstanding, reflecting the highest standards in architecture, and would help to raise standards of design more generally in rural areas; and
    - would significantly enhance its immediate setting, and be sensitive to the defining characteristics of the local area.

## 6. Building a strong, competitive economy

85. Planning policies and decisions should help create the conditions in which businesses can invest, expand and adapt. Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development. The approach taken should allow each area to build on its strengths, counter any weaknesses and address the challenges of the future. This is particularly important where Britain can be a global leader in driving innovation<sup>44</sup>, and in areas with high levels of productivity, which should be able to capitalise on their performance and potential.
86. Planning policies should:
- a) set out a clear economic vision and strategy which positively and proactively encourages sustainable economic growth, having regard to Local Industrial Strategies and other local policies for economic development and regeneration;
  - b) set criteria, or identify strategic sites, for local and inward investment to match the strategy and to meet anticipated needs over the plan period;
  - c) seek to address potential barriers to investment, such as inadequate infrastructure, services or housing, or a poor environment; and
  - d) be flexible enough to accommodate needs not anticipated in the plan, allow for new and flexible working practices (such as live-work accommodation), and to enable a rapid response to changes in economic circumstances.
87. Planning policies and decisions should recognise and address the specific locational requirements of different sectors. This includes making provision for clusters or networks of knowledge and data-driven, creative or high technology industries; and for storage and distribution operations at a variety of scales and in suitably accessible locations.

### Supporting a prosperous rural economy

88. Planning policies and decisions should enable:
- a) the sustainable growth and expansion of all types of business in rural areas, both through conversion of existing buildings and well-designed, beautiful new buildings;
  - b) the development and diversification of agricultural and other land-based rural businesses;

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<sup>44</sup> The Government's Industrial Strategy sets out a vision to drive productivity improvements across the UK, identifies a number of Grand Challenges facing all nations, and sets out a delivery programme to make the UK a leader in four of these: artificial intelligence and big data; clean growth; future mobility; and catering for an ageing society. HM Government (2017) *Industrial Strategy: Building a Britain fit for the future*.



- c) sustainable rural tourism and leisure developments which respect the character of the countryside; and
  - d) the retention and development of accessible local services and community facilities, such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship.
89. Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings, does not have an unacceptable impact on local roads and exploits any opportunities to make a location more sustainable (for example by improving the scope for access on foot, by cycling or by public transport). The use of previously developed land, and sites that are physically well-related to existing settlements, should be encouraged where suitable opportunities exist.

## 7. Ensuring the vitality of town centres

90. Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation. Planning policies should:
- a) define a network and hierarchy of town centres and promote their long-term vitality and viability – by allowing them to grow and diversify in a way that can respond to rapid changes in the retail and leisure industries, allows a suitable mix of uses (including housing) and reflects their distinctive characters;
  - b) define the extent of town centres and primary shopping areas, and make clear the range of uses permitted in such locations, as part of a positive strategy for the future of each centre;
  - c) retain and enhance existing markets and, where appropriate, re-introduce or create new ones;
  - d) allocate a range of suitable sites in town centres to meet the scale and type of development likely to be needed, looking at least ten years ahead. Meeting anticipated needs for retail, leisure, office and other main town centre uses over this period should not be compromised by limited site availability, so town centre boundaries should be kept under review where necessary;
  - e) where suitable and viable town centre sites are not available for main town centre uses, allocate appropriate edge of centre sites that are well connected to the town centre. If sufficient edge of centre sites cannot be identified, policies should explain how identified needs can be met in other accessible locations that are well connected to the town centre; and
  - f) recognise that residential development often plays an important role in ensuring the vitality of centres and encourage residential development on appropriate sites.
91. Local planning authorities should apply a sequential test to planning applications for main town centre uses which are neither in an existing centre nor in accordance with an up-to-date plan. Main town centre uses should be located in town centres, then in edge of centre locations; and only if suitable sites are not available (or expected to become available within a reasonable period) should out of centre sites be considered.
92. When considering edge of centre and out of centre proposals, preference should be given to accessible sites which are well connected to the town centre. Applicants and local planning authorities should demonstrate flexibility on issues such as format and scale, so that opportunities to utilise suitable town centre or edge of centre sites are fully explored.
93. This sequential approach should not be applied to applications for small scale rural offices or other small scale rural development.

94. When assessing applications for retail and leisure development outside town centres, which are not in accordance with an up-to-date plan, local planning authorities should require an impact assessment if the development is over a proportionate, locally set floorspace threshold (if there is no locally set threshold, the default threshold is 2,500m<sup>2</sup> of gross floorspace). This should include assessment of:
- a) the impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
  - b) the impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and the wider retail catchment (as applicable to the scale and nature of the scheme).
95. Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the considerations in paragraph 94, it should be refused.

## 8. Promoting healthy and safe communities

96. Planning policies and decisions should aim to achieve healthy, inclusive and safe places and beautiful buildings which:
- a) promote social interaction, including opportunities for meetings between people who might not otherwise come into contact with each other – for example through mixed-use developments, strong neighbourhood centres, street layouts that allow for easy pedestrian and cycle connections within and between neighbourhoods, and active street frontages;
  - b) are safe and accessible, so that crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion – for example through the use of beautiful, well-designed, clear and legible pedestrian and cycle routes, and high quality public space, which encourage the active and continual use of public areas; and
  - c) enable and support healthy lifestyles, especially where this would address identified local health and well-being needs – for example through the provision of safe and accessible green infrastructure, sports facilities, local shops, access to healthier food, allotments and layouts that encourage walking and cycling.
97. To provide the social, recreational and cultural facilities and services the community needs, planning policies and decisions should:
- a) plan positively for the provision and use of shared spaces, community facilities (such as local shops, meeting places, sports venues, open space, cultural buildings, public houses and places of worship) and other local services to enhance the sustainability of communities and residential environments;
  - b) take into account and support the delivery of local strategies to improve health, social and cultural well-being for all sections of the community;
  - c) guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day-to-day needs;
  - d) ensure that established shops, facilities and services are able to develop and modernise, and are retained for the benefit of the community; and
  - e) ensure an integrated approach to considering the location of housing, economic uses and community facilities and services.
98. Planning policies and decisions should consider the social, economic and environmental benefits of estate regeneration. Local planning authorities should use their planning powers to help deliver estate regeneration to a high standard.
99. It is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:

- a) give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications; and
  - b) work with school promoters, delivery partners and statutory bodies to identify and resolve key planning issues before applications are submitted.
100. To ensure faster delivery of other public service infrastructure such as further education colleges, hospitals and criminal justice accommodation, local planning authorities should also work proactively and positively with promoters, delivery partners and statutory bodies to plan for required facilities and resolve key planning issues before applications are submitted.
101. Planning policies and decisions should promote public safety and take into account wider security and defence requirements by:
- a) anticipating and addressing possible malicious threats and natural hazards, especially in locations where large numbers of people are expected to congregate<sup>45</sup>. Policies for relevant areas (such as town centre and regeneration frameworks), and the layout and design of developments, should be informed by the most up-to-date information available from the police and other agencies about the nature of potential threats and their implications. This includes appropriate and proportionate steps that can be taken to reduce vulnerability, increase resilience and ensure public safety and security; and
  - b) recognising and supporting development required for operational defence and security purposes, and ensuring that operational sites are not affected adversely by the impact of other development proposed in the area.

## Open space and recreation

102. Access to a network of high quality open spaces and opportunities for sport and physical activity is important for the health and well-being of communities, and can deliver wider benefits for nature and support efforts to address climate change. Planning policies should be based on robust and up-to-date assessments of the need for open space, sport and recreation facilities (including quantitative or qualitative deficits or surpluses) and opportunities for new provision. Information gained from the assessments should be used to determine what open space, sport and recreational provision is needed, which plans should then seek to accommodate.
103. Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:
- a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
  - b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable

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<sup>45</sup> This includes transport hubs, night-time economy venues, cinemas and theatres, sports stadia and arenas, shopping centres, health and education establishments, places of worship, hotels and restaurants, visitor attractions and commercial centres.

location; or

- c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.

- 104. Planning policies and decisions should protect and enhance public rights of way and access, including taking opportunities to provide better facilities for users, for example by adding links to existing rights of way networks including National Trails.
- 105. The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated, and be capable of enduring beyond the end of the plan period.
- 106. The Local Green Space designation should only be used where the green space is:
  - a) in reasonably close proximity to the community it serves;
  - b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquillity or richness of its wildlife; and
  - c) local in character and is not an extensive tract of land.
- 107. Policies for managing development within a Local Green Space should be consistent with those for Green Belts.

## 9. Promoting sustainable transport

108. Transport issues should be considered from the earliest stages of plan-making and development proposals, so that:
- a) the potential impacts of development on transport networks can be addressed;
  - b) opportunities from existing or proposed transport infrastructure, and changing transport technology and usage, are realised – for example in relation to the scale, location or density of development that can be accommodated;
  - c) opportunities to promote walking, cycling and public transport use are identified and pursued;
  - d) the environmental impacts of traffic and transport infrastructure can be identified, assessed and taken into account – including appropriate opportunities for avoiding and mitigating any adverse effects, and for net environmental gains; and
  - e) patterns of movement, streets, parking and other transport considerations are integral to the design of schemes, and contribute to making high quality places.
109. The planning system should actively manage patterns of growth in support of these objectives. Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health. However, opportunities to maximise sustainable transport solutions will vary between urban and rural areas, and this should be taken into account in both plan-making and decision-making.
110. Planning policies should:
- a) support an appropriate mix of uses across an area, and within larger scale sites, to minimise the number and length of journeys needed for employment, shopping, leisure, education and other activities;
  - b) be prepared with the active involvement of local highways authorities, other transport infrastructure providers and operators and neighbouring councils, so that strategies and investments for supporting sustainable transport and development patterns are aligned;
  - c) identify and protect, where there is robust evidence, sites and routes which could be critical in developing infrastructure to widen transport choice and realise opportunities for large scale development;
  - d) provide for attractive and well-designed walking and cycling networks with supporting facilities such as secure cycle parking (drawing on Local Cycling and Walking Infrastructure Plans);

- e) provide for any large scale transport facilities that need to be located in the area<sup>46</sup>, and the infrastructure and wider development required to support their operation, expansion and contribution to the wider economy. In doing so they should take into account whether such development is likely to be a nationally significant infrastructure project and any relevant national policy statements; and
  - f) recognise the importance of maintaining a national network of general aviation airfields, and their need to adapt and change over time – taking into account their economic value in serving business, leisure, training and emergency service needs, and the Government’s General Aviation Strategy<sup>47</sup>.
111. If setting local parking standards for residential and non-residential development, policies should take into account:
- a) the accessibility of the development;
  - b) the type, mix and use of development;
  - c) the availability of and opportunities for public transport;
  - d) local car ownership levels; and
  - e) the need to ensure an adequate provision of spaces for charging plug-in and other ultra-low emission vehicles.
112. Maximum parking standards for residential and non-residential development should only be set where there is a clear and compelling justification that they are necessary for managing the local road network, or for optimising the density of development in city and town centres and other locations that are well served by public transport (in accordance with chapter 11 of this Framework). In town centres, local authorities should seek to improve the quality of parking so that it is convenient, safe and secure, alongside measures to promote accessibility for pedestrians and cyclists.
113. Planning policies and decisions should recognise the importance of providing adequate overnight lorry parking facilities, taking into account any local shortages, to reduce the risk of parking in locations that lack proper facilities or could cause a nuisance. Proposals for new or expanded distribution centres should make provision for sufficient lorry parking to cater for their anticipated use.

## Considering development proposals

114. In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that:

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<sup>46</sup> Policies for large scale facilities should, where necessary, be developed through collaboration between strategic policy-making authorities and other relevant bodies. Examples of such facilities include ports, airports, interchanges for rail freight, public transport projects and roadside services. The primary function of roadside services should be to support the safety and welfare of the road user (and most such proposals are unlikely to be nationally significant infrastructure projects).

<sup>47</sup> Department for Transport (2015) *General Aviation Strategy*.



- a) appropriate opportunities to promote sustainable transport modes can be – or have been – taken up, given the type of development and its location;
  - b) safe and suitable access to the site can be achieved for all users;
  - c) the design of streets, parking areas, other transport elements and the content of associated standards reflects current national guidance, including the National Design Guide and the National Model Design Code<sup>48</sup>; and
  - d) any significant impacts from the development on the transport network (in terms of capacity and congestion), or on highway safety, can be cost effectively mitigated to an acceptable degree.
115. Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.
116. Within this context, applications for development should:
- a) give priority first to pedestrian and cycle movements, both within the scheme and with neighbouring areas; and second – so far as possible – to facilitating access to high quality public transport, with layouts that maximise the catchment area for bus or other public transport services, and appropriate facilities that encourage public transport use;
  - b) address the needs of people with disabilities and reduced mobility in relation to all modes of transport;
  - c) create places that are safe, secure and attractive – which minimise the scope for conflicts between pedestrians, cyclists and vehicles, avoid unnecessary street clutter, and respond to local character and design standards;
  - d) allow for the efficient delivery of goods, and access by service and emergency vehicles; and
  - e) be designed to enable charging of plug-in and other ultra-low emission vehicles in safe, accessible and convenient locations.
117. All developments that will generate significant amounts of movement should be required to provide a travel plan, and the application should be supported by a transport statement or transport assessment so that the likely impacts of the proposal can be assessed.

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<sup>48</sup> Policies and decisions should not make use of or reflect the former Design Bulletin 32, which was withdrawn in 2007.

# 10. Supporting high quality communications

118. Advanced, high quality and reliable communications infrastructure is essential for economic growth and social well-being. Planning policies and decisions should support the expansion of electronic communications networks, including next generation mobile technology (such as 5G) and full fibre broadband connections. Policies should set out how high quality digital infrastructure, providing access to services from a range of providers, is expected to be delivered and upgraded over time; and should prioritise full fibre connections to existing and new developments (as these connections will, in almost all cases, provide the optimum solution).
119. The number of radio and electronic communications masts, and the sites for such installations, should be kept to a minimum consistent with the needs of consumers, the efficient operation of the network and providing reasonable capacity for future expansion. Use of existing masts, buildings and other structures for new electronic communications capability (including wireless) should be encouraged. Where new sites are required (such as for new 5G networks, or for connected transport and smart city applications), equipment should be sympathetically designed and camouflaged where appropriate.
120. Local planning authorities should not impose a ban on new electronic communications development in certain areas, impose blanket Article 4 directions over a wide area or a wide range of electronic communications development, or insist on minimum distances between new electronic communications development and existing development. They should ensure that:
- a) they have evidence to demonstrate that electronic communications infrastructure is not expected to cause significant and irremediable interference with other electrical equipment, air traffic services or instrumentation operated in the national interest; and
  - b) they have considered the possibility of the construction of new buildings or other structures interfering with broadcast and electronic communications services.
121. Applications for electronic communications development (including applications for prior approval under the General Permitted Development Order) should be supported by the necessary evidence to justify the proposed development. This should include:
- a) the outcome of consultations with organisations with an interest in the proposed development, in particular with the relevant body where a mast is to be installed near a school or college, or within a statutory safeguarding zone surrounding an aerodrome, technical site or military explosives storage area; and
  - b) for an addition to an existing mast or base station, a statement that self-certifies that the cumulative exposure, when operational, will not exceed International Commission guidelines on non-ionising radiation protection; or

- c) for a new mast or base station, evidence that the applicant has explored the possibility of erecting antennas on an existing building, mast or other structure and a statement that self-certifies that, when operational, International Commission guidelines will be met.
122. Local planning authorities must determine applications on planning grounds only. They should not seek to prevent competition between different operators, question the need for an electronic communications system, or set health safeguards different from the International Commission guidelines for public exposure.

# 11. Making effective use of land

123. Planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions. Strategic policies should set out a clear strategy for accommodating objectively assessed needs, in a way that makes as much use as possible of previously-developed or ‘brownfield’ land<sup>49</sup>.
124. Planning policies and decisions should:
- a) encourage multiple benefits from both urban and rural land, including through mixed use schemes and taking opportunities to achieve net environmental gains – such as developments that would enable new habitat creation or improve public access to the countryside;
  - b) recognise that some undeveloped land can perform many functions, such as for wildlife, recreation, flood risk mitigation, cooling/shading, carbon storage or food production;
  - c) give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs, and support appropriate opportunities to remediate despoiled, degraded, derelict, contaminated or unstable land;
  - d) promote and support the development of under-utilised land and buildings, especially if this would help to meet identified needs for housing where land supply is constrained and available sites could be used more effectively (for example converting space above shops, and building on or above service yards, car parks, lock-ups and railway infrastructure)<sup>50</sup>; and
  - e) support opportunities to use the airspace above existing residential and commercial premises for new homes. In particular, they should allow upward extensions where the development would be consistent with the prevailing height and form of neighbouring properties and the overall street scene, is well-designed (including complying with any local design policies and standards), and can maintain safe access and egress for occupiers. They should also allow mansard roof extensions on suitable properties<sup>51</sup> where their external appearance harmonises with the original building, including extensions to terraces where one or more of the terraced houses already has a mansard. Where there was a tradition of mansard construction locally at the time of the building’s construction, the extension should emulate it with respect to external appearance. A condition of simultaneous development should not be imposed on an application for multiple mansard extensions unless there is an exceptional justification.

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<sup>49</sup> Except where this would conflict with other policies in this Framework, including causing harm to designated sites of importance for biodiversity.

<sup>50</sup> As part of this approach, plans and decisions should support efforts to identify and bring back into residential use empty homes and other buildings, supported by the use of compulsory purchase powers where appropriate.

<sup>51</sup> See glossary for further details.

125. Local planning authorities, and other plan-making bodies, should take a proactive role in identifying and helping to bring forward land that may be suitable for meeting development needs, including suitable sites on brownfield registers or held in public ownership, using the full range of powers available to them. This should include identifying opportunities to facilitate land assembly, supported where necessary by compulsory purchase powers, where this can help to bring more land forward for meeting development needs and/or secure better development outcomes.
126. Planning policies and decisions need to reflect changes in the demand for land. They should be informed by regular reviews of both the land allocated for development in plans, and of land availability. Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan:
- a) it should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs (or, if appropriate, deallocate a site which is undeveloped); and
  - b) in the interim, prior to updating the plan, applications for alternative uses on the land should be supported, where the proposed use would contribute to meeting an unmet need for development in the area.
127. Local planning authorities should also take a positive approach to applications for alternative uses of land which is currently developed but not allocated for a specific purpose in plans, where this would help to meet identified development needs. In particular, they should support proposals to:
- a) use retail and employment land for homes in areas of high housing demand, provided this would not undermine key economic sectors or sites or the vitality and viability of town centres, and would be compatible with other policies in this Framework; and
  - b) make more effective use of sites that provide community services such as schools and hospitals, provided this maintains or improves the quality of service provision and access to open space.

## Achieving appropriate densities

128. Planning policies and decisions should support development that makes efficient use of land, taking into account:
- a) the identified need for different types of housing and other forms of development, and the availability of land suitable for accommodating it;
  - b) local market conditions and viability;
  - c) the availability and capacity of infrastructure and services – both existing and proposed – as well as their potential for further improvement and the scope to promote sustainable travel modes that limit future car use;
  - d) the desirability of maintaining an area's prevailing character and setting

(including residential gardens), or of promoting regeneration and change; and

- e) the importance of securing well-designed and beautiful, attractive and healthy places.

129. Area-based character assessments, design guides and codes and masterplans can be used to help ensure that land is used efficiently while also creating beautiful and sustainable places. Where there is an existing or anticipated shortage of land for meeting identified housing needs, it is especially important that planning policies and decisions avoid homes being built at low densities, and ensure that developments make optimal use of the potential of each site. In these circumstances:

- a) plans should contain policies to optimise the use of land in their area and meet as much of the identified need for housing as possible. This will be tested robustly at examination, and should include the use of minimum density standards for city and town centres and other locations that are well served by public transport. These standards should seek a significant uplift in the average density of residential development within these areas, unless it can be shown that there are strong reasons why this would be inappropriate;
- b) the use of minimum density standards should also be considered for other parts of the plan area. It may be appropriate to set out a range of densities that reflect the accessibility and potential of different areas, rather than one broad density range; and
- c) local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework. In this context, when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards).

130. In applying paragraphs 129a and b above to existing urban areas, significant uplifts in the average density of residential development may be inappropriate if the resulting built form would be wholly out of character with the existing area. Such circumstances should be evidenced through an authority-wide design code which is adopted or will be adopted as part of the development plan.

## 12. Achieving well-designed and beautiful places

131. The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities. Being clear about design expectations, and how these will be tested, is essential for achieving this. So too is effective engagement between applicants, communities, local planning authorities and other interests throughout the process.
132. Plans should, at the most appropriate level, set out a clear design vision and expectations, so that applicants have as much certainty as possible about what is likely to be acceptable. Design policies should be developed with local communities so they reflect local aspirations, and are grounded in an understanding and evaluation of each area's defining characteristics. Neighbourhood planning groups can play an important role in identifying the special qualities of each area and explaining how this should be reflected in development, both through their own plans and by engaging in the production of design policy, guidance and codes by local planning authorities and developers.
133. To provide maximum clarity about design expectations at an early stage, all local planning authorities should prepare design guides or codes consistent with the principles set out in the National Design Guide and National Model Design Code, and which reflect local character and design preferences. Design guides and codes provide a local framework for creating beautiful and distinctive places with a consistent and high quality standard of design. Their geographic coverage, level of detail and degree of prescription should be tailored to the circumstances and scale of change in each place, and should allow a suitable degree of variety.
134. Design guides and codes can be prepared at an area-wide, neighbourhood or site-specific scale, and to carry weight in decision-making should be produced either as part of a plan or as supplementary planning documents. Landowners and developers may contribute to these exercises, but may also choose to prepare design codes in support of a planning application for sites they wish to develop. Whoever prepares them, all guides and codes should be based on effective community engagement and reflect local aspirations for the development of their area, taking into account the guidance contained in the National Design Guide and the National Model Design Code. These national documents should be used to guide decisions on applications in the absence of locally produced design guides or design codes.
135. Planning policies and decisions should ensure that developments:
  - a) will function well and add to the overall quality of the area, not just for the short term but over the lifetime of the development;
  - b) are visually attractive as a result of good architecture, layout and appropriate and effective landscaping;

- c) are sympathetic to local character and history, including the surrounding built environment and landscape setting, while not preventing or discouraging appropriate innovation or change (such as increased densities);
  - d) establish or maintain a strong sense of place, using the arrangement of streets, spaces, building types and materials to create attractive, welcoming and distinctive places to live, work and visit;
  - e) optimise the potential of the site to accommodate and sustain an appropriate amount and mix of development (including green and other public space) and support local facilities and transport networks; and
  - f) create places that are safe, inclusive and accessible and which promote health and well-being, with a high standard of amenity for existing and future users<sup>52</sup>; and where crime and disorder, and the fear of crime, do not undermine the quality of life or community cohesion and resilience.
136. Trees make an important contribution to the character and quality of urban environments, and can also help mitigate and adapt to climate change. Planning policies and decisions should ensure that new streets are tree-lined<sup>53</sup>, that opportunities are taken to incorporate trees elsewhere in developments (such as parks and community orchards), that appropriate measures are in place to secure the long-term maintenance of newly-planted trees, and that existing trees are retained wherever possible. Applicants and local planning authorities should work with highways officers and tree officers to ensure that the right trees are planted in the right places, and solutions are found that are compatible with highways standards and the needs of different users.
137. Design quality should be considered throughout the evolution and assessment of individual proposals. Early discussion between applicants, the local planning authority and local community about the design and style of emerging schemes is important for clarifying expectations and reconciling local and commercial interests. Applicants should work closely with those affected by their proposals to evolve designs that take account of the views of the community. Applications that can demonstrate early, proactive and effective engagement with the community should be looked on more favourably than those that cannot.
138. Local planning authorities should ensure that they have access to, and make appropriate use of, tools and processes for assessing and improving the design of development. The primary means of doing so should be through the preparation and use of local design codes, in line with the National Model Design Code. For assessing proposals there is a range of tools including workshops to engage the local community, design advice and review arrangements, and assessment frameworks such as Building for a Healthy Life<sup>54</sup>. These are of most benefit if used as early as possible in the evolution of schemes, and are particularly important for significant projects such as large scale housing and mixed use developments. In

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<sup>52</sup> Planning policies for housing should make use of the Government's optional technical standards for accessible and adaptable housing, where this would address an identified need for such properties. Policies may also make use of the nationally described space standard, where the need for an internal space standard can be justified.

<sup>53</sup> Unless, in specific cases, there are clear, justifiable and compelling reasons why this would be inappropriate.

<sup>54</sup> Birkbeck D and Kruczowski S et al (2020) *Building for a Healthy Life*



assessing applications, local planning authorities should have regard to the outcome from these processes, including any recommendations made by design review panels.

139. Development that is not well designed should be refused, especially where it fails to reflect local design policies and government guidance on design<sup>55</sup>, taking into account any local design guidance and supplementary planning documents such as design guides and codes. Conversely, significant weight should be given to:
  - a) development which reflects local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes; and/or
  - b) outstanding or innovative designs which promote high levels of sustainability, or help raise the standard of design more generally in an area, so long as they fit in with the overall form and layout of their surroundings.
140. Local planning authorities should ensure that relevant planning conditions refer to clear and accurate plans and drawings which provide visual clarity about the design of the development, and are clear about the approved use of materials where appropriate. This will provide greater certainty for those implementing the planning permission on how to comply with the permission and a clearer basis for local planning authorities to identify breaches of planning control. Local planning authorities should also seek to ensure that the quality of approved development is not materially diminished between permission and completion, as a result of changes being made to the permitted scheme (for example through changes to approved details such as the materials used).
141. The quality and character of places can suffer when advertisements are poorly sited and designed. A separate consent process within the planning system controls the display of advertisements, which should be operated in a way which is simple, efficient and effective. Advertisements should be subject to control only in the interests of amenity and public safety, taking account of cumulative impacts.

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<sup>55</sup> Contained in the National Design Guide and National Model Design Code.

# 13. Protecting Green Belt land

142. The Government attaches great importance to Green Belts. The fundamental aim of Green Belt policy is to prevent urban sprawl by keeping land permanently open; the essential characteristics of Green Belts are their openness and their permanence.
143. Green Belt serves five purposes:
- a) to check the unrestricted sprawl of large built-up areas;
  - b) to prevent neighbouring towns merging into one another;
  - c) to assist in safeguarding the countryside from encroachment;
  - d) to preserve the setting and special character of historic towns; and
  - e) to assist in urban regeneration, by encouraging the recycling of derelict and other urban land.
144. The general extent of Green Belts across the country is already established. New Green Belts should only be established in exceptional circumstances, for example when planning for larger scale development such as new settlements or major urban extensions. Any proposals for new Green Belts should be set out in strategic policies, which should:
- a) demonstrate why normal planning and development management policies would not be adequate;
  - b) set out whether any major changes in circumstances have made the adoption of this exceptional measure necessary;
  - c) show what the consequences of the proposal would be for sustainable development;
  - d) demonstrate the necessity for the Green Belt and its consistency with strategic policies for adjoining areas; and
  - e) show how the Green Belt would meet the other objectives of the Framework.
145. Once established, there is no requirement for Green Belt boundaries to be reviewed or changed when plans are being prepared or updated. Authorities may choose to review and alter Green Belt boundaries where exceptional circumstances are fully evidenced and justified, in which case proposals for changes should be made only through the plan-making process. Strategic policies should establish the need for any changes to Green Belt boundaries, having regard to their intended permanence in the long term, so they can endure beyond the plan period. Where a need for changes to Green Belt boundaries has been established through strategic policies, detailed amendments to those boundaries may be made through non-strategic policies, including neighbourhood plans.

146. Before concluding that exceptional circumstances exist to justify changes to Green Belt boundaries, the strategic policy-making authority should be able to demonstrate that it has examined fully all other reasonable options for meeting its identified need for development. This will be assessed through the examination of its strategic policies, which will take into account the preceding paragraph, and whether the strategy:
- a) makes as much use as possible of suitable brownfield sites and underutilised land;
  - b) optimises the density of development in line with the policies in chapter 11 of this Framework, including whether policies promote a significant uplift in minimum density standards in town and city centres and other locations well served by public transport; and
  - c) has been informed by discussions with neighbouring authorities about whether they could accommodate some of the identified need for development, as demonstrated through the statement of common ground.
147. When drawing up or reviewing Green Belt boundaries, the need to promote sustainable patterns of development should be taken into account. Strategic policy-making authorities should consider the consequences for sustainable development of channelling development towards urban areas inside the Green Belt boundary, towards towns and villages inset within the Green Belt or towards locations beyond the outer Green Belt boundary. Where it has been concluded that it is necessary to release Green Belt land for development, plans should give first consideration to land which has been previously-developed and/or is well-served by public transport. They should also set out ways in which the impact of removing land from the Green Belt can be offset through compensatory improvements to the environmental quality and accessibility of remaining Green Belt land.
148. When defining Green Belt boundaries, plans should:
- a) ensure consistency with the development plan's strategy for meeting identified requirements for sustainable development;
  - b) not include land which it is unnecessary to keep permanently open;
  - c) where necessary, identify areas of safeguarded land between the urban area and the Green Belt, in order to meet longer-term development needs stretching well beyond the plan period;
  - d) make clear that the safeguarded land is not allocated for development at the present time. Planning permission for the permanent development of safeguarded land should only be granted following an update to a plan which proposes the development;
  - e) be able to demonstrate that Green Belt boundaries will not need to be altered at the end of the plan period; and
  - f) define boundaries clearly, using physical features that are readily recognisable and likely to be permanent.

149. If it is necessary to restrict development in a village primarily because of the important contribution which the open character of the village makes to the openness of the Green Belt, the village should be included in the Green Belt. If, however, the character of the village needs to be protected for other reasons, other means should be used, such as conservation area or normal development management policies, and the village should be excluded from the Green Belt.
150. Once Green Belts have been defined, local planning authorities should plan positively to enhance their beneficial use, such as looking for opportunities to provide access; to provide opportunities for outdoor sport and recreation; to retain and enhance landscapes, visual amenity and biodiversity; or to improve damaged and derelict land.
151. The National Forest and Community Forests offer valuable opportunities for improving the environment around towns and cities, by upgrading the landscape and providing for recreation and wildlife. The National Forest Strategy and an approved Community Forest Plan may be a material consideration in preparing development plans and in deciding planning applications. Any development proposals within the National Forest and Community Forests in the Green Belt should be subject to the normal policies for controlling development in Green Belts.

## Proposals affecting the Green Belt

152. Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.
153. When considering any planning application, local planning authorities should ensure that substantial weight is given to any harm to the Green Belt. 'Very special circumstances' will not exist unless the potential harm to the Green Belt by reason of inappropriateness, and any other harm resulting from the proposal, is clearly outweighed by other considerations.
154. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:
  - a) buildings for agriculture and forestry;
  - b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;
  - c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;
  - d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;
  - e) limited infilling in villages;
  - f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and

- g) limited infilling or the partial or complete redevelopment of previously developed land, whether redundant or in continuing use (excluding temporary buildings), which would:
  - not have a greater impact on the openness of the Green Belt than the existing development; or
  - not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.

155. Certain other forms of development are also not inappropriate in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. These are:

- a) mineral extraction;
- b) engineering operations;
- c) local transport infrastructure which can demonstrate a requirement for a Green Belt location;
- d) the re-use of buildings provided that the buildings are of permanent and substantial construction;
- e) material changes in the use of land (such as changes of use for outdoor sport or recreation, or for cemeteries and burial grounds); and
- f) development, including buildings, brought forward under a Community Right to Build Order or Neighbourhood Development Order.

156. When located in the Green Belt, elements of many renewable energy projects will comprise inappropriate development. In such cases developers will need to demonstrate very special circumstances if projects are to proceed. Such very special circumstances may include the wider environmental benefits associated with increased production of energy from renewable sources.

# 14. Meeting the challenge of climate change, flooding and coastal change

157. The planning system should support the transition to a low carbon future in a changing climate, taking full account of flood risk and coastal change. It should help to: shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience; encourage the reuse of existing resources, including the conversion of existing buildings; and support renewable and low carbon energy and associated infrastructure.

## Planning for climate change

158. Plans should take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk, coastal change, water supply, biodiversity and landscapes, and the risk of overheating from rising temperatures<sup>56</sup>. Policies should support appropriate measures to ensure the future resilience of communities and infrastructure to climate change impacts, such as providing space for physical protection measures, or making provision for the possible future relocation of vulnerable development and infrastructure.
159. New development should be planned for in ways that:
- a) avoid increased vulnerability to the range of impacts arising from climate change. When new development is brought forward in areas which are vulnerable, care should be taken to ensure that risks can be managed through suitable adaptation measures, including through the planning of green infrastructure; and
  - b) can help to reduce greenhouse gas emissions, such as through its location, orientation and design. Any local requirements for the sustainability of buildings should reflect the Government's policy for national technical standards.
160. To help increase the use and supply of renewable and low carbon energy and heat, plans should:
- a) provide a positive strategy for energy from these sources, that maximises the potential for suitable development, and their future re-powering and life extension, while ensuring that adverse impacts are addressed appropriately (including cumulative landscape and visual impacts);
  - b) consider identifying suitable areas for renewable and low carbon energy sources, and supporting infrastructure, where this would help secure their development; and

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<sup>56</sup> In line with the objectives and provisions of the Climate Change Act 2008.

- c) identify opportunities for development to draw its energy supply from decentralised, renewable or low carbon energy supply systems and for co-locating potential heat customers and suppliers.
161. Local planning authorities should support community-led initiatives for renewable and low carbon energy, including developments outside areas identified in local plans or other strategic policies that are being taken forward through neighbourhood planning.
162. In determining planning applications, local planning authorities should expect new development to:
- a) comply with any development plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and
  - b) take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.
163. When determining planning applications<sup>57</sup> for renewable and low carbon development, local planning authorities should:
- a) not require applicants to demonstrate the overall need for renewable or low carbon energy, and recognise that even small-scale projects provide a valuable contribution to significant cutting greenhouse gas emissions;
  - b) approve the application if its impacts are (or can be made) acceptable<sup>58</sup>. Once suitable areas for renewable and low carbon energy have been identified in plans, local planning authorities should expect subsequent applications for commercial scale projects outside these areas to demonstrate that the proposed location meets the criteria used in identifying suitable areas; and
  - c) in the case of applications for the repowering and life-extension of existing renewable sites, give significant weight to the benefits of utilising an established site, and approve the proposal if its impacts are or can be made acceptable.
164. In determining planning applications, local planning authorities should give significant weight to the need to support energy efficiency and low carbon heating improvements to existing buildings, both domestic and non-domestic (including

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<sup>57</sup> Wind energy development involving one or more turbines can also be permitted through Local Development Orders, Neighbourhood Development Orders and Community Right to Build Orders. In the case of Local Development Orders, it should be demonstrated that the planning impacts identified by the affected local community have been appropriately addressed and the proposal has community support.

<sup>58</sup> Except for applications for the repowering and life-extension of existing wind turbines, a planning application for wind energy development involving one or more turbines should not be considered acceptable unless it is in an area identified as suitable for wind energy development in the development plan or a supplementary planning document; and, following consultation, it can be demonstrated that the planning impacts identified by the affected local community have been appropriately addressed and the proposal has community support.

through installation of heat pumps and solar panels where these do not already benefit from permitted development rights). Where the proposals would affect conservation areas, listed buildings or other relevant designated heritage assets, local planning authorities should also apply the policies set out in chapter 16 of this Framework.

## Planning and flood risk

165. Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.
166. Strategic policies should be informed by a strategic flood risk assessment, and should manage flood risk from all sources. They should consider cumulative impacts in, or affecting, local areas susceptible to flooding, and take account of advice from the Environment Agency and other relevant flood risk management authorities, such as lead local flood authorities and internal drainage boards.
167. All plans should apply a sequential, risk-based approach to the location of development – taking into account all sources of flood risk and the current and future impacts of climate change – so as to avoid, where possible, flood risk to people and property. They should do this, and manage any residual risk, by:
  - a) applying the sequential test and then, if necessary, the exception test as set out below;
  - b) safeguarding land from development that is required, or likely to be required, for current or future flood management;
  - c) using opportunities provided by new development and improvements in green and other infrastructure to reduce the causes and impacts of flooding, (making as much use as possible of natural flood management techniques as part of an integrated approach to flood risk management); and
  - d) where climate change is expected to increase flood risk so that some existing development may not be sustainable in the long-term, seeking opportunities to relocate development, including housing, to more sustainable locations.
168. The aim of the sequential test is to steer new development to areas with the lowest risk of flooding from any source. Development should not be allocated or permitted if there are reasonably available sites appropriate for the proposed development in areas with a lower risk of flooding. The strategic flood risk assessment will provide the basis for applying this test. The sequential approach should be used in areas known to be at risk now or in the future from any form of flooding.
169. If it is not possible for development to be located in areas with a lower risk of flooding (taking into account wider sustainable development objectives), the exception test may have to be applied. The need for the exception test will depend on the potential vulnerability of the site and of the development proposed, in line with the Flood Risk Vulnerability Classification set out in Annex 3.



170. The application of the exception test should be informed by a strategic or site-specific flood risk assessment, depending on whether it is being applied during plan production or at the application stage. To pass the exception test it should be demonstrated that:
- a) the development would provide wider sustainability benefits to the community that outweigh the flood risk; and
  - b) the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.
171. Both elements of the exception test should be satisfied for development to be allocated or permitted.
172. Where planning applications come forward on sites allocated in the development plan through the sequential test, applicants need not apply the sequential test again. However, the exception test may need to be reapplied if relevant aspects of the proposal had not been considered when the test was applied at the plan-making stage, or if more recent information about existing or potential flood risk should be taken into account.
173. When determining any planning applications, local planning authorities should ensure that flood risk is not increased elsewhere. Where appropriate, applications should be supported by a site-specific flood-risk assessment<sup>59</sup>. Development should only be allowed in areas at risk of flooding where, in the light of this assessment (and the sequential and exception tests, as applicable) it can be demonstrated that:
- a) within the site, the most vulnerable development is located in areas of lowest flood risk, unless there are overriding reasons to prefer a different location;
  - b) the development is appropriately flood resistant and resilient such that, in the event of a flood, it could be quickly brought back into use without significant refurbishment;
  - c) it incorporates sustainable drainage systems, unless there is clear evidence that this would be inappropriate;
  - d) any residual risk can be safely managed; and
  - e) safe access and escape routes are included where appropriate, as part of an agreed emergency plan.

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<sup>59</sup> A site-specific flood risk assessment should be provided for all development in Flood Zones 2 and 3. In Flood Zone 1, an assessment should accompany all proposals involving: sites of 1 hectare or more; land which has been identified by the Environment Agency as having critical drainage problems; land identified in a strategic flood risk assessment as being at increased flood risk in future; or land that may be subject to other sources of flooding, where its development would introduce a more vulnerable use.

174. Applications for some minor development and changes of use<sup>60</sup> should not be subject to the sequential or exception tests but should still meet the requirements for site-specific flood risk assessments set out in footnote 59.
175. Major developments should incorporate sustainable drainage systems unless there is clear evidence that this would be inappropriate. The systems used should:
- a) take account of advice from the lead local flood authority;
  - b) have appropriate proposed minimum operational standards;
  - c) have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development; and
  - d) where possible, provide multifunctional benefits.

## Coastal change

176. In coastal areas, planning policies and decisions should take account of the UK Marine Policy Statement and marine plans. Integrated Coastal Zone Management should be pursued across local authority and land/sea boundaries, to ensure effective alignment of the terrestrial and marine planning regimes.
177. Plans should reduce risk from coastal change by avoiding inappropriate development in vulnerable areas and not exacerbating the impacts of physical changes to the coast. They should identify as a Coastal Change Management Area any area likely to be affected by physical changes to the coast, and:
- a) be clear as to what development will be appropriate in such areas and in what circumstances; and
  - b) make provision for development and infrastructure that needs to be relocated away from Coastal Change Management Areas.
178. Development in a Coastal Change Management Area will be appropriate only where it is demonstrated that:
- a) it will be safe over its planned lifetime and not have an unacceptable impact on coastal change;
  - b) the character of the coast including designations is not compromised;
  - c) the development provides wider sustainability benefits; and
  - d) the development does not hinder the creation and maintenance of a continuous signed and managed route around the coast<sup>61</sup>.

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<sup>60</sup> This includes householder development, small non-residential extensions (with a footprint of less than 250m<sup>2</sup>) and changes of use; except for changes of use to a caravan, camping or chalet site, or to a mobile home or park home site, where the sequential and exception tests should be applied as appropriate.

<sup>61</sup> As required by the Marine and Coastal Access Act 2009.

179. Local planning authorities should limit the planned lifetime of development in a Coastal Change Management Area through temporary permission and restoration conditions, where this is necessary to reduce a potentially unacceptable level of future risk to people and the development.

# 15. Conserving and enhancing the natural environment

180. Planning policies and decisions should contribute to and enhance the natural and local environment by:
- a) protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils (in a manner commensurate with their statutory status or identified quality in the development plan);
  - b) recognising the intrinsic character and beauty of the countryside, and the wider benefits from natural capital and ecosystem services – including the economic and other benefits of the best and most versatile agricultural land, and of trees and woodland;
  - c) maintaining the character of the undeveloped coast, while improving public access to it where appropriate;
  - d) minimising impacts on and providing net gains for biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures;
  - e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and
  - f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate.
181. 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<sup>62</sup>; take a strategic approach to maintaining and enhancing networks of habitats and green infrastructure; and plan for the enhancement of natural capital at a catchment or landscape scale across local authority boundaries.
182. Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty which have the highest status of protection in relation to these issues. The conservation and enhancement of wildlife and cultural heritage are also important considerations in these areas, and should be given great weight in National Parks

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<sup>62</sup> 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.

and the Broads<sup>63</sup>. The scale and extent of development within all these designated areas should be limited, while development within their setting should be sensitively located and designed to avoid or minimise adverse impacts on the designated areas.

183. When considering applications for development within National Parks, the Broads and Areas of Outstanding Natural Beauty, permission should be refused for major development<sup>64</sup> other than in exceptional circumstances, and where it can be demonstrated that the development is in the public interest. Consideration of such applications should include an assessment of:
- a) the need for the development, including in terms of any national considerations, and the impact of permitting it, or refusing it, upon the local economy;
  - b) the cost of, and scope for, developing outside the designated area, or meeting the need for it in some other way; and
  - c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be moderated.
184. Within areas defined as Heritage Coast (and that do not already fall within one of the designated areas mentioned in paragraph 182), planning policies and decisions should be consistent with the special character of the area and the importance of its conservation. Major development within a Heritage Coast is unlikely to be appropriate, unless it is compatible with its special character.

## Habitats and biodiversity

185. To protect and enhance biodiversity and geodiversity, plans should:
- a) Identify, map and safeguard components of local wildlife-rich habitats and wider ecological networks, including the hierarchy of international, national and locally designated sites of importance for biodiversity<sup>65</sup>; wildlife corridors and stepping stones that connect them; and areas identified by national and local partnerships for habitat management, enhancement, restoration or creation<sup>66</sup>; and
  - b) promote the conservation, restoration and enhancement of priority habitats, ecological networks and the protection and recovery of priority species; and identify and pursue opportunities for securing measurable net gains for biodiversity.

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<sup>63</sup> *English National Parks and the Broads: UK Government Vision and Circular 2010* provides further guidance and information about their statutory purposes, management and other matters.

<sup>64</sup> For the purposes of paragraphs 182 and 183, whether a proposal is 'major development' is a matter for the decision maker, taking into account its nature, scale and setting, and whether it could have a significant adverse impact on the purposes for which the area has been designated or defined.

<sup>65</sup> Circular 06/2005 provides further guidance in respect of statutory obligations for biodiversity and geological conservation and their impact within the planning system.

<sup>66</sup> Where areas that are part of the Nature Recovery Network are identified in plans, it may be appropriate to specify the types of development that may be suitable within them.

186. When determining planning applications, local planning authorities should apply the following principles:
- a) if significant harm to biodiversity resulting from a development cannot be avoided (through locating on an alternative site with less harmful impacts), adequately mitigated, or, as a last resort, compensated for, then planning permission should be refused;
  - b) development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted. The only exception is where the benefits of the development in the location proposed clearly outweigh both its likely impact on the features of the site that make it of special scientific interest, and any broader impacts on the national network of Sites of Special Scientific Interest;
  - c) development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons<sup>67</sup> and a suitable compensation strategy exists; and
  - d) development whose primary objective is to conserve or enhance biodiversity should be supported; while opportunities to improve biodiversity in and around developments should be integrated as part of their design, especially where this can secure measurable net gains for biodiversity or enhance public access to nature where this is appropriate.
187. The following should be given the same protection as habitats sites:
- a) potential Special Protection Areas and possible Special Areas of Conservation;
  - b) listed or proposed Ramsar sites<sup>68</sup>; and
  - c) sites identified, or required, as compensatory measures for adverse effects on habitats sites, potential Special Protection Areas, possible Special Areas of Conservation, and listed or proposed Ramsar sites.
188. The presumption in favour of sustainable development does not apply where the plan or project is likely to have a significant effect on a habitats site (either alone or in combination with other plans or projects), unless an appropriate assessment has concluded that the plan or project will not adversely affect the integrity of the habitats site.

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<sup>67</sup> For example, infrastructure projects (including nationally significant infrastructure projects, orders under the Transport and Works Act and hybrid bills), where the public benefit would clearly outweigh the loss or deterioration of habitat.

<sup>68</sup> Potential Special Protection Areas, possible Special Areas of Conservation and proposed Ramsar sites are sites on which Government has initiated public consultation on the scientific case for designation as a Special Protection Area, candidate Special Area of Conservation or Ramsar site.

## Ground conditions and pollution

189. Planning policies and decisions should ensure that:
- a) a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);
  - b) after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and
  - c) adequate site investigation information, prepared by a competent person, is available to inform these assessments.
190. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.
191. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:
- a) mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life<sup>69</sup>;
  - b) identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and
  - c) limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.
192. Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.

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<sup>69</sup> See Explanatory Note to the *Noise Policy Statement for England* (Department for Environment, Food & Rural Affairs, 2010).

193. Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.
194. The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities.



# 16. Conserving and enhancing the historic environment

195. Heritage assets range from sites and buildings of local historic value to those of the highest significance, such as World Heritage Sites which are internationally recognised to be of Outstanding Universal Value<sup>70</sup>. These assets are an irreplaceable resource, and should be conserved in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life of existing and future generations<sup>71</sup>.
196. Plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats. This strategy should take into account:
- a) the desirability of sustaining and enhancing the significance of heritage assets, and putting them to viable uses consistent with their conservation;
  - b) the wider social, cultural, economic and environmental benefits that conservation of the historic environment can bring;
  - c) the desirability of new development making a positive contribution to local character and distinctiveness; and
  - d) opportunities to draw on the contribution made by the historic environment to the character of a place.
197. When considering the designation of conservation areas, local planning authorities should ensure that an area justifies such status because of its special architectural or historic interest, and that the concept of conservation is not devalued through the designation of areas that lack special interest.
198. Local planning authorities should maintain or have access to a historic environment record. This should contain up-to-date evidence about the historic environment in their area and be used to:
- a) assess the significance of heritage assets and the contribution they make to their environment; and
  - b) predict the likelihood that currently unidentified heritage assets, particularly sites of historic and archaeological interest, will be discovered in the future.

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<sup>70</sup> Some World Heritage Sites are inscribed by UNESCO to be of natural significance rather than cultural significance; and in some cases they are inscribed for both their natural and cultural significance.

<sup>71</sup> The policies set out in this chapter relate, as applicable, to the heritage-related consent regimes for which local planning authorities are responsible under the Planning (Listed Buildings and Conservation Areas) Act 1990, as well as to plan-making and decision-making.

199. Local planning authorities should make information about the historic environment, gathered as part of policy-making or development management, publicly accessible.

## Proposals affecting heritage assets

200. In determining applications, local planning authorities should require an applicant to describe the significance of any heritage assets affected, including any contribution made by their setting. The level of detail should be proportionate to the assets' importance and no more than is sufficient to understand the potential impact of the proposal on their significance. As a minimum the relevant historic environment record should have been consulted and the heritage assets assessed using appropriate expertise where necessary. Where a site on which development is proposed includes, or has the potential to include, heritage assets with archaeological interest, local planning authorities should require developers to submit an appropriate desk-based assessment and, where necessary, a field evaluation.
201. Local planning authorities should identify and assess the particular significance of any heritage asset that may be affected by a proposal (including by development affecting the setting of a heritage asset) taking account of the available evidence and any necessary expertise. They should take this into account when considering the impact of a proposal on a heritage asset, to avoid or minimise any conflict between the heritage asset's conservation and any aspect of the proposal.
202. Where there is evidence of deliberate neglect of, or damage to, a heritage asset, the deteriorated state of the heritage asset should not be taken into account in any decision.
203. In determining applications, local planning authorities should take account of:
- a) the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
  - b) the positive contribution that conservation of heritage assets can make to sustainable communities including their economic vitality; and
  - c) the desirability of new development making a positive contribution to local character and distinctiveness.
204. In considering any applications to remove or alter a historic statue, plaque, memorial or monument (whether listed or not), local planning authorities should have regard to the importance of their retention in situ and, where appropriate, of explaining their historic and social context rather than removal.

## Considering potential impacts

205. When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.
206. Any harm to, or loss of, the significance of a designated heritage asset (from its alteration or destruction, or from development within its setting), should require clear and convincing justification. Substantial harm to or loss of:
- a) grade II listed buildings, or grade II registered parks or gardens, should be exceptional;
  - b) assets of the highest significance, notably scheduled monuments, protected wreck sites, registered battlefields, grade I and II\* listed buildings, grade I and II\* registered parks and gardens, and World Heritage Sites, should be wholly exceptional<sup>72</sup>.
207. Where a proposed development will lead to substantial harm to (or total loss of significance of) a designated heritage asset, local planning authorities should refuse consent, unless it can be demonstrated that the substantial harm or total loss is necessary to achieve substantial public benefits that outweigh that harm or loss, or all of the following apply:
- a) the nature of the heritage asset prevents all reasonable uses of the site; and
  - b) no viable use of the heritage asset itself can be found in the medium term through appropriate marketing that will enable its conservation; and
  - c) conservation by grant-funding or some form of not for profit, charitable or public ownership is demonstrably not possible; and
  - d) the harm or loss is outweighed by the benefit of bringing the site back into use.
208. Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal including, where appropriate, securing its optimum viable use.
209. The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.

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<sup>72</sup> Non-designated heritage assets of archaeological interest, which are demonstrably of equivalent significance to scheduled monuments, should be considered subject to the policies for designated heritage assets.

210. Local planning authorities should not permit the loss of the whole or part of a heritage asset without taking all reasonable steps to ensure the new development will proceed after the loss has occurred.
211. Local planning authorities should require developers to record and advance understanding of the significance of any heritage assets to be lost (wholly or in part) in a manner proportionate to their importance and the impact, and to make this evidence (and any archive generated) publicly accessible<sup>73</sup>. However, the ability to record evidence of our past should not be a factor in deciding whether such loss should be permitted.
212. Local planning authorities should look for opportunities for new development within Conservation Areas and World Heritage Sites, and within the setting of heritage assets, to enhance or better reveal their significance. Proposals that preserve those elements of the setting that make a positive contribution to the asset (or which better reveal its significance) should be treated favourably.
213. Not all elements of a Conservation Area or World Heritage Site will necessarily contribute to its significance. Loss of a building (or other element) which makes a positive contribution to the significance of the Conservation Area or World Heritage Site should be treated either as substantial harm under paragraph 207 or less than substantial harm under paragraph 208, as appropriate, taking into account the relative significance of the element affected and its contribution to the significance of the Conservation Area or World Heritage Site as a whole.
214. Local planning authorities should assess whether the benefits of a proposal for enabling development, which would otherwise conflict with planning policies but which would secure the future conservation of a heritage asset, outweigh the disbenefits of departing from those policies.

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<sup>73</sup> Copies of evidence should be deposited with the relevant historic environment record, and any archives with a local museum or other public depository.

# 17. Facilitating the sustainable use of minerals

215. It is essential that there is a sufficient supply of minerals to provide the infrastructure, buildings, energy and goods that the country needs. Since minerals are a finite natural resource, and can only be worked where they are found, best use needs to be made of them to secure their long-term conservation.
216. Planning policies should:
- a) provide for the extraction of mineral resources of local and national importance, but not identify new sites or extensions to existing sites for peat extraction;
  - b) so far as practicable, take account of the contribution that substitute or secondary and recycled materials and minerals waste would make to the supply of materials, before considering extraction of primary materials, whilst aiming to source minerals supplies indigenously;
  - c) safeguard mineral resources by defining Mineral Safeguarding Areas and Mineral Consultation Areas<sup>74</sup>; and adopt appropriate policies so that known locations of specific minerals resources of local and national importance are not sterilised by non-mineral development where this should be avoided (whilst not creating a presumption that the resources defined will be worked);
  - d) set out policies to encourage the prior extraction of minerals, where practical and environmentally feasible, if it is necessary for non-mineral development to take place;
  - e) safeguard existing, planned and potential sites for: the bulk transport, handling and processing of minerals; the manufacture of concrete and concrete products; and the handling, processing and distribution of substitute, recycled and secondary aggregate material;
  - f) set out criteria or requirements to ensure that permitted and proposed operations do not have unacceptable adverse impacts on the natural and historic environment or human health, taking into account the cumulative effects of multiple impacts from individual sites and/or a number of sites in a locality;
  - g) when developing noise limits, recognise that some noisy short-term activities, which may otherwise be regarded as unacceptable, are unavoidable to facilitate minerals extraction; and
  - h) ensure that worked land is reclaimed at the earliest opportunity, taking account of aviation safety, and that high quality restoration and aftercare of mineral sites takes place.
217. When determining planning applications, great weight should be given to the benefits of mineral extraction, including to the economy<sup>75</sup>. In considering proposals

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<sup>74</sup> Primarily in two tier areas as stated in Annex 2: Glossary

<sup>75</sup> Except in relation to the extraction of coal, where the policy at paragraph 223 of this Framework applies.

for mineral extraction, minerals planning authorities should:

- a) as far as is practical, provide for the maintenance of landbanks of non-energy minerals from outside National Parks, the Broads, Areas of Outstanding Natural Beauty and World Heritage Sites, scheduled monuments and conservation areas;
- b) ensure that there are no unacceptable adverse impacts on the natural and historic environment, human health or aviation safety, and take into account the cumulative effect of multiple impacts from individual sites and/or from a number of sites in a locality;
- c) ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source<sup>76</sup>, and establish appropriate noise limits for extraction in proximity to noise sensitive properties;
- d) not grant planning permission for peat extraction from new or extended sites;
- e) provide for restoration and aftercare at the earliest opportunity, to be carried out to high environmental standards, through the application of appropriate conditions. Bonds or other financial guarantees to underpin planning conditions should only be sought in exceptional circumstances;
- f) consider how to meet any demand for the extraction of building stone needed for the repair of heritage assets, taking account of the need to protect designated sites; and
- g) recognise the small-scale nature and impact of building and roofing stone quarries, and the need for a flexible approach to the duration of planning permissions reflecting the intermittent or low rate of working at many sites.

218. Local planning authorities should not normally permit other development proposals in Mineral Safeguarding Areas if it might constrain potential future use for mineral working.

## Maintaining supply

219. Minerals planning authorities should plan for a steady and adequate supply of aggregates by:

- a) preparing an annual Local Aggregate Assessment, either individually or jointly, to forecast future demand, based on a rolling average of 10 years' sales data and other relevant local information, and an assessment of all supply options (including marine dredged, secondary and recycled sources);
- b) participating in the operation of an Aggregate Working Party and taking the advice of that party into account when preparing their Local Aggregate Assessment;
- c) making provision for the land-won and other elements of their Local Aggregate

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<sup>76</sup> National planning guidance on minerals sets out how these policies should be implemented.

Assessment in their mineral plans, taking account of the advice of the Aggregate Working Parties and the National Aggregate Co-ordinating Group as appropriate. Such provision should take the form of specific sites, preferred areas and/or areas of search and locational criteria as appropriate;

- d) taking account of any published National and Sub National Guidelines on future provision which should be used as a guideline when planning for the future demand for and supply of aggregates;
- e) using landbanks of aggregate minerals reserves principally as an indicator of the security of aggregate minerals supply, and to indicate the additional provision that needs to be made for new aggregate extraction and alternative supplies in mineral plans;
- f) maintaining landbanks of at least 7 years for sand and gravel and at least 10 years for crushed rock, whilst ensuring that the capacity of operations to supply a wide range of materials is not compromised<sup>77</sup>;
- g) ensuring that large landbanks bound up in very few sites do not stifle competition; and
- h) calculating and maintaining separate landbanks for any aggregate materials of a specific type or quality which have a distinct and separate market.

220. Minerals planning authorities should plan for a steady and adequate supply of industrial minerals by:

- a) co-operating with neighbouring and more distant authorities to ensure an adequate provision of industrial minerals to support their likely use in industrial and manufacturing processes;
- b) encouraging safeguarding or stockpiling so that important minerals remain available for use;
- c) maintaining a stock of permitted reserves to support the level of actual and proposed investment required for new or existing plant, and the maintenance and improvement of existing plant and equipment<sup>78</sup>; and
- d) taking account of the need for provision of brick clay from a number of different sources to enable appropriate blends to be made.

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<sup>77</sup> Longer periods may be appropriate to take account of the need to supply a range of types of aggregates, locations of permitted reserves relative to markets, and productive capacity of permitted sites.

<sup>78</sup> These reserves should be at least 10 years for individual silica sand sites; at least 15 years for cement primary (chalk and limestone) and secondary (clay and shale) materials to maintain an existing plant, and for silica sand sites where significant new capital is required; and at least 25 years for brick clay, and for cement primary and secondary materials to support a new kiln.

## Oil, gas and coal exploration and extraction

221. Minerals planning authorities should:

- a) when planning for on-shore oil and gas development, clearly distinguish between, and plan positively for, the three phases of development (exploration, appraisal and production), whilst ensuring appropriate monitoring and site restoration is provided for;
- b) encourage underground gas and carbon storage and associated infrastructure if local geological circumstances indicate its feasibility;
- c) indicate any areas where coal extraction and the disposal of colliery spoil may be acceptable;
- d) encourage the capture and use of methane from coal mines in active and abandoned coalfield areas; and
- e) provide for coal producers to extract separately, and if necessary stockpile, fireclay so that it remains available for use.

222. When determining planning applications, minerals planning authorities should ensure that the integrity and safety of underground storage facilities are appropriate, taking into account the maintenance of gas pressure, prevention of leakage of gas and the avoidance of pollution.

223. Planning permission should not be granted for the extraction of coal unless:

- a) the proposal is environmentally acceptable, or can be made so by planning conditions or obligations; or
- b) if it is not environmentally acceptable, then it provides national, local or community benefits which clearly outweigh its likely impacts (taking all relevant matters into account, including any residual environmental impacts).



# Annex 1: Implementation

## For the purposes of decision-making

224. The policies in this Framework are material considerations which should be taken into account in dealing with applications from the day of its publication<sup>79</sup>. Plans may also need to be revised to reflect policy changes which this Framework has made.
225. However, existing policies should not be considered out-of-date simply because they were adopted or made prior to the publication of this Framework. Due weight should be given to them, according to their degree of consistency with this Framework (the closer the policies in the plan to the policies in the Framework, the greater the weight that may be given).
226. From the date of publication of this revision of the Framework, for decision-making purposes only, certain local planning authorities will only be required to identify and update annually a supply of specific deliverable sites sufficient to provide a minimum of four years' worth of housing (with a buffer, if applicable, as set out in paragraph 77) against the housing requirement set out in adopted strategic policies, or against local housing need where the strategic policies are more than five years old<sup>80</sup>, instead of a minimum of five years as set out in paragraph 77 of this Framework. This policy applies to those authorities which have an emerging local plan that has either been submitted for examination or has reached Regulation 18 or Regulation 19 (Town and Country Planning (Local Planning) (England) Regulations 2012) stage, including both a policies map and proposed allocations towards meeting housing need. This provision does not apply to authorities who are not required to demonstrate a housing land supply, as set out in paragraph 76. These arrangements will apply for a period of two years from the publication date of this revision of the Framework.

## For the purposes of plan-making

227. The policies in the original National Planning Policy Framework published in March 2012 will apply for the purpose of examining plans, where those plans were submitted on or before 24 January 2019. Where such plans are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan produced for the area concerned.
228. For the purposes of the policy on larger-scale development in paragraph 22, this applies only to plans that have not reached Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (pre-submission) stage at the point the previous version of this Framework was published on 20

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<sup>79</sup> As an exception to this, the policy contained in paragraph 76 and the related reference in footnote 8 of this Framework should only be taken into account as a material consideration when dealing with applications made on or after the date of publication of this version of the Framework.

<sup>80</sup> Unless these strategic policies have been reviewed and found not to require updating. Where local housing need is used as the basis for assessing whether a four year supply of specific deliverable sites exists, it should be calculated using the standard method set out in national planning guidance.

July 2021 (for Spatial Development Strategies this would refer to consultation under section 335(2) of the Greater London Authority Act 1999).

229. For the purposes of the policy on renewable and low carbon energy and heat in plans in paragraph 160, this policy does not apply to plans that have reached Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (pre-submission) stage, or that reach this stage within three months of the date of publication of the previous version of this Framework published on 5 September 2023. For Spatial Development Strategies, paragraph 160 does not apply to strategies that have reached consultation under section 335(2) of the Greater London Authority Act 1999 or that reach this stage within three months of the date of publication of the previous version of this Framework published on 5 September 2023.
230. The policies in this Framework (published on 19 December 2023) will apply for the purpose of examining plans, where those plans reach regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (pre-submission) stage after 19 March 2024. Plans that reach pre-submission consultation on or before this date will be examined under the relevant previous version of the Framework in accordance with the above arrangements. For Spatial Development Strategies, this Framework applies to strategies that have reached consultation under section 335(2) of the Greater London Authority Act 1999 after 19 March 2024. Strategies that reach this stage on or before this date will be examined under the relevant previous version of the Framework in accordance with the above arrangements. Where plans or strategies are withdrawn or otherwise do not proceed to become part of the development plan, the policies contained in this Framework will apply to any subsequent plan or strategy produced for the area concerned.
231. The Government will continue to explore with individual areas the potential for planning freedoms and flexibilities, for example where this would facilitate an increase in the amount of housing that can be delivered.

## Annex 2: Glossary

**Affordable housing:** housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions<sup>81</sup>:

- a) **Affordable housing for rent:** meets all of the following conditions: (a) the rent is set in accordance with the Government's rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); (b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent).
- b) **Starter homes:** is as specified in Sections 2 and 3 of the Housing and Planning Act 2016 and any secondary legislation made under these sections. The definition of a starter home should reflect the meaning set out in statute and any such secondary legislation at the time of plan-preparation or decision-making. Where secondary legislation has the effect of limiting a household's eligibility to purchase a starter home to those with a particular maximum level of household income, those restrictions should be used.
- c) **Discounted market sales housing:** is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.
- d) **Other affordable routes to home ownership:** is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision, or refunded to Government or the relevant authority specified in the funding agreement.

**Air quality management areas:** Areas designated by local authorities because they are not likely to achieve national air quality objectives by the relevant deadlines.

**Ancient or veteran tree:** A tree which, because of its age, size and condition, is of exceptional biodiversity, cultural or heritage value. All ancient trees are veteran trees. Not all veteran trees are old enough to be ancient, but are old relative to other trees of the same species. Very few trees of any species reach the ancient life-stage.

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<sup>81</sup> This definition should be read in conjunction with relevant policy contained in the Affordable Homes Update Written Ministerial Statement published on 24 May 2021.

**Ancient woodland:** An area that has been wooded continuously since at least 1600 AD. It includes ancient semi-natural woodland and plantations on ancient woodland sites (PAWS).

**Annual position statement:** A document setting out the 5 year housing land supply position on 1st April each year, prepared by the local planning authority in consultation with developers and others who have an impact on delivery.

**Archaeological interest:** There will be archaeological interest in a heritage asset if it holds, or potentially holds, evidence of past human activity worthy of expert investigation at some point.

**Article 4 direction:** A direction made under [Article 4 of the Town and Country Planning \(General Permitted Development\) \(England\) Order 2015](#) which withdraws permitted development rights granted by that Order.

**Best and most versatile agricultural land:** Land in grades 1, 2 and 3a of the Agricultural Land Classification.

**Brownfield land:** See Previously developed land.

**Brownfield land registers:** Registers of previously developed land that local planning authorities consider to be appropriate for residential development, having regard to criteria in the Town and Country Planning (Brownfield Land Registers) Regulations 2017. Local planning authorities will be able to trigger a grant of permission in principle for residential development on suitable sites in their registers where they follow the required procedures.

**Build to Rent:** Purpose built housing that is typically 100% rented out. It can form part of a wider multi-tenure development comprising either flats or houses, but should be on the same site and/or contiguous with the main development. Schemes will usually offer longer tenancy agreements of three years or more, and will typically be professionally managed stock in single ownership and management control.

**Climate change adaptation:** Adjustments made to natural or human systems in response to the actual or anticipated impacts of climate change, to mitigate harm or exploit beneficial opportunities.

**Climate change mitigation:** Action to reduce the impact of human activity on the climate system, primarily through reducing greenhouse gas emissions.

**Coastal change management area:** An area identified in plans as likely to be affected by physical change to the shoreline through erosion, coastal landslip, permanent inundation or coastal accretion.

**Community forest:** An area identified through the England Community Forest Programme to revitalise countryside and green space in and around major conurbations.

**Community Right to Build Order:** An Order made by the local planning authority (under the Town and Country Planning Act 1990) that grants planning permission for a site-specific development proposal or classes of development.

**Community-led developments:** A development instigated and taken forward by a not-for-profit organisation set up and run primarily for the purpose of meeting the housing needs of its members and the wider local community, rather than being a primarily commercial enterprise. The organisation is created, managed and democratically controlled by its members. It may take any one of various legal forms including a community land trust, housing co-operative and community benefit society. Membership of the organisation is open to all beneficiaries and prospective beneficiaries of that organisation. The organisation should own, manage or steward the homes in a manner consistent with its purpose, for example through a mutually supported arrangement with a Registered Provider of Social Housing. The benefits of the development to the specified community should be clearly defined and consideration given to how these benefits can be protected over time, including in the event of the organisation being wound up.

**Competent person (to prepare site investigation information):** A person with a recognised relevant qualification, sufficient experience in dealing with the type(s) of pollution or land instability, and membership of a relevant professional organisation.

**Conservation (for heritage policy):** The process of maintaining and managing change to a heritage asset in a way that sustains and, where appropriate, enhances its significance.

**Decentralised energy:** Local renewable and local low carbon energy sources.

**Deliverable:** To be considered deliverable, sites for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years. In particular:

- a) sites which do not involve major development and have planning permission, and all sites with detailed planning permission, should be considered deliverable until permission expires, unless there is clear evidence that homes will not be delivered within five years (for example because they are no longer viable, there is no longer a demand for the type of units or sites have long term phasing plans).
- b) where a site has outline planning permission for major development, has been allocated in a development plan, has a grant of permission in principle, or is identified on a brownfield register, it should only be considered deliverable where there is clear evidence that housing completions will begin on site within five years.

**Design code:** A set of illustrated design requirements that provide specific, detailed parameters for the physical development of a site or area. The graphic and written components of the code should build upon a design vision, such as a masterplan or other design and development framework for a site or area.

**Design guide:** A document providing guidance on how development can be carried out in accordance with good design practice, often produced by a local authority.

**Designated heritage asset:** A World Heritage Site, Scheduled Monument, Listed Building, Protected Wreck Site, Registered Park and Garden, Registered Battlefield or Conservation Area designated under the relevant legislation.

**Designated rural areas:** National Parks, Areas of Outstanding Natural Beauty and areas designated as 'rural' under Section 157 of the Housing Act 1985.

**Developable:** To be considered developable, sites should be in a suitable location for

housing development with a reasonable prospect that they will be available and could be viably developed at the point envisaged.

**Development plan:** Is defined in section 38 of the Planning and Compulsory Purchase Act 2004, and includes adopted local plans, neighbourhood plans that have been made and published spatial development strategies, together with any regional strategy policies that remain in force. Neighbourhood plans that have been approved at referendum are also part of the development plan, unless the local planning authority decides that the neighbourhood plan should not be made.

**Edge of centre:** For retail purposes, a location that is well connected to, and up to 300 metres from, the primary shopping area. For all other main town centre uses, a location within 300 metres of a town centre boundary. For office development, this includes locations outside the town centre but within 500 metres of a public transport interchange. In determining whether a site falls within the definition of edge of centre, account should be taken of local circumstances.

**Environmental impact assessment:** A procedure to be followed for certain types of project to ensure that decisions are made in full knowledge of any likely significant effects on the environment.

**Essential local workers:** Public sector employees who provide frontline services in areas including health, education and community safety – such as NHS staff, teachers, police, firefighters and military personnel, social care and childcare workers.

**General aviation airfields:** Licenced or unlicenced aerodromes with hard or grass runways, often with extensive areas of open land related to aviation activity.

**Geodiversity:** The range of rocks, minerals, fossils, soils and landforms.

**Green infrastructure:** A network of multi-functional green and blue spaces and other natural features, urban and rural, which is capable of delivering a wide range of environmental, economic, health and wellbeing benefits for nature, climate, local and wider communities and prosperity.

**Habitats site:** Any site which would be included within the definition at regulation 8 of the Conservation of Habitats and Species Regulations 2017 for the purpose of those regulations, including candidate Special Areas of Conservation, Sites of Community Importance, Special Areas of Conservation, Special Protection Areas and any relevant Marine Sites.

**Heritage asset:** A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. It includes designated heritage assets and assets identified by the local planning authority (including local listing).

**Heritage coast:** Areas of undeveloped coastline which are managed to conserve their natural beauty and, where appropriate, to improve accessibility for visitors.

**Historic environment:** All aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past

human activity, whether visible, buried or submerged, and landscaped and planted or managed flora.

**Historic environment record:** Information services that seek to provide access to comprehensive and dynamic resources relating to the historic environment of a defined geographic area for public benefit and use.

**Housing Delivery Test:** Measures net homes delivered in a local authority area against the homes required, using national statistics and local authority data. The Secretary of State will publish the Housing Delivery Test results for each local authority in England annually.

**International, national and locally designated sites of importance for biodiversity:** All international sites (Special Areas of Conservation, Special Protection Areas, and Ramsar sites), national sites (Sites of Special Scientific Interest) and locally designated sites including Local Wildlife Sites.

**Irreplaceable habitat:** Habitats which would be technically very difficult (or take a very significant time) to restore, recreate or replace once destroyed, taking into account their age, uniqueness, species diversity or rarity. They include ancient woodland, ancient and veteran trees, blanket bog, limestone pavement, sand dunes, salt marsh and lowland fen.

**Local Development Order:** An Order made by a local planning authority (under the Town and Country Planning Act 1990) that grants planning permission for a specific development proposal or classes of development.

**Local Enterprise Partnership:** A body, designated by the Secretary of State for Housing, Communities and Local Government, established for the purpose of creating or improving the conditions for economic growth in an area.

**Local housing need:** The number of homes identified as being needed through the application of the standard method set out in national planning guidance (or, in the context of preparing strategic policies only, this may be calculated using a justified alternative approach as provided for in paragraph 61 of this Framework).

**Local Nature Partnership:** A body, designated by the Secretary of State for Environment, Food and Rural Affairs, established for the purpose of protecting and improving the natural environment in an area and the benefits derived from it.

**Local planning authority:** The public authority whose duty it is to carry out specific planning functions for a particular area. All references to local planning authority include the district council, London borough council, county council, Broads Authority, National Park Authority, the Mayor of London and a development corporation, to the extent appropriate to their responsibilities.

**Local plan:** A plan for the future development of a local area, drawn up by the local planning authority in consultation with the community. In law this is described as the development plan documents adopted under the Planning and Compulsory Purchase Act 2004. A local plan can consist of either strategic or non-strategic policies, or a combination of the two.

**Main town centre uses:** Retail development (including warehouse clubs and factory outlet centres); leisure, entertainment and more intensive sport and recreation uses (including cinemas, restaurants, drive-through restaurants, bars and pubs, nightclubs, casinos, health and fitness centres, indoor bowling centres and bingo halls); offices; and arts, culture and tourism development (including theatres, museums, galleries and concert halls, hotels and conference facilities).

**Major development**<sup>82</sup>: For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more. For non-residential development it means additional floorspace of 1,000m<sup>2</sup> or more, or a site of 1 hectare or more, or as otherwise provided in the Town and Country Planning (Development Management Procedure) (England) Order 2015.

**Major hazard sites, installations and pipelines:** Sites and infrastructure, including licensed explosive sites and nuclear installations, around which Health and Safety Executive (and Office for Nuclear Regulation) consultation distances to mitigate the consequences to public safety of major accidents may apply.

**Mansard roof:** A type of roof that is characterised by two slopes, the lower steep and the upper shallow. It is generally regarded as a suitable type of roof extension for buildings which are part of a terrace of at least three buildings and at least two stories tall, with a parapet running the entire length of the front façade (reference: Create Streets, 2021, *Living Tradition*).

**Minerals resources of local and national importance:** Minerals which are necessary to meet society's needs, including aggregates, brickclay (especially Etruria Marl and fireclay), silica sand (including high grade silica sands), coal derived fly ash in single use deposits, cement raw materials, gypsum, salt, fluorspar, shallow and deep-mined coal, oil and gas (including conventional and unconventional hydrocarbons), tungsten, kaolin, ball clay, potash, polyhalite and local minerals of importance to heritage assets and local distinctiveness.

**Mineral Consultation Area:** a geographical area based on a Mineral Safeguarding Area, where the district or borough council should consult the Mineral Planning Authority for any proposals for non-minerals development.

**Mineral Safeguarding Area:** An area designated by minerals planning authorities which covers known deposits of minerals which are desired to be kept safeguarded from unnecessary sterilisation by non-mineral development.

**National trails:** Long distance routes for walking, cycling and horse riding.

**Natural Flood Management:** managing flood and coastal erosion risk by protecting, restoring and emulating the natural 'regulating' function of catchments, rivers, floodplains and coasts.

**Nature Recovery Network:** An expanding, increasingly connected, network of wildlife-rich habitats supporting species recovery, alongside wider benefits such as carbon capture, water quality improvements, natural flood risk management and recreation. It includes the existing network of protected sites and other wildlife rich habitats as well as

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<sup>82</sup> Other than for the specific purposes of paragraphs 182 and 183 in this Framework.



and landscape or catchment scale recovery areas where there is coordinated action for species and habitats.

**Neighbourhood Development Order:** An Order made by a local planning authority (under the Town and Country Planning Act 1990) through which parish councils and neighbourhood forums can grant planning permission for a specific development proposal or classes of development.

**Neighbourhood plan:** A plan prepared by a parish council or neighbourhood forum for a designated neighbourhood area. In law this is described as a neighbourhood development plan in the Planning and Compulsory Purchase Act 2004.

**Non-strategic policies:** Policies contained in a neighbourhood plan, or those policies in a local plan that are not strategic policies.

**Older people:** People over or approaching retirement age, including the active, newly-retired through to the very frail elderly; and whose housing needs can encompass accessible, adaptable general needs housing through to the full range of retirement and specialised housing for those with support or care needs.

**Open space:** All open space of public value, including not just land, but also areas of water (such as rivers, canals, lakes and reservoirs) which offer important opportunities for sport and recreation and can act as a visual amenity.

**Original building:** A building as it existed on 1 July 1948 or, if constructed after 1 July 1948, as it was built originally.

**Out of centre:** A location which is not in or on the edge of a centre but not necessarily outside the urban area.

**Out of town:** A location out of centre that is outside the existing urban area.

**Outstanding universal value:** Cultural and/or natural significance which is so exceptional as to transcend national boundaries and to be of common importance for present and future generations. An individual Statement of Outstanding Universal Value is agreed and adopted by the UNESCO World Heritage Committee for each World Heritage Site.

**People with disabilities:** People have a disability if they have a physical or mental impairment, and that impairment has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. These persons include, but are not limited to, people with ambulatory difficulties, blindness, learning difficulties, autism and mental health needs.

**Permission in principle:** A form of planning consent which establishes that a site is suitable for a specified amount of housing-led development in principle. Following a grant of permission in principle, the site must receive a grant of technical details consent before development can proceed.

**Planning condition:** A condition imposed on a grant of planning permission (in accordance with the Town and Country Planning Act 1990) or a condition included in a Local Development Order or Neighbourhood Development Order.

**Planning obligation:** A legal agreement entered into under section 106 of the Town and Country Planning Act 1990 to mitigate the impacts of a development proposal.

**Playing field:** The whole of a site which encompasses at least one playing pitch as defined in the Town and Country Planning (Development Management Procedure) (England) Order 2015.

**Previously developed land:** Land which is or was occupied by a permanent structure, including the curtilage of the developed land (although it should not be assumed that the whole of the curtilage should be developed) and any associated fixed surface infrastructure. This excludes: land that is or was last occupied by agricultural or forestry buildings; land that has been developed for minerals extraction or waste disposal by landfill, where provision for restoration has been made through development management procedures; land in built-up areas such as residential gardens, parks, recreation grounds and allotments; and land that was previously developed but where the remains of the permanent structure or fixed surface structure have blended into the landscape.

**Primary shopping area:** Defined area where retail development is concentrated.

**Priority habitats and species:** Species and Habitats of Principal Importance included in the England Biodiversity List published by the Secretary of State under section 41 of the Natural Environment and Rural Communities Act 2006.

**Ramsar sites:** Wetlands of international importance, designated under the 1971 Ramsar Convention.

**Renewable and low carbon energy:** Includes energy for heating and cooling as well as generating electricity. Renewable energy covers those energy flows that occur naturally and repeatedly in the environment – from the wind, the fall of water, the movement of the oceans, from the sun and also from biomass and deep geothermal heat. Low carbon technologies are those that can help reduce emissions (compared to conventional use of fossil fuels).

**Rural exception sites:** Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. A proportion of market homes may be allowed on the site at the local planning authority's discretion, for example where essential to enable the delivery of affordable units without grant funding.

**Recycled aggregates:** aggregates resulting from the processing of inorganic materials previously used in construction, e.g. construction and demolition waste.

**Safeguarding zone:** An area defined in Circular 01/03: *Safeguarding aerodromes, technical sites and military explosives storage areas*, to which specific safeguarding provisions apply.

**Secondary aggregates:** aggregates from industrial wastes such as glass (cullet), incinerator bottom ash, coal derived fly ash, railway ballast, fine ceramic waste (pitcher), and scrap tyres; and industrial and minerals by-products, notably waste from china clay, coal and slate extraction and spent foundry sand. These can also include hydraulically

bound materials.

**Self-build and custom-build housing:** Housing built by an individual, a group of individuals, or persons working with or for them, to be occupied by that individual. Such housing can be either market or affordable housing. A legal definition, for the purpose of applying the Self-build and Custom Housebuilding Act 2015 (as amended), is contained in section 1(A1) and (A2) of that Act.

**Setting of a heritage asset:** The surroundings in which a heritage asset is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset, may affect the ability to appreciate that significance or may be neutral.

**Significance (for heritage policy):** The value of a heritage asset to this and future generations because of its heritage interest. The interest may be archaeological, architectural, artistic or historic. Significance derives not only from a heritage asset's physical presence, but also from its setting. For World Heritage Sites, the cultural value described within each site's Statement of Outstanding Universal Value forms part of its significance.

**Special Areas of Conservation:** Areas defined by regulation 3 of the Conservation of Habitats and Species Regulations 2017 which have been given special protection as important conservation sites.

**Special Protection Areas:** Areas classified under regulation 15 of the Conservation of Habitats and Species Regulations 2017 which have been identified as being of international importance for the breeding, feeding, wintering or the migration of rare and vulnerable species of birds.

**Site investigation information:** Includes a risk assessment of land potentially affected by contamination, or ground stability and slope stability reports, as appropriate. All investigations of land potentially affected by contamination should be carried out in accordance with established procedures (such as BS10175 Investigation of Potentially Contaminated Sites – Code of Practice).

**Site of Special Scientific Interest:** Sites designated by Natural England under the Wildlife and Countryside Act 1981.

**Spatial development strategy:** A plan containing strategic policies prepared by a Mayor or a combined authority. It includes the London Plan (prepared under provisions in the Greater London Authority Act 1999) and plans prepared by combined authorities that have been given equivalent plan-making functions by an order made under the Local Democracy, Economic Development and Construction Act 2009 (as amended).

**Stepping stones:** Pockets of habitat that, while not necessarily connected, facilitate the movement of species across otherwise inhospitable landscapes.

**Strategic environmental assessment:** A procedure (set out in the Environmental Assessment of Plans and Programmes Regulations 2004) which requires the formal environmental assessment of certain plans and programmes which are likely to have significant effects on the environment.

**Strategic policies:** Policies and site allocations which address strategic priorities in line with the requirements of Section 19 (1B-E) of the Planning and Compulsory Purchase Act 2004.

**Strategic policy-making authorities:** Those authorities responsible for producing strategic policies (local planning authorities, and elected Mayors or combined authorities, where this power has been conferred). This definition applies whether the authority is in the process of producing strategic policies or not.

**Supplementary planning documents:** Documents which add further detail to the policies in the development plan. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. Supplementary planning documents are capable of being a material consideration in planning decisions but are not part of the development plan.

**Sustainable transport modes:** Any efficient, safe and accessible means of transport with overall low impact on the environment, including walking and cycling, ultra low and zero emission vehicles, car sharing and public transport.

**Town centre:** Area defined on the local authority's policies map, including the primary shopping area and areas predominantly occupied by main town centre uses within or adjacent to the primary shopping area. References to town centres or centres apply to city centres, town centres, district centres and local centres but exclude small parades of shops of purely neighbourhood significance. Unless they are identified as centres in the development plan, existing out-of-centre developments, comprising or including main town centre uses, do not constitute town centres.

**Transport assessment:** A comprehensive and systematic process that sets out transport issues relating to a proposed development. It identifies measures required to improve accessibility and safety for all modes of travel, particularly for alternatives to the car such as walking, cycling and public transport, and measures that will be needed deal with the anticipated transport impacts of the development.

**Transport statement:** A simplified version of a transport assessment where it is agreed the transport issues arising from development proposals are limited and a full transport assessment is not required.

**Travel plan:** A long-term management strategy for an organisation or site that seeks to deliver sustainable transport objectives and is regularly reviewed.

**Wildlife corridor:** Areas of habitat connecting wildlife populations.

**Windfall sites:** Sites not specifically identified in the development plan.

# Annex 3: Flood risk vulnerability classification

## ESSENTIAL INFRASTRUCTURE

- Essential transport infrastructure (including mass evacuation routes) which has to cross the area at risk.
- Essential utility infrastructure which has to be located in a flood risk area for operational reasons, including infrastructure for electricity supply including generation, storage and distribution systems; and water treatment works that need to remain operational in times of flood.
- Wind turbines.
- Solar farms

## HIGHLY VULNERABLE

- Police and ambulance stations; fire stations and command centres; telecommunications installations required to be operational during flooding.
- Emergency dispersal points.
- Basement dwellings.
- Caravans, mobile homes and park homes intended for permanent residential use.
- Installations requiring hazardous substances consent. (Where there is a demonstrable need to locate such installations for bulk storage of materials with port or other similar facilities, or such installations with energy infrastructure or carbon capture and storage installations, that require coastal or water-side locations, or need to be located in other high flood risk areas, in these instances the facilities should be classified as 'Essential Infrastructure'.)

## MORE VULNERABLE

- Hospitals
- Residential institutions such as residential care homes, children's homes, social services homes, prisons and hostels.
- Buildings used for dwelling houses, student halls of residence, drinking establishments, nightclubs and hotels.
- Non-residential uses for health services, nurseries and educational establishments.
- Landfill\* and sites used for waste management facilities for hazardous waste.
- Sites used for holiday or short-let caravans and camping, subject to a specific warning and evacuation plan.

## LESS VULNERABLE

- Police, ambulance and fire stations which are not required to be operational during flooding.

- Buildings used for shops; financial, professional and other services; restaurants, cafes and hot food takeaways; offices; general industry, storage and distribution; non-residential institutions not included in the 'more vulnerable' class; and assembly and leisure.
- Land and buildings used for agriculture and forestry.
- Waste treatment (except landfill\* and hazardous waste facilities).
- Minerals working and processing (except for sand and gravel working).
- Water treatment works which do not need to remain operational during times of flood.
- Sewage treatment works, if adequate measures to control pollution and manage sewage during flooding events are in place.
- Car parks.

## **WATER-COMPATIBLE DEVELOPMENT**

- Flood control infrastructure.
- Water transmission infrastructure and pumping stations.
- Sewage transmission infrastructure and pumping stations.
- Sand and gravel working.
- Docks, marinas and wharves.
- Navigation facilities.
- Ministry of Defence installations.
- Ship building, repairing and dismantling, dockside fish processing and refrigeration and compatible activities requiring a waterside location.
- Water-based recreation (excluding sleeping accommodation).
- Lifeguard and coastguard stations.
- Amenity open space, nature conservation and biodiversity, outdoor sports and recreation and essential facilities such as changing rooms.
- Essential ancillary sleeping or residential accommodation for staff required by uses in this category, subject to a specific warning and evacuation plan.

\* Landfill is as defined in Schedule 10 of the Environmental Permitting (England and Wales) Regulations 2010.

Annex 2

Risk Register - 23/24

Risk Management Guidance (tmbc.gov.uk)

No	Risk Title	Consequences	Date identified	Likelihood Score	Impact score	Overall inherent risk score	Risk Assessment form completed?	Desired risk score	Mitigating actions to achieve desired risk score	Risk escalation date	Risk Owner	Date closed	Action required/ by	Review Date
5	Change in political administration or direction from administration	Delay or revisiting key aspects of the local plan, failure to meet the 'transitional arrangements' as proposed within the Levelling Up and Regeneration Act	03/02/2023	5	4	20	N	Medium	Working will all members to gain understanding and awareness of the local plan and the process. Regular member briefings. External legal and technical advice obtained to communicate to members.	03/03/2024	Philip James		31/05/2024	27/05/2024
7	Project management- timetable for local plan document, evidence and supporting documentation slips	Delay to the local plan consultation and failure to meet deadlines	03/02/2023	3	4	12	N	Medium	Regular project management meetings between PPM and PPOs; regular updates of timetable	n/a	Philip James		31/05/2024	27/05/2024
8	Staffing- further changes in staff numbers or loss of hours; unexpected absences	Delay to timetable, health and wellbeing implications for team. Delay in appointment in permanent Planning Policy Manager.	03/02/2023	5	4	20	N	Medium	Regular team meetings, 1:1s, effective file management and installation of a 'buddy' system, risk management escalation; utilising contractor staff. Smart recruitment policy and investigation of specialist support.	n/a	Philip James		31/05/2024	27/05/2024
11	DTC issues	Failure to demonstrate DTC at examination or other issues raised prior to in consultations; issues with neighbouring boroughs	03/02/2023	3	4	12	N	Medium	Developing a robust PM system, new DTC grid and legal compliance toolkit at an early stage	n/a	Philip James		31/05/2024	27/05/2024
20	Consultation database, GDPR and privacy notice issues	Failure of management of the database	02/03/2023	3	4	12	N	Medium	Liaising with legal, keeping them informed of current process, setting dates/timeframes for consultation database review/refresh	n/a	Philip James		31/05/2024	27/05/2024
22	Lack of design/conservation support	Lack of dedicated internal staff offering this support could lead to matters being missed in local plan, design code or decision-making compromised.	13/02/2023	4	3	12	N	Medium	Continual review of and flagging of matters relating to conservation and design- review of the design code work programme and resource requirements. Grant awarded from the Planning Skills and Delivery Fund to progress review of conservation areas. Funding anticipated April/May 24 onwards.	n/a	Philip James		31/05/2024	27/05/2024
24	Lower Thames Crossing	Stepping outside alignment with the KCC position either existing or new administration	16/03/2023	3	3	9	N	Medium	Raising awareness across the organisation and regular briefings on the LTC situation. The examination has now closed and the panel recommendation is awaited.	n/a	Bart Wren		31/05/2024	27/05/2024
25	HRA, AQ Evidence- Evidence	Delay to the critical path of evidence production and resulting impact upon local plan production and consultation process	31/03/2023	3	4	12	N	Medium	Project management approach, regular evidence base check ins, ensuring consultants and internal deadlines are met	n/a	Philip James		31/05/2024	27/05/2024
26	SA	Delay to the critical path of evidence production and resulting impact upon local plan production and consultation process	31/03/2023	3	4	12	N	Medium	Project management approach, regular evidence base check ins, ensuring consultants and internal deadlines are met	n/a	Philip James		31/05/2024	27/05/2024
27	EDNS - Evidence	Delay to the local plan production and consultation process; lack of consultant support, failure to deliver the study to time	31/03/2023	4	3	12	N	Medium	Project management approach, regular evidence base check ins, ensuring consultants and internal deadlines are met	n/a	Philip James		31/05/2024	27/05/2024
28	SFRA, L1 and L2 - Evidence	Delay to the local plan production and consultation process; Not PPG compliant as data is not available; not yet known the number of sites to be assessed which could extend cost or length or work programme. With impacts on other workstreams.	31/03/2023	3	4	12	N	Medium	Project management approach, regular evidence base check ins, ensuring consultants and internal deadlines are met	n/a	Philip James		31/05/2024	27/05/2024
31	Spatial Strategy	Delay to the critical path of evidence production and resulting impact upon local plan production and consultation process	31/03/2023	4	4	16	N	Medium	Project management approach, regular evidence base check ins, ensuring consultants and internal deadlines are met. Dissemination and approval by members.	n/a	Philip James		31/05/2024	27/05/2024
32	Green Belt - Evidence	Delay to the critical path of evidence production and resulting impact upon local plan production and consultation process. Including any delays to the procurement process or changes in scope of the work, resulting from direction or outcomes of NPPF consultation. Including development of evidence base with different implications for the outcome of	31/03/2023	3	4	12	Y	Medium	Project management approach, regular evidence base check ins, ensuring consultants and internal deadlines are met.	03/03/2024	Philip James		31/05/2024	27/05/2024
35	Transport Modelling	Delay to the critical path of evidence production and resulting impact upon local plan production and consultation process	31/03/2023	4	4	16	N	Medium	Project management approach, regular evidence base check ins, ensuring consultants and internal deadlines are met	n/a	Philip James		31/05/2024	27/05/2024
37	Amended or escalating costs of evidence base	Changes to the scope, timing or number of iterations of the evidence base requirements incurring additional costs; or amended requirements of national policy	27/06/2023	4	3	12	N	Medium	Regular financial management procedures, ensuring contracts are in place, strict project management controls	n/a	Philip James		31/05/2024	27/05/2024
39	Transition arrangements for plan making maintained and formally confirmed	Exceptionally challenging to meet the transitional arrangement- with potential for missed deadlines and the need to restart under new arrangements. This would have cost implications as some of the evidence base might not be able to be used, and would require updating. Validity of some evidence base questioned and new evidence with additional costs. Currently the government are stating that plans commencing under the new system would be put into phases or tranches, which could mean that the council would not be permitted to commence plan making again until an undisclosed future time period.	28/12/2023	5	4	20	N	Medium	Continue to liaise with members to keep them informed of any changes and timescales for reform; ensure flexibility within new evidence base commissions and budgets. Submission of response to the government's consultation with strong opposition to the deadlines imposed in light of uncertainty regarding the NPPF finalisation.	03/03/2024	Philip James		31/05/2024	27/05/2024

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## TONBRIDGE & MALLING BOROUGH COUNCIL

### HOUSING AND PLANNING SCRUTINY SELECT COMMITTEE

19 March 2024

Report of the Director of Planning, Housing and Environmental Health

#### Part 1- Public

#### Matters for Recommendation to Cabinet - Non-Key Decision

#### 1 **TEMPORARY ACCOMMODATION AND HOMELESSNESS CONSULTANCY REVIEW**

##### Summary

This report updates Members on a recent consultancy review of temporary accommodation and homelessness. A copy of the consultant's report is provided. The report also seeks Members agreement to an action plan to implement the recommendations from the report.

#### 1.1 Background

Housing consultants, Andy Gale and Anna Whalen, reviewed our temporary accommodation and homelessness service in December 2023. This follows a similar review they undertook two years previously. They sought to review the progress we had made and identify further improvements that we could make.

#### 1.2 Report

1.2.1 A copy of the final report is provided at Annex 1.

1.2.2 Members will see that the housing team has made significant progress since the last review. The consultants note that we have managed to reduce the numbers of households in temporary accommodation when almost all other local authorities have seen a rise. Our significant progress on prevention work is highlighted and our temporary accommodation rate per 1,000 households is now below the South East and all England average.

1.2.3 The consultants note that given the continued demands on homelessness services and need for temporary accommodation we will be unable to buck this trend and to continue to manage our temporary accommodation numbers we need to have a service that is working at the maximum level of efficiency and effectiveness.

1.2.4 The report provides a number of recommendations where we need to renew our focus and practice to ensure that we are doing all we can to manage demand.

### 1.3 Action Plan

- 1.3.1 An action plan is provided at Annex 2. This brings together all the recommendations from the report. An ambitious timetable is provided for this plan, this has been influenced by current priorities within the service and the need to carefully manage change for the teams. An integral part of our approach to implementing these actions will be to support and train staff to ensure a knowledgeable and confident approach to all aspects of the work.

### 1.4 Legal Implications

- 1.4.1 The Housing Act 1996 provides the statutory basis for homelessness and temporary accommodation duties.
- 1.4.2 The Homelessness Reduction Act 2017 places duties on local authorities to intervene at earlier stages to prevent homelessness and provide home services to all those affected.

### 1.5 Financial and Value for Money Considerations

- 1.5.1 The Council receives an annual Homelessness Prevention Grant allocation towards its homelessness duties.
- 1.5.2 Most of these recommendations can be completed within existing resources including use of the Homelessness Prevention Grant.
- 1.5.3 The recommendations on staffing have still to be fully considered and at this stage it is unknown if proposals could result in growth to the establishment. Further reporting to Members on this will follow as required.

### 1.6 Risk Assessment

- 1.6.1 If the recommendations from this report are not fully implemented there is a risk that numbers in temporary accommodation will increase more than they would otherwise thus having a negative impact on the Council's finances.

### 1.7 Recommendations

- 1.7.1 It is **RECOMMENDED** that Members **NOTE** the temporary accommodation and homelessness service review report provided at Annex 1;
- 1.7.2 It is **RECOMMENDED** that Members **APPROVE** the action plan provided at Annex 2.

Background papers:

contact: Linda Hibbs

Nil

Eleanor Hoyle  
Director of Planning, Housing and Environmental Health

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## **ANNEX 1**

### **Tonbridge and Malling Borough Council**

#### **A review of progress and challenges in management of statutory homelessness and Temporary Accommodation over the last 24 months**

**Andy Gale and Anna Whalen**

**31st January 2024**

#### **Introduction:**

In October 2021 Andy Gale and Anna Whalen, housing consultants, were commissioned by Tonbridge and Malling Borough Council (TMBC) to undertake a review of the use of Temporary Accommodation (TA) for homeless households. The purpose of the review was to pinpoint areas of improvement which would assist TMBC to reduce the use of TA.

The review findings were set out in a report with a series of recommended actions in the form of a TA reduction plan. A TA target was suggested to halve the number of households in TA from around 160 households to 80 households by late 2022. Because this was an ambitious target and was subject to several unknowns and variables, it was suggested that there was a 'threshold' position of 100 households in TA by the end of 2022. If the 80 households target was not achieved, but the figure was around 100, this would be clear evidence that significant progress had been made.

Since the report TMBC has managed to reduce TA at a time when almost all other local authorities have seen TA rise. There have been improvements based on several of the areas set out in the TA reduction plan from 2021, but there are also key challenges that TMBC face. Many of these are shared by local authorities around the country at the moment, but that knowledge is of no direct help to any council which wants to do all it can within its power to keep homelessness to a minimum. Tangible actions locally are needed to mitigate the impacts of some national issues.

In December 2023 the Council commissioned the same consultants to do a short review the work to date with the focus on keeping TA numbers to a minimum. TMBC requested that the following questions were covered:

- a) What has changed in the national and regional context since the previous TA review and how should this impact on our approach and targets?
- b) Have the process changes that have been implemented to date been successful and what additional process changes could aid efficiency in the service?
- c) Are our policies for TA (TA Policy, PRS Discharge Policy) sufficiently robust?
- d) Could some advice be given on accessing the PRS and the process for evidencing the route to finding a PRS offer, potentially out of borough
- e) How can we strengthen our Personal Housing Plans and develop our suite of advice on accessing the PRS?
- f) Given the work by Altair on our options for our TA portfolio, what would the advice be on additional HMO accommodation as identified in the last review?
- g) Given caseloads currently and likely future caseloads given the national context, how should the service structure itself to meet these challenges?

- h) Should the increased focus on prevention be maintained or increased? What is a reasonable target caseload for officers?
- i) Is the monitoring regime that is in place sufficiently robust?
- j) What additional training/support could we offer to staff to ensure that they are able to efficiently and effectively deliver the Service?
- k) Is our approach to lessons learnt and feedback to staff sufficient to support service development?

**The national context: Councils are facing an unprecedented homelessness crisis feeding through to higher TA numbers and costs**

Local authorities in England are experiencing exceptional homelessness pressures which are in turn driving up temporary accommodation (TA) numbers and costs to unsustainable levels. This is having a significant negative impact on the Council's General Fund (GF) budget and reserves.

There have been significant policy, social and economic changes that are impacting on homelessness demand. They include:

- a) Rising levels of poverty and debt as the cost-of-living crisis impacts more significantly on lower income households than those more able to manage household costs rising. Inflation has slowed but is still rising.
- b) The national housing crisis, typified by rising rents and mortgages alongside increased competition for the private rented sector. There is little optimism that the uplift in the local housing allowance (LHA) rates from April 2024 will do much to alleviate this, especially in areas such as Kent, where the housing pressures remain acute. There is continued rising demand for and low turnover of social housing as an alternative. The intensification of the housing crisis is a key issue nationally as well as regionally.
- c) A lack of any significant economic growth in the UK over several years, with a number of economic analyses suggesting that the economy will 'flatline' for at least a year.
- d) Meeting the Government's Rough Sleeping Initiative and targets.
- e) Requests for housing assistance from new demand groups from other countries - Ukraine and Afghanistan in particular.

**The impact of financial burdens of TA:** Councils across England are reporting they are under acute financial pressures, partly caused by the cost of TA. For lower tier authorities such as TMBC, the costs of Temporary Accommodation is the most significant factor. No significant additional funding was announced in the Autumn Statement or the local government settlement in December 2023, and therefore these pressures will inevitably continue and are likely to rise in many councils.

Some councils have warned they are now at risk of bankruptcy. Since 2020, 7 local authorities have issued a Section 114 notice meaning that they are effectively bankrupt. The result of a Section 114 notice is that all new spending, with the exception of statutory services, must be severely cut or discontinued. Nottingham City Council is the latest local authority to issue a notice, with homelessness costs quoted as a significant contributing factor. In November 2023, when the notice was issued, NCC were reported to be spending £22,000 a day on use of Bed and Breakfast (B&B) as a form of TA.

Councils now face a funding gap of around £4 billion over the next two years and nearly 1 in 5 council leaders in England have said they are likely to be unable to balance the books in the last quarter of 2023 or 2024. The cost of TA is being quoted by numerous councils as a key reason for

why they are in financial difficulties, with social care costs being a major pressure as well for upper tier councils.

In 2022/23, councils reported they spent £1.74bn to support 104,000 households in temporary accommodation. This is the highest figure since records began and compares to £548 million in 2012/13.

**Numbers in TA:** The latest Government published data recorded 105,750 households in temporary accommodation on 30th June 2023, up 10.5% from the same time in 2022. Households with children increased 13.8% from 30th June 2022 to 68,070 as more landlords issued notices to end assured shorthold tenancies. Of significant concern is the fact that households with children increased by nearly 5% in just 3 months.

If TA were to rise at a rate of a 5% increase, year-on-year over the next 5 years, there would be a predicted TA figure for England of 135,000 by the end of 2028. It should be noted that a 5% rise is below the current 10% increase seen in the last year. The more likely scenario is an increase of 10% producing a TA figure of 170,300 by the end of 2028. This increase is in line with the current rate of increase and based on a 4% rise in homeless applications.

**Types of TA being used:** It is not only the rise in temporary accommodation which is driving costs, but the types of provision being used as TA. As numbers rise, many councils have been forced more regularly to use commercial hotels due to the lack of alternative options. Many rely on this type of TA in the face of rising homelessness. The use of hotels for families is now widespread across the country with many councils in breach of their legal duty to accommodate for no more than 6 weeks. In June 2023, there were 4,480 families in B&B with 2,510 reportedly in B&B for over 6 weeks.

In addition to the numbers accommodated under a statutory homelessness duty, costs of hotels are in many areas being fuelled by competing demands from other groups in housing need. There were 50,546 households seeking asylum accommodated in hotels at the end of June 2023. These are families and single people placed through the Home Office pending the outcome of an asylum claim, rather than a local authority placement.

The problem for councils is that they are often not able to procure or access the lower net cost TA options, such as social housing stock or local authority hostels, in sufficient numbers to reduce the financial impact of rising TA. Many landlords which previously might have considered long term leases are reported to have moved to more lucrative night-let accommodation. The only realistic options therefore available are all high cost hotels and nightly rate units and perhaps some leased accommodation, which is also relatively high cost.

**The impact of a rapid increase in decisions on asylum claims:** It is widely recognised that for several years Kent has been an area under pressure as an arrival point for those entering the UK and making a claim for asylum. Until recently TMBC and other lower tier councils in Kent have been largely protected from the national dispersal programme in recognition of this, but this has changed due to the Homes for Ukraine scheme and the Afghan scheme and the procurement by the Home Office of hotel and other accommodation in Kent more generally for those seeking asylum.

The pace and scale of the Government's commitment to speed up the processing time of asylum applications and clear thousands of older cases is beginning to create significant challenges for councils in terms of the impact on TA numbers in many areas. The extent of this is not yet being seen in the national homelessness statistics due to a time lag of around 5 - 6 months in publishing of data

but anecdotally some councils have noted large numbers of approaches from households which have been granted leave to remain in the UK as a refugee.

At 30 June 2023 there were around 175,000 people awaiting a decision on their asylum claim. Around 91,000 people (52% of the total backlog) had been waiting for a decision for at least a year. The Home Office are committed to making 90,000 decisions on older backlog cases by the spring of 2024. However, the reality is that the Home Office are merely transferring responsibility for accommodation from central Government to local authorities.

In total 75% of decisions made in the year to September 2023 have been to grant status whether through an award of refugee status or humanitarian protection. Once granted status refugees are given only 72 hours to leave their Home Office provided TA. Most apply to the council in which their Home Office placement was located unless they have a family or close friends already in the UK.

**Supply of affordable accommodation options:** All the indications suggest that by the end of 2023, the majority of councils have reached a 'tipping point' in respect of their ability to manage their homelessness pressures and costs. Although on the demand side, homeless applications are rising, evidenced by a 4% increase in England in the last year, what has driven the rise in TA is not so much the rise in applications, but the inability of councils to quickly access supply and move households on from TA.

As noted earlier, the number of overall social housing vacancies continues to fall and there has been a collapse of the private rented sector market as an option for low income households in particular, due to a shortage in supply coupled with a rise in market rents and competition from working households unable to buy their own home. The rise in the Local Housing Allowance rates are not likely to provide enough of an uplift to enable access to those who will need to claim housing costs.

### **Local housing pressures**

In addition to the impact of pressures at a national level, TMBC is also seeing locally a significant reduction in supported accommodation to assist with meeting the needs of some of the most vulnerable households. Recent financial decisions at county level will result in the cessation of a number of homelessness related accommodation units and support and the reconfiguration of some housing related mental health schemes. These changes will reduce the accommodation offer available to those with support needs. In addition, support for care leavers in terms of accommodation provision is being reduced from age 21 to 19. These changes will inevitably impact on homelessness and increase the risk of rough sleeping for some of the most vulnerable people in TMBC.

The stark fact is that however difficult the TA numbers and costs is for councils now, there is no light at the end of the tunnel. It could be that 2024 will see a 'perfect storm' comprising of continued rises in homelessness applications combined with a significantly reduced capacity to move households on from TA. This would see an acceleration in the number of households in TA to unprecedented levels.

### **Observations on the progress in TMBC over the last 2 years**

#### **Progress**

Whilst other sections of this report look at areas for further improvement, it is important to note what has worked well and is likely to have made a difference to customers, to Council staff morale



and budgets. Looking together at what worked well and why is a helpful exercise<sup>1</sup>, so learning can be applied to future change work, but this was beyond the remit of this short review.

In terms of performance, some of your key national statistics are set out in the table below and show considerable improvements, including the overall position in relation to TA.

**Table 1**

**Taken from the most recently published DLUHC national homelessness data set, Quarter 1 covering April - June 2023**

H-CLIC field with some explanation/comment	England %	South East %	TMBC %	Note on trends in TMBC stats in from the same quarter from April - June 2021.
<b>S195 Prevention duty owed</b> <i>Authorities can more effectively manage their services if a higher proportion of households are owed the 'prevention duty' rather than the 'relief duty',</i>	45.4%	50.9%	56.1%	This was only 22.7 % in Q1 2021/22 - compared to the 45% SE average. There has been a marked improvement in numbers being assisted at the point of a threat of homelessness, and TMBC rate is now higher than the SE rate.
<b>S189B Relief duty owed</b> <i>See above</i>	50.6%	41.9%	43.9%	Over three quarters of households came at the point of homeless in Q1 of 2021/22, with 77.3% owed the relief duty, compared to the much lower SE average of 47.4%. A marked improvement in this.
<b>S195 prevention duty ended positively</b> <i>This is a key measure for DLUHC – duties can end positively with accommodation likely to be available for at least 6 months.</i>	51.2%	52.7%	45.9%	In Q1 of 2021/22 TMBC reported only 19.2% had ended with a successful prevention compared to 54.4% as the SE average. There has been a significant improvement in this since then, with TMBC now a few percentage points behind the SE average.
<b>S195 prevention duty ended positively with the applicant retaining their current accommodation</b> <i>This is a key measure for DLUHC – duties can end positively with assistance to retain existing accommodation (the ideal outcome) or move elsewhere .</i>	33.8%	31%	29.4%	TMBC is just below the SE average and has improved from 2 households in Q1 of 2021/22 retaining their accommodation to 5 households in the same quarter of this year.
<b>% who became homeless where the s195 prevention duty ended</b> <i>This measure also indicates the extent of success in prevention activity</i>	25.1%	22.6%	18.9%	In Q1 of 2021/22, 53.8% of all prevention cases ended in homelessness, indicating a lack of control of casework at the 'front end' of the service. This is a significant improvement, a more positive position than the regional average.
<b>S189B relief duty ended positively</b> <i>The ideal is to end as many relief duties positively as after 56 days, an eligible homelessness</i>	32.8%	27.9%	18.6%	This is an area which still needs focus and additional capacity to positively end homelessness within 56 days. There has been a further decline in

<sup>1</sup> For example, applying the principles of Appreciative Inquiry (AI) can assist a council to build on what works well rather than planning change based purely on deficits.

<i>household which has a 'priority need' for accommodation and is not 'intentionally homeless' will be owed the Main duty</i>				performance of relief work, based on this statistic, which was 25% - or 15 households - in Q1 of 2021/22. In the same Quarter this year, there is a dip of 7 percentage points and only 8 households had their homelessness relieved.
<b>Relief duty % still homeless after 56 days + See above</b>	47.7%	50.3%	51.2%	Out of the 43 households in Q1 2023/24, 22 did not have their homelessness relieved and would need to go to a 'main duty' decision. It should be noted that not all the 22 households would necessarily be in TA, as some would be assessed as not having a priority need for accommodation. However, this points to the need to undertake more concentrated relief work with applicants over the first 4 – 5 weeks of the relief duty, with some tangible accommodation options available.
<b>TA rates per 1,000 households</b>	2.22 (excludes London boroughs, which would distort the rest of England - the London regional rate is 16.69)	3.09	1.93 (equates to 107 households in TA)	In June 2021 the TMBC rate was 2.84 (154 households in TA) slightly higher than the regional rate of 2.75. The TMBC TA rate is now below the South East and all England average which is a significant achievement.

Purely focussing TMBC's progress over the last 2 years on your data does not capture the 'how' – the ingredients which led to change occurring and the learning therein. The points below explain to some degree the improvements alongside the data, but the breadth and depth of improvements are much better understood by the officers in TMBC who have worked over the last 2 years on the progress made.

Based on the higher level points in the TA Reduction Action Plan from December 2021, TMBC has:

- Set up a corporate reporting structure which has met regularly to review progress. This level of commitment from senior leadership in the Council is critical to positively support the work of the Service and should offer a blend of help with resolution of problems/obstacles and constructive scrutiny. It is noted that the meetings are not occurring as they used to, and it would be timely to commence these again, given the national context and the new changes at CEO level.
- Used some of the available Homelessness Prevention Grant to add staffing in the Service. This has added capacity to improve triage, prevention, housing solutions and some management of households in TA in relation to welfare, benefit claims and checking of occupancy. All of these functions have helped to drive the performance improvements.
- Focused on improving staff morale. Whilst there are real pressures on the Service at the moment, the level of morale is better than 2 years ago. This is essential for senior leadership to understand – many homelessness services in England are depleted and reliant on agency workers, which are high cost and often work remotely only. Actively supporting staff, praising progress and appreciating their hard work is important in order to manage homelessness effectively.

- Developed the TA portfolio with more low-cost options, not least due to a much improved working relationship with Clarion, which has provided a further 14 units of social housing for TA. There is also shared TA for single people in Pembury Road, The High Street and your leased accommodation in Union Street. However, there are significant questions around the high level of voids in both the shared TA and the Clarion stock which need to be addressed.
- Commissioned a detailed report on TA procurement, which is now at a point of going to Cabinet for decision making on development of modular homes.
- Increased efficiency in the monitoring of TA standards through the Home Improvement Team, using a thorough but less resource-intensive approach.

Welcome though these improvements are it is inevitable that the Council will be unable to buck the national trend re presentations and TA pressures. Therefore, for TMBC to continue to be able to deliver a TA rate per thousand households that remains below the average for the South East of England will require a Service which is working at the maximum level of efficiency and effectiveness.

The rest of this report looks at the areas which need renewed effort and focus, because they have not progressed at a fast enough pace, as well as some areas of practice which need tightening up.

### **Conclusions and recommendations for the Housing Solutions Service following our relook at the Service.**

An important point to make before setting out our conclusions and recommendations is that as at December 2023 there are 35 households in TA who have been pre allocated a social housing property but are awaiting a tenancy date due to delays in the time taken to re-let vacant Clarion Homes. We understand that actions are being taken by Clarion to resolve the delays in reletting homes and once the 35 pre allocated homes feed through to actual tenancies this should bring TA back to under 100.

Our analysis, conclusions and recommendations need to be set against the national context regarding homelessness and TA pressures set out earlier in the report. It is inevitable that the Council will be unable to buck the national trend. There is already a significant increase in demand with the number of households approaching claiming to be homeless likely to outturn for 2023/24 at around 1500 approaches compared to 900 in 2022/23. Increased presentations will inevitably work through to more placements in TA.

Therefore, there are 3 core recommendations. These are:

1. In order for TMBC to continue to be able to deliver a TA rate per thousand households that remains significantly below the average for the South East of England will require a Housing Solutions Service that is working at the maximum level of efficiency and effectiveness, which means implementing all of the new recommendations in this report
2. Revise the TA target to reflect the national pressures. Our recommended target in 2021 was to reduce TA to 80 with a range of 80 to 100. Our revised target is 90 with a range of 90 to 120
3. Approximately 80 units of TA should be units that can be delivered at either no cost or low cost thereby significantly reducing the cost impact of nightly rate TA accommodation.

This will be extremely challenging and will require a renewed corporate focus which supports the day-to-day work of the Service, alongside leading on the development of a lower cost portfolio of upwards 80 units, which would bring further substantial savings to the TA budget.

Of concern is that the Housing Solutions Service is reported by many of the staff we spoke to during the review to be overwhelmed with the Service risking a return to the position it found itself in 2021, which was one of crisis. Staff we spoke to are finding it difficult to cope with the workload and this they say is impacting on performance although there remains a strong team ethos and commitment to the Service and the Council.

This is resulting in an increasing number of cases in TA under a relief of homelessness duty for longer than 56 days who are still awaiting a final decision on whether the main homelessness duty will be accepted or not. Delays in decision making at this stage have a negative impact on TA numbers. For those in TA where that final decision should be that no further duty is owed, they will have remained in TA far longer than would be the case if a decision had been made at the point that is legally required (at 56 days) . Moreover, the longer a household remain in TA without a decision, the more difficult it is to make, and sustain, a decision that an applicant does not have a priority need or is intentionally homeless.

**It is critically important that TMBC make permanent the Housing Solutions Service officers on fixed term contracts whose contracts are due to expire at the end of March 2024.**

Following the 2021 review TMBC agreed to implement the recommendation to increase the establishment for the Housing Solutions Team. Four additional Housing Solutions caseworkers, plus a Temporary Accommodation Welfare officer and an additional Housing Allocations Assistant were employed on fixed term contracts due to expire at the end of March 2024. The Housing Solutions caseworker posts were agreed to deal with the numbers presenting based on the numbers of approaches at the end of 2021 and we considered this to be the minimum size caseworker team to ensure that the Service operated efficiently and not in crisis mode.

In 2023 the Council has seen a significant rise in applicants approaching as homeless resulting once again in backlogs in dealing with cases. Some officers spoken to reported caseloads between 60 and 80.

It is imperative that the fixed-term posts are retained, given the national backdrop and the local increase in approaches. It is advised a clear message is given from senior leaders in the Council as soon as possible in January 2024. The rationale for this is:

- It is very unlikely that any newly-formed Government in 2024 will reduce the Homelessness Prevention Grant, given the state of statutory homelessness in England. This year your Homelessness Prevention Grant was £398,286 and this will rise slightly to £405,277 in 2024/25. Alongside your existing core budget for homelessness services, TMBC should be committing all of this to statutory homelessness each year, ideally minimising the amount spent from the Government grant on TA.
- The officers in post are already trained and working in the Service. There has already been investment of time and resource in these officers and to lose them, only to then need to replace them, would only add pressures on the Service and costs to the Council.
- The salary offer in TMBC is not competitive in comparison to surrounding councils, so not only is it more likely officers on short term contracts will leave to join other councils in the

area which pay significantly more, so it will be harder to fill any vacancies based on this factor alone.

- Deleting of posts will put the Service further into a position of crisis that TMBC has worked hard to come back from is again reached. This will mean higher caseloads; significant backlogs; cases going more readily into TA due to lack of time to make decisions; households drifting in TA without a main duty decision; slower rates of move-on from TA and risks of more complaints or legal challenge due to lack of response or poor decision making. TA numbers and costs will rise again and it will not be as straightforward to come back from this position given the national context.
- Other staff may decide to leave if posts are deleted, if they believe the workload and pressures to be unreasonable for them as individuals and the Council is not seen to be taking seriously its duty of care as an employer.
- Even if the posts are retained, any staff leaving in the next 2 months due to uncertainty of their futures is very likely to cause a dip in morale as well as increased day to day pressure on officers to cover the work whilst posts remain vacant. Staff remaining are likely to be understandably critical of senior leadership if action is not taken swiftly enough.

#### **Recommendations:**

Take swift action to retain staff on fixed term contracts through offering permanent contracts.

Work with Human Resources to address workforce planning issues around remuneration, training and development.

#### **TMBC should consider creating an Accommodation Team with responsibility for all aspects of TA and discharge of duty into the PRS.**

If you consider the structure for most Council's you will find a casework team and a temporary accommodation team. The TA team will normally also contain the responsibility for procuring PRS properties to discharge duty. This is not the structure in TMBC. There is an Accommodation Team largely focused on inspecting nightly rate TA. The team also includes the PRS access function which has not been successful for the reasons set out in this report. The Accommodation team's focus is on property rather than the people in TA. Vacant nightly rate TA is identified by the team but all aspects of matching and sign up remain the responsibility of the HSS casework team. A new fixed term post for a TA Welfare Accommodation officer as part of the HSS team was agreed after the 2021 review and that post has proven to be successful.

Working relationships between the Accommodation Team and the HSS casework team lack coordination and both teams appear to operate as 2 silos.

**Recommendation** - An Accommodation Team is established to be responsible for all aspects of temporary accommodation and accessing the private rented sector including the responsibilities for procurement, inspection, placement (including the test of suitability), and the managing of TA (including rent collection) and accessing the private rented sector to discharge duty.

The permanent TA Welfare post should be part of the new Accommodation Team along with consideration of a Move-On Officer role. (see recommendations in this report for 'move on' posts funded by unallocated HPG grant.

**There should be a simple process for allocating spending from the Council's 'Homelessness Prevention Grant' (HPG) to pay for additional staffing to tackle demand and other homelessness pressures.**

As noted in the section above, the Council was allocated £398,286 in HPG for 2022/23 with an increase in grant funding of £405,277 for 2023/24. Our understanding is that underspends are carried over and there may be around £700,000 of unallocated funding from the HPG. If this is correct, it is unclear why this figure for unallocated funding is so high, as DLUHC awards grant based on the understanding it is spent in year and the HAST Adviser team from DLUHC require councils to give an indication of what the grant has been spent on. Should there be considerable carry-over of the grant, it may be the system for making decisions on allocating funding is too bureaucratic or is perceived to be so. Regardless of the reason, given there is a significant grant funded budget available, there needs to be a change to delegated powers and a simple authorisation system put in place under which the Director of Planning, Housing & Environmental Health can agree spend using unallocated HPG. This should include agreeing to recruit additional temporary staff to deal with pressures as they emerge as and when required and spending on other initiatives to prevent and manage homelessness pressures. Below are 2 examples of where HPG grant should be used:

Example 1: We have in this report recommended that all of the current fixed term contracts should be made permanent. These posts are not we understand funded by HPG. This will bring the permanent casework staffing levels to a level that is comparable with Councils of a similar size to TMBC. However, the current caseworker numbers, including the fixed term contract posts, do not reflect the increase in approaches seen in 2023/24 which reflect the national trend. With average caseloads of between 60 and 80 cases the Service risks returning to the crisis mode of operation seen when the 2021 review was carried out. The solution is to employ additional temporary caseworkers paid for from the unallocated HPG Government grant. Arguably, this is a decision that should have been taken 6 months ago when approaches and caseloads started to increase. We do not recommend that these additional posts be made permanent, although to attract the best possible people it may be sensible to offer a fixed term contracts rather than contract agency staff. There is no additional impact on the Council's finances as they will be financed from the HPG. If the Council is concerned that HPG may be withdrawn after 2024/25 it should be noted that there is no indication that the Government will cut or remove HPG given that tackling homelessness is considered to be a top priority for the current Government and, given that there will be a General Election in 2024, major opposition parties have indicated tackling homelessness will be a priority.

Example 2: The Council needs to improve the landlord offer in order to move on more households from TA into the private rented sector (PRS) . The current landlord offer is not attracting landlords and agents. Given the current PRS market TMBC's incentive package is falling far short of what landlords now expect. To illustrate this point the average landlord incentive payment made by West London Boroughs under their out-of-London scheme is £5,500. The recommendations for improving the landlord offer are set out elsewhere in this report. This is another example where a decision to

amend the landlord offer should have been made 12 months ago when it was clear that the current offer was not working and backed by the fact that there is a significant amount of unallocated HPG available.

**A simple cost-benefit framework should be introduced so that officers are clear as to the parameters for offering financial deals to prevent homelessness.**

Prevention officers spoken to were unclear as to the threshold for offering a financial payment to resolve threats of homelessness.

**Recommendation:** For all offers to resolve and prevent homelessness for any case that would otherwise be placed into TA a cost-benefit calculation should be carried out set against the net cost of Temporary Accommodation. This will require the introduction of a cost-benefit framework with clear guidelines for officers negotiating solutions.

In developing a framework the Council should consider the fact that the average annual net cost (after DWP subsidy) of a family in 2-bed nightly let is estimated to be between £12,000 and £15,000 plus the officer time to assess and manage the case. TMBC need to decide the level at which a financial payment to, for example, a landlord would deliver value for money to the Council. Clearly, anything under £12,000 to £15,000 will deliver a saving but an offer at that level would obviously not be a sensible approach, as it would encourage more landlords to issue a notice to their tenants in order to obtain a payment. However, a 'cost-benefit' threshold of say up to £3,500 would be competitive with other councils and sensible for TMBC to improve prevention casework outcomes, thereby reducing TA, and could be used:

- a) to contribute to paying off rent arrears where this has not be caused through the fault of a tenant, or
- b) spread over a year to top-up the difference between the LHA rate in TMBC and the lower end of the market rate

**There are still some gaps identified in the HSS 'end to end' operating model that if fixed would reduce the number of households being placed into TA and speed up the numbers moving on.**

**Triaging of cases: Issue 1**

Undoubtedly the creation after the 2021 review of a dedicated Triage post performed by an experienced Housing Solutions caseworker is one of the main reasons why the numbers in TA have fallen overall since the end of 2021. The Triage officer controls the first point of contact and effectively filters cases through to either the Prevention Team or Homelessness Team. However, the number of approaches so far in 2023/24 is averaging 123 a month compared to 75 cases in 2022/23. Combined with a move to a new casework management system, this means that the 'backlog' of cases in triage has risen from 33 at the end of November 2022 to 173 by the end of November 2023. The Triage officer is overwhelmed and there is little prospect of being able to deal with the backlog with the current level of staffing for the triage function. This will inevitably impact negatively on the ability to resolve more cases at the first point of contact.

**Recommendation:** A second post for Triage should be recruited to on a temporary basis using TMBC's Homelessness Prevention Grant.

### **Triaging of cases: Issue 2**

As has already been acknowledged the introduction of a Triage role has been very successful, but as currently configured, this leaves confusion as to:

- a) whose responsibility is it for making thorough investigations into the claim of homelessness – the Triage officer or the HSS caseworker and
- b) who should issue 'not homeless' decisions

The Triage officer performs a number of important roles. These are:

- a) To decide whether presenting problem should be referred through for a full interview or not and
- b) If the case is to be referred through should it be dealt with by the Prevention Team or the team dealing with those households claiming to be already homeless, your Housing Solutions team)

Using a full year of data from 2022/23, the 3 main causes of families being placed into TA are:

- 1) A claim of exclusion from the home of parents or extended family/friends, (based on 25% of all prevention duty cases and 37% of all relief duty cases)
- 2) the issuing of a Section 21 notice by a private landlord, ( based on 25% of all prevention duty cases and 8% of all relief duty cases)
- 3) a claim that a family are homeless due to domestic abuse or other threats of violence, (based on 4% of all prevention duty cases and 21% of all relief duty cases)

There is also a high recorded figure for social housing tenants owed a prevention duty (17% of all prevention duty cases).

For Section 21 notice cases and social housing cases these are relatively straightforward with most being referred through to the Prevention Team once it has been established that the notice is valid. However, for parent or extended family/friend claims of exclusion the question of homelessness appears to be largely left to the Triage officer to determine. This is evidenced by the fact that Prevention officer report far fewer parent/family exclusion cases in their caseload compared to what should be expected given that this category is by far the main reason for claims of homelessness for family households.

The vast majority of these cases are referred through to the HSS team if the view of the Triage officer is that nothing more can be done. The HSS officers then would appear to accept homelessness based on the conclusion of the Triage officer with little or no investigation into the claim themselves. However, the approach of the Triage officer regarding investigations into parent/family claims of homelessness would appear to be less about making formal enquiries into the claim of homelessness and more about 'pushing back' on these cases to see if the parent claiming to exclude actually takes it to the point where they say they have physically excluded. This approach does have some merit in that some cases who claim homelessness do not come back to the Council after their original claim. However, it leaves these cases 'falling through the gap' with neither the Triage officer or the HSS caseworker being tasked with making thorough investigations into the claim of homelessness. Neither is it the responsibility of the Triage officer to make any 'not



homeless' statutory written decision but by default the decision on whether someone is homeless is being left to that officer.

For all claims of homelessness from parent or extended family or friends in TMBC there should only be one of 3 outcomes and a revised approach adopted. The 3 possible outcomes are:

- 1) There is no clear and logical evidence presented to back up the claim of exclusion – in which case a statutory not homeless decision should be issued (by either the Triage officer or HSS caseworker) and no TA provided, or
- 2) There is clear evidence that an applicant is going to be excluded – in which case there should be a speedy referral to the Prevention Team followed by evidence of negotiation and a written 'offer to resolve the problem at home' issued to the parent/family excluder including remaining at home with Band C status for being overcrowded), or
- 3) There is clear evidence of an incident or series of incidents that logically explain the claim to exclude – in which case, unless there is evidence of violence or abuse towards the applicant, an offer should be made to try and hold the position at home whilst work is undertaken to find a planned move option.

The required approach to parent/family claims of exclusion is not embedded by the teams tasked with determining these cases, namely the Triage officer, the Prevention team and the HSS caseworker team. For clarity, virtually no 'not homeless' decisions are being issued for parent/family claim of exclusion cases. The practice of issuing a formal 'offer to resolve' letter is rare. This observation is not to apportion any blame to any individual or team as it is the processes for dealing with what is the main cause of family homelessness in TMBC that needs to be revisited.

**Recommendation:** Review the work with families where there is a threat of homelessness to ensure thorough enquiries, including home visits, take place and actively use prevention tools to resolve homelessness.

### **Triaging of cases: Issue 3**

Linked to the above, although the Triage officer is experienced and effective in her role of filtering cases there would still be some additional gains in formalising the procedure for when a case should be referred through and if so to which team.

**Recommendation:** Implement a formal Triage procedure (an example model procedure will be provided as part of this review).

### **All households who may have a priority need and are claiming to be homeless on the day should be required to attend an 'in person' interview**

Since the Covid-19 pandemic nearly all homeless interviews have been conducted by telephone. This has largely been the practice for all Council services and not just the Housing Solutions Service. We would argue that it is only possible to thoroughly investigate a claim of homelessness through an in-person interview unless there are individual and justifiable reasons why this is not possible. Without a face to face interview policy for households who are likely to be owed a temporary

accommodation duty there will inevitably be placements made into TA that would not have been made if a thorough in-person interview had been conducted.

Therefore we recommend that the practice be changed so that any applicant who potentially may have a priority need and is claiming to be homeless tonight must be required to attend in person interview rather than a telephone interview. Telephone interviews have their place but not for the initial full interview where the caseworker needs to fully test and investigate any claim of homelessness and priority need.

**Recommendation:** All applicants referred through from Triage to the Housing Solutions casework team, where there may be a temporary accommodation duty must be seen in person. No applicant should be booked into TA as a result of a telephone interview unless there is a disability that prevents them from attending the office or it is an out of hours placement.

**The 'emergency' day duty team does not have sufficient officers on duty to be able to make not homeless or not in priority need decisions on the day that applicants present claiming to be homeless that day.**

There are an insufficient number of officers allocated to the duty rota for dealing with 'on the day' emergency claims of homelessness. The current duty model is that there is one Housing Solutions officer on duty with a back-up officer.

Due to the increasing number of households presenting as homeless on the day, it is inevitable that the duty officer will struggle to provide every applicant with a full and thorough investigative interview into their claim of homelessness or for single homeless people, who are assessed as homeless, whether they have a priority need which would trigger a temporary accommodation duty.

In any council, the homeless cases will back up towards the end of the working day. TMBC is no different and there must be enough officers on duty to complete a full and detailed investigation into a claim that the household are homeless and assessment regarding priority need for accommodation. Without this many applicants will be booked into TA without a full assessment interview. Once booked in it becomes more difficult to 'cancel' a TA duty or prevent homelessness by helping them to return to their accommodation because TA has already been conceded.

**Recommendation:** There is a need to urgently implement an expanded 'duty day' operational team which can be achieved within the existing resources ( assuming the recommendation on the fixed term contracts is agreed and implemented) to better deal with and control the assessments of emergency presentations and pre-booked appointments. Implementing an expanded emergency duty day team will provide the extra necessary control required, ensuring that all new claims of homelessness are thoroughly investigated, including rapid back office enquires to ensure that decisions on whether a TA duty is owed or not can be legally made on the evidence gathered. The expanded duty team should consist as a minimum of a duty manager and 2 caseworkers for emergencies without the need to call on any 'back up' officers. The case workers can undertake their own casework if there are no duty cases coming in (usually in the first part of the morning), and then switch to deal with duty cases as they come in during the day. Being available at the end of the day is a critical point in every statutory homelessness service to resolve issues and avoid unnecessary TA

placements. The number required in this duty team should be kept under constant review against demand and where needed, temporary resources brought in paid and for through the Homelessness Prevention Grant.

The role of the new operational duty day team should include:

- (a) At Team Leader level to check and double check that all inquiries have been robustly undertaken before any placement can be authorised for TA.
- (b) For the team as whole - to undertake rapid 'on the day' back-office inquiries into homelessness, eligibility and priority need so that, where appropriate, a no TA duty decision can be lawfully made on the day through a formal notification letter.
- (c) To respond to any threats of judicial review.
- (d) Where necessary for a Team Leader to take over negotiations with potential excluders, for example, where parents are unwilling to agree to give reasonable notice.
- (e) To support the Triage officers if they have any queries about the advice to be issued or whether to refer a case through for a homelessness interview.

**Implement improved procedures for managing casework once a household is placed into temporary accommodation.**

Once a household is placed into TA in TMBC there are no clear control and monitoring process for managing casework. One-to one meetings with a Team Leader are infrequent due to work pressures and casework risks 'drifting', meaning there are cases where a 'no duty' decision could have been made that are allowed to continue with no accountability regarding the completion of any outstanding inquiries. The Housing Solutions caseworkers rightly point to high caseloads as the reason why they are not able to focus on completing investigations. High caseloads can be resolved through additional temporary staff however, there is still a need for structure to casework of those in TA, or at high risk of entering TA if homelessness cannot be prevented, with a control and monitoring procedure that is used for every case and gives some transparency to the status of every case of those in TA or at high risk of entering TA, which is available to all of the officers in the Service.

**Recommendation:** To urgently implement a casework control and monitoring procedure consisting of:

- a) Any case authorised for placement into TA must be 'flagged' if there is any possibility of a 'no long-term TA duty' decision being made.
- b) The manager authorising TA must decide with the Housing Solutions caseworker at the point of placement whether the case should be flagged as a potential 'no long-term TA duty' case due to the possibility of an applicant being not homeless, not eligible, intentionally homeless, not in priority need, or having no local connection.
- c) Inquiries into all 'flagged cases must commence on the day of presentation.
- d) The duty manager must set and monitor against a target date for the completion of all inquiries.
- e) All potential 'no duty' cases should be recorded on a spreadsheet and a report should be run weekly to check progress against the target date set for all 'flagged cases'.
- f) All flagged cases must be discussed at a fortnightly one-to-one meeting and an explanation must be given for any case that has not received a decision beyond the target date set.

- g) The Prevention Team should flag any case owed a prevention duty where the applicant is likely to have a priority need but also the possibility that they may be intentionally homeless must be 'flagged' and the same actions carried out as set out in TA cases above.
- h) For the current cases in TA under an interim Section 188 duty, a one-to-one meeting between the caseworker and their team leader must identify any case where a possible 'no long-term TA duty' may be owed and the manager must set a target date for the completion of any outstanding inquiries.

**Implement a new framework to strengthen statutory casework for the 3 main causes of family and single homelessness that result in a TA placement**

If clear procedures and processes were to be implemented covering the main causes for a TA placement, there would be a reduction in the number of families and single people placed.

**Recommendations:** The recommended actions to increase alternative solutions to TA placements are:

***Parent and family exclusions: (see also the observations made under Triage issue 2 above)***

- a) No household should be placed into TA unless clear evidence has been obtained that supports the claim that they have been excluded.
- b) Where there is no evidence obtained as a result of a thorough assessment to justify the claim of exclusion a 'not homeless' decision should be made.
- c) The common law requirement for reasonable notice should be negotiated for every presenting case where there is no risk to an applicant through remaining at home. The expectation is that reasonable notice should be obtained on 8 out of 10 cases where there is no risk to the applicant through remaining.
- d) Once reasonable notice has been obtained the caseworker should commence and be required to follow the prevention actions set out in a new Prevention Pathway for Family Exclusions which will be provided to the Council as part of this review.
- e) The Council may wish to consider small payments/in kind assistance to a parent for priority need cases where financial pressures are the reason for asking their son or daughter and any grandchildren to leave. Any payment/in kind assistance should be proportionate and bespoke to their situation, given that it may otherwise encourage more families to claim that they are excluding their adult children.

***Section 21 and other tenancy notice cases:***

- a) Prevention caseworkers should follow the prevention actions and use the resources set out in a Prevention Pathway for Section 21 and other tenancy notice cases which will be provided to the Council as part of this review and has previously been provided but is not being regularly used by the Prevention team.
- b) There must be a formal written 'offer to resolve' made to the landlord on every case presenting. The offer should be bespoke and will be based on the reason for the notice having been issued.

- c) All cases where a Section 21 notice (or other notice) has been served must be required to attend an interview within 48 hours to ensure that they do not surrender the keys at the expiry of a Section 21 or Section 8 notice.
- d) All tenants who approach the Council with a notice should also be written to and verbally informed that they should not hand back keys at the end of the notice period and to do so risks a decision that they may be found to be intentionally homeless if the Council determine that the case may have been prevented on the facts obtained.
- e) Unless there are exceptional circumstances or a tenant leaves, TA is currently not offered until the expiry or a possession order or date for a bailiff to attend. To keep the Service safe from an Ombudsman investigation the Council should follow the Code of Guidance on this matter and:
  - a) Consider the option of paying landlord court costs for possession, or
  - b) Offer the landlord a '60-day deal' \*

*\* The '60-day deal' would be to guarantee that Temporary Accommodation would be offered on the expiry of that period without the landlord having to initiate court action if the local authority had been unable to solve the problem that had led to the Section 21 notice or had been unable to find the tenant alternative accommodation by the expiry of 60 days.*

**Applications due to a claim that an applicant is homeless due to being a victim of domestic abuse:**

There is agreement to employ a domestic abuse (DA) specialist officer to work jointly across TMBC and Tunbridge Wells, funded from Government 'new burdens' money arising out of the implementation of the Domestic Abuse Act in 2021. TMBC should use this opportunity to develop a more structured prevention of homelessness pathway where homelessness is claimed due to domestic abuse. This should include:

- Join up prevention focused work between the Service and the Housing Management Teams for Clarion and the other Housing Associations operating in the Borough given a high percentage of family DA cases are from social housing. There should be a clear procedure for the role of the Council and Registered Provider Housing Management Teams when a tenant claims they cannot stay in their tenancy due to DA. They should be expected to take ownership of DA cases that are their tenants to deliver the best possible outcome for victims of DA who risk losing their tenancy.
- A specific action plan for preventing homelessness for applicants claiming to be homeless due to DA should be produced. That action plan, which should involve partner agencies/services, should focus on how to deliver options to victims of DA in a supportive way, including the option of pursuing legal remedies and remaining in their home with safety measures.
- HSS caseworkers must be trained on how to assess homelessness where applicants claim to be homeless as a result of domestic abuse to ensure they have the knowledge and confidence to deal with these cases.

**There are a number of areas where we are of the opinion that the Housing Solutions Team need to be more robust in decision making**

**Area 1: Strengthen investigative casework by requiring HSS caseworkers to use the *'Part 7 Interview and Assessment toolkit'* to support them:**

There is a lack of consistency in making of enquiries and then decision-making against the statutory tests generally in the Service.

**Recommendation:** Caseworkers should be required to use the relevant interview sheets to determine homelessness, eligibility, priority need, intentional homelessness, and local connection where there is any doubt as to whether an applicant should be accepted or not against these 5 statutory tests. This means questions that caseworkers will not miss questions that should be asked for any of the 5 statutory tests. The toolkit contains a separate interview and assessment sheet for each presenting issue relating to the five statutory Part 7 tests. There are 52 case interview and assessment sheets.

**Area 2: Apply the test of intentional homelessness to all cases where it has been identified that a household have lost their accommodation through their own actions or lack of action.**

The test of intentional homelessness is one of the 5 statutory tests that Councils are required to apply and these decisions accounted for 4.5% of all decisions in England during 2022/23 when the applicant reached the end of the relief of homelessness duty. In TMBC only 3 intentional homelessness decisions were made over the same period – 2.8% of the 109 'main duty' decisions. There have been no IH decisions made in Quarter 1 of 2023/24. This is despite officers interviewed noting that numerous cases are presenting with substantial rent arrears from a private rented tenancy or social housing tenancy.

Housing Solutions caseworkers quote high caseloads and a lack of confidence in making such decisions - especially new officers. This is partly the explanation along with what appears to be a reluctance to make IH decisions unless there are no other options.

**Recommendation:** The Service needs to be more robust on decision-making regarding cases that have been issued with a notice for deliberate rent arrears or unacceptable behaviour and make intentionally homeless decisions where appropriate.

**Area 3: Too much choice is being given to households when it comes to matching cases in TA for a direct offer**

When making a direct offer of social housing It is understandable to want to match households to the areas within TMBC that an applicant has indicated that they want to live in. However, that aim has to be balanced against the need to move households on from TA to reduce the financial impact on the Council.

One of the recommendations from the 2021 report was to top slice 50% of social housing vacancies for a direct allocation to households in TA. This has been arguably the main reason that TMBC has been able to reduce the number of households in TA. However, it is reported that the HSS team are at times struggling to match households from TA to the vacancies that come through, with the consequence being that there is a risk that the nomination will be lost or a household will be matched that are not in TA. There are 2 reasons given by HSS managers for this problem:

- a) There is concern as to whether the Council could be successfully legally challenged if the prospective property is considered by the applicant to be too far from existing schools, and
- b) The team do try their best to only make an offer if it is in an area that the applicant has expressed a preference for.

Although it is understandable to try and match applicant's to an area they have expressed a preference for this will not always be possible or practical and has an inevitable impact on the time some applicants are spending in TA.

**Recommendation:** Unless there is information to indicate that a suitable vacant property in the applicant's preferred area of choice will become available within 1 month a direct offer should be made regardless of the applicant's choice as long as it is assessed as suitable and there is no assessed risk of domestic abuse or other forms of violence.

**Prevention of homelessness casework has improved considerably in TMBC but would still benefit from being more structured.**

The core objective of prevention and relief casework is to keep a household in or assist them to return to the home they have presented from, if it is safe to remain or return. If it is not possible to retain that accommodation, the objective is to help a household find alternative accommodation before they become physically homeless, or very quickly after this.

It is clear that significant improvements have been made. There is a dedicated Prevention team consisting of 2 officers, and the Council's performance in delivering successful prevention of homelessness outcomes has risen to around the South East average – a turnaround from the position 2 year ago, where TMBC lagged behind considerably. However, further gains could be achieved if their work was more structured, giving officers a clear framework and set of instructions and guidelines for the actions to take for each of the main reasons that applicants present as homeless in TMBC.

**Recommendation:** Implement routine use of 'Prevention Pathways', which set out the actions that must be taken for each presenting reason that result in a TA duty being accepted.

Template 'Prevention Pathways' will be provided as part of the review. These Pathway tools can be amended to include actions that reflect local circumstances in TMBC. The 3 new Prevention Pathways cover any claim of homelessness for the 3 main reasons families are entering TA in TMBC which are:

- Parents and extended family exclusion
- Section 21 or other PRS tenancy notice cases by reason (e.g., rent arrears, behaviour, landlord wants to sell, landlord wants to raise the rent)

- Domestic abuse 'Prevention Pathways' for claims of abuse within the home or a threat from outside of the home.

Each Prevention Pathway contains clear instructions for the actions the caseworker must take and are linked to a set of resources to support the caseworker to take these actions.

### **Implement a TA Monitoring and Control Sheet.**

An issue that came up several times during the interviews with staff was the absence of a control and monitoring spreadsheet/system. Implementing a control and monitoring process for TA is one of the 2021 recommendations that has not been implemented and this is having a negative impact on TA numbers, as the current ways of managing TA are inefficient and result in some households remaining in TA longer than they should do, for example:

- a) Housing Solutions officers are spending considerable time trying to identify households in TA suitable for a direct offer. This involves having to go through individual files to check on cases. Clarion and other Housing Associations have indicated that the Council may lose a nomination if TMBC are unable to find a suitable case within the timescale required.
- b) Managers cannot identify through one spreadsheet the reasons why a case in TA over 56 days has not received a decision, nor is there a system to flag cases in TA where a negative decision can be made.
- c) There is no record of whether cases in TA are live on the housing register and if not why this is the case. For households in TA who do not qualify for joining the housing register there is no central monitoring sheet explaining why this is the case and what needs to be done for the household to be allowed to join the register or if the private rented sector would be the only option.
- d) The Accommodation team struggle to find households in TA if they are able to source a private rented property to discharge duty resulting in either that property being 'lost' or being allocated to a household that is not in TA.

**Recommendation:** To implement a TA Control and Monitoring spreadsheet/system as a matter of urgency

The objective of implementing a comprehensive '*TA Monitoring and Control Sheet*' is to ensure that the right people are placed into the right accommodation and occupy that accommodation for the shortest period of time they need it. The Monitoring and Control Sheet records the status of every case in TA at 25 control points across the full TA' lifecycle'. A model template will be provided as part of the review.

Recording and tracking each TA case through its lifecycle and facilitating management interventions and timely actions at key control points will potentially reduce numbers in TA through:

- Speeding up Part 7 inquiries and setting target dates.
- Better identifying cases that have not been actioned and are still in TA.



- 'Unblocking' cases where a duty has been accepted but something is stopping them being considered for a Part 6 social housing offer.
- Speeding up the process for gaining possession quickly through the right eviction process for interim TA and main duty TA

**The need for a move-on plan for every household in TA and recording this on a central database/spreadsheet.**

Given the shortage of social housing move-on options TMBC need to have a move-on plan for every household in TA. This will require the production of a move-on list indicating the households circumstances to enable households to be matched to available properties both social housing and private rented and for private rented specifically options outside of the Borough.

Despite the number of households in TA, there are some examples where the Housing Solutions caseworkers have struggled to put forward households in TA for social housing vacancies and PRS properties. This has resulted in households being selected who are not in TA - for example households owed a prevention of homelessness duty. The argument that cases owed a prevention duty will end up going into TA anyway is not one that will always hold true, if improvements are made to the prevention case work (as set out in earlier recommendations). Some can have their homelessness prevented by being helped to remain at home and others will never reach the stage of physically becoming homeless.

**Recommendations:** Add capacity and develop a move-on planning and recording process.

There may be a need to fund through Homelessness Prevention Grant up to 2 'Move On' officers on fixed term contracts to support the implementation of a consistent and more effective approach to move-on. It is suggested that these officers are needed as it is unlikely that there is capacity in the Housing Solutions casework team to carry out this important function. The rest of this recommendation, set out below, provides the rationale for why more officers are needed and what their specific function would be.

Below are some of the criteria that could be applied for a 'Move on' plan.

Move-on Criteria	Criteria Applied
Move on interview conducted Y/N and if Y date	Y/N
The assessed circumstances are that any PRS offer needs to be in or close to TMBC	Y/N
The assessed circumstances are that any PRS offer can be made outside of TMBC into a neighbouring Council area	
Willing to move into social housing or PRS anywhere	Y/N
Willing to move to the area where they have family or another connection	Y/N
Unwilling to move but no circumstances that prohibit final offer being made	Y/N
Household meets June 21 Regulation whereby they have entered the UK in the last two years so suitability of location order disappplied	Y/N

Actively looking for PRS property themselves through a new ‘find your own initiative’	Y/N
<b>Agreed plan of action:</b>	

Implementing a ‘Move on’ plan targeted at TA will not work if it is a desk-top exercise alone. All households need to receive a specific face-to-face move-on plan interview following which they should receive a move-on plan. The aim would be to move as many households as possible through agreement but where agreement is not forthcoming, a suitable offer should be made in or outside of the Borough to a location that best matches a household’s circumstances.

This mean that every household entering TA needs to have a structured ‘Move-On’ interview at the first point of entering TA or, it is suggested, within 3 weeks.

At present despite the 2021 recommendation the Service has not actively looked to discharge duty for households in TA into the private rented sector outside of the Borough. The acceptance that households in TA will have to move outside of the local authority area is increasingly accepted as a reality for councils under significant TA cost pressures. As long as an offer of accommodation is suitable, in terms of meeting the housing needs of the household, and any specific support needs identified, including the impact on, for example, the education of children and meeting health needs, an offer should be made.

Given the critical financial position caused by the numbers in TA households the Council need to identify through the ‘move on’ interview households that can be offered accommodation outside the Borough. We have set out below the criteria that could be adopted. We estimate based on other Council reviews we have conducted that up to 10% of households in TA will not have a long-established connection with TMBC. This includes families and single people that:

- Have approached TMBC as homeless due to threats or harassment from accommodation in a location outside of TMBC
- Have approached the Council as homeless due to domestic abuse from accommodation in a location outside of the Borough
- Single people sleeping rough with no local connection to TMBC
- Households whose only connection to TMBC is based on residence for less than a year in the private rented sector
- Refugees that come under the amendment to the Homelessness (Suitability of Accommodation) (England) Order 2012. The amendment means that a Council can discharge a homeless duty into PRS accommodation anywhere in the country \* (see below). We know that whilst TMBC, as part of Kent, may not have many refugee cases compared to some other areas, but it is important to be aware of this.

*\*To date the Council has not applied the Homelessness (Suitability of Accommodation) (England) Order 2012 amendment from the 1st of June 2022. The effect is:*

*The requirement for the location of accommodation to be considered in assessing suitability of accommodation is disapplied (except for caring responsibilities) for:*

- *Anyone who makes a homeless application on or after 1st June 2022 and*

- *Is eligible for assistance, and*
- *That application is within 2 years beginning with the date on which they arrive in the United Kingdom, and*
- *They did not have a right to occupy accommodation in the United Kingdom for an uninterrupted period of 6 months or more in the 3 years prior to the date on which they arrived in the United Kingdom.*

*The result of this regulation is that all households meeting this criteria can be offered suitable private rented accommodation to discharge the homeless duty anywhere in the country regardless of where they have been living (subject to any essential caring responsibilities). This amendment will apply to households from Ukraine, Afghanistan, and applicants granted refugee status, humanitarian protection, or exceptional leave to remain within 2 years of entering the country.*

The result is that all households meeting this criteria can be offered suitable private rented accommodation to discharge the homeless duty anywhere in the country regardless of where they have been living (subject to any caring responsibilities). This amendment will apply to households from Ukraine, Afghanistan, and applicants granted refugee status, humanitarian protection, or exceptional leave to remain within 2 years of entering the Country. The HSS service should check what proportion of its TA the regulation applies to in TMBC.

Discussions with applicants on move on options should not just be confined to the private rented sector. Discussions with every household in TA as part of their move on plan, should include the option of being helped to apply to join the housing register for any local authority area in the UK where the household have close family living in that area. Most Councils have a clause in their social housing allocation policy allowing an applicant to join their housing register if they have a close family connection despite the fact that the applicant does not currently live in the area. Close family is normally defined as mother, father, brother, sister, or adult children.

### **Increasing the focus on discharging duty into the private rented sector for households in TA**

The private rented sector (PRS) market is extremely challenging within TMBC and across Kent and whilst it may be possible to get traction with some landlords locally through an attractive offer, the likelihood of significant gains in supply through this route is always going to be challenging. Problems in accessing the PRS has also been exacerbated by the rise in interest rates prompting more landlords to sell and uncertainty over the changes proposed in the Renters (Reform) Bill. Furthermore, working households are being put off buying due to the sharp rises in interest rates and are continuing to rent, meaning there is more competition for every home available to rent.

However, the recent announcement by the Chancellor of the Exchequer in the Autumn Statement regarding the ‘unfreezing’ of the local housing allowance (LHA) rates, enabling rates to increase to the 30<sup>th</sup> percentile level of the local market in April 2024, could assist to some degree.

Therefore, whilst it would be misleading of us to suggest that the private rented market will play a significant part of the solution to TMBC’s TA problem, there are certainly more opportunities that can be utilised both locally and outside of the Borough.

There are a number of problems with the current approach in TMBC for accessing the private rented sector. These are:

- 1) The landlord offer is not sufficiently developed or attractive to interest landlords and agents.
- 2) There is no marketing material for landlords, agents and applicants who may be more successful in finding accommodation themselves if they had material to show landlords detailing the Council's offer. The extent of the approach would appear to be to contact landlords that have advertised on 'Zoopla' or 'Right move' or similar websites.
- 3) The Accommodation Team remains focused primarily on inspecting TA and not on bringing in PRS properties.
- 4) Only a handful of properties are reported to have been procured in the last 12 months and few of these properties have been targeted at households in TA.
- 5) The focus remains almost entirely on seeking properties within the Borough despite the fact that this approach has not been successful. There has been little if any work to identify landlords and agents with properties in areas of Kent where Councils have been successful in finding accommodation such as Medway. The reason given is that families do not want to move outside of the Borough.
- 6) There appears to be a disconnect between the Accommodation Team and the Housing Solutions Caseworker Team with little evidence of close working relationships.
- 7) Where an occasional property does become available the team struggle to obtain a suitable household for that property, in part for the reasons which the 'Move-On' plan recommendations seek to address, as set out earlier in this report.

We believe that with a) sufficient resources whose sole focus is on procurement and b) a more attractive and flexible landlord offer, and c) targeting of PRS properties outside of TMBC, and d) a central database of all households in TA, and whether they can be placed outside of the Borough (see the earlier recommendation on move-on plans) the Service should be able to deliver against a target of 6 properties per month compared to the current performance which is negligible.

If the PRS supply acquired is almost exclusively targeted at moving on households in TA, this will help the Council to balance the numbers in TA. It has to be accepted that the contribution played by the PRS will not be as great as that played by social housing lets to those in TA or the measures set out in this report for reducing the numbers entering TA, but a revised PRS access scheme could still deliver an estimated 72 extra properties a year meaning 72 more households move out of TA.

There needs to be a clear strategy backed by effective operational processes if the Council is going to maximise the use of the PRS to discharge duty in the numbers required to help control the numbers in TA. What this should look like is described below:

**1: There is the need to introduce a more realistic landlord incentive combined with a more flexible landlord deal**

There is a need for a landlord offer that is attractive enough to bring more landlords onto the scheme. The offer needs to be flexible and better reflect how competitive the market is. The current landlord offer for a 2 year let is:

- A rent guarantee for 6 months for a 1 or 2 year tenancy
- Rents must be at the LHA rate or within 10% of the rate
- There is a one off financial payment per property of £1,500 for a 1-bed, £2,000 for a 2- bed and £3,350 for a 3-bed.

Given the current market this package is falling far short of what landlords now expect. To illustrate this point the average landlord incentive package given by West London Boroughs under their out-of-London scheme is £5,500.

A cost-benefit calculation should be carried out against the cost of Temporary Accommodation to set the level. For example, as noted earlier in the report, the average annual net cost (after DWP subsidy) of a family in nightly rate or breakfast accommodation is between £12,000 to £15,000 a year. Clearly, an incentive under £12,00 to £15,000 would therefore produce a saving but payments at this level would of course not be a sensible or sustainable approach and would merely encourage many more landlords to issue a notice on their tenants to obtain the incentive payment for a new tenant. However, when set against the stark reality of a £12,000 -£15,000 net TA cost, then agreeing a landlord incentive payment of say £3,000 or £4,000 for a 2-year let would be a sensible approach to take.

In addition a risk assessed rent guarantee of up to 12 months and a less rigid approach to rents needing to be at LHA or within 10% should be considered. For example, it is possible to risk assess the likelihood of a tenant defaulting and thereby triggering the rent guarantee when selecting suitable tenants. In respect of agreeing a rent higher than LHA or LHA plus 10% there will be households in TA where an income and expenditure assessment indicates that they can afford more than the LHA rate. Again this is information that should be held on one spreadsheet/database for all households in TA as part of the move-on section of a TA control and monitoring database. (see recommendations for move-on plans and a TA control and monitoring system).

A dedicated PRS resource needs to be 'freed up' to put together flexible packages that meet the different interests and requirements of landlords. No landlord is the same and many will be motivated by priorities when deciding who to let their property to, for example some will want:

- a) a guaranteed rent, or
- b) a market rent, or
- c) an incentive payment over and above any rent deposit, or
- d) the security that the rent will be paid, or
- e) a support service if things go wrong but don't want to pay for it

The PRS resource should be given the flexibility to 'cut a deal' anyway that meets what a landlord wants, as long as the overall package doesn't exceed the set incentive level of say £4,000 for a 2-year let.

**2: Messaging:** It is essential that more work is done to get over the message that social housing will not be the end solution for more than a minority of households in TA. It is important to convey a clear message to all new households making applications and in particular those who are homeless

and are in TA that they will not necessarily receive an offer of social housing in TMBC and therefore they will need to work with the Council to find a solution both inside and outside of the Borough. It is important that applicants get realistic and honest information about the different ways the Council may consider applying to end a homelessness duty. If this clear message is conveyed, many more households may opt to remain with family and bid for social housing with a Band C award for overcrowding or insecurity at home through sofa surfing with relatives or friends.

### **3: The focus for procurement activity should be outside of TMBC**

Given that opportunities to source PRS properties inside TMBC are limited due to the rent levels, the focus of the team should be on sourcing properties out of borough and especially in areas with a larger PRS market. Contact should be made with agents who are sourcing PRS properties on behalf of London Boroughs. As an example, the London Borough of Redbridge pay a 'finder's fee' to agents and managed to source 180 properties in 2022/23 for 142 families and 38 for single people largely in Kent and Essex.

### **4: Households should be given the practical help that they need to find their own accommodation**

A number of other Councils report success in implementing a 'find your own accommodation' scheme. In TMBC a 'find your own' initiative could be structured as follows:

- a) Every household in TA has had a move on interview and move on plan issued as part of their personal housing plan
- b) That move on plan should set out realistically where the applicant should look to seek to obtain private rented accommodation
- c) An information for landlords and agents pack should be issued to the applicant detailing the landlord/agent incentives available for accommodation found inside TMBC and outside of the Borough. This will allow the applicant to look with the help of a 'guarantee' from the Council
- d) Where an applicant is able to find a potential property there must be a fast response to their request for financial help so that the property is not lost

### **The need to improve the performance framework and monitoring system**

We have already noted in the report that one of the successful actions was to set up a corporate reporting structure which met regularly to review progress and drive improvements. It was reported that these meetings are not occurring as they used to, and it would be timely to commence these again, given the national context and the new changes at CEO level. The revisiting of the corporate reporting and monitoring group structure is one piece of a jigsaw to ensure that there is an effective performance framework to drive continuous improvements in the service.

A high performing service relies on routine collection and analysis of data to drive improvements. A revised set of key performance indicators need to be adopted for the Service, including a detailed sub-set for each function and team member. Every officer needs to understand the key indicators and can identify how they contribute. Teams need easy to understand and up-to-date performance

information. Ownership of performance is made real by managers talking to staff about what's happening, with success learned from and celebrated, and focus given to any areas of concern.

**Recommendation** - In appendix 1 we have set out a set of HSS Key Performance Indicators (KPIs) which the Council can use as a starting point for developing a more comprehensive set of indicators.

TMBC should consider creating new business intelligence capacity through reprioritise the responsibilities of an existing officer elsewhere in the Council who can work on business intelligence and performance. This will ensure dedicated expertise to produce information for analysis and planning including the development of a suite of Power BI reports

### **Reducing the financial impact of temporary accommodation through developing a low cost portfolio**

In January 2023, the Council received LGA funding to support work on developing sustainable temporary accommodation options to reduce the financial impact on the Council. Consultants Altair looked at a number of options for procuring an additional 40 sustainable lower cost units. The recommended option from Altair was for the Council to procure up to 40 units of modular homes to be placed on vacant Council land. A potential site has been identified. We have considered the Altair report and concur with their conclusions. The potential site identified needs to be agreed by members and a decision to go ahead and purchase modular units needs to be taken as a matter of urgency. We understand sufficient capital is available to purchase up to 40 units. TMBC need to be mindful that many other Councils are considering pursuing the modular option and therefore the lead in time for completion and delivery of units may take up to 2 years.

40 modular units will form half of an 80 low cost TA portfolio. For the remaining 40 suggested TMBC have an agreement with Clarion to use up to 20 of its general needs properties in the borough for TA. However at the time of this review only 7 properties are being used as TA under this agreement. Continuing with this arrangements and seeking to build up a portfolio with Clarion of up to 40 properties on a lease agreement over an agreed time frame with Clarion would be extremely positive for TMBC and be another practical indicator of the strength of the partnership locally. It may also be possible to agree a number of other small scale leasing deals with one or more of the other major Housing Associations with stock in the Borough.

The third element of the 80 unit low cost TA strategy is the currently owned TA portfolio. TMBC own 16 units of TA within the borough which is a mixture of self-contained units and HMOs. The Council also have 7 properties on a long-term lease agreement from a private provider to use for TA placements. Clearly the Council owned units should be retained. During the review a number of concerns were expressed re the Council owned units. These were:

- a) The difficulty in managing households placed, especially single people with complex needs and or challenging behaviour.
- b) The need for a more effective repairs and relet service to ensure that units can be relet quickly As a result there have been long void periods in some of the schemes including delays in turning units round and concern over whether the support needs of some applicants are too great to risk a placement.

It goes without saying that these low cost units are a valuable resource and the issues of managing the units and occupants and repairs issues need to be resolved as a matter of urgency. TMBC should not have households in costly nightly rate TA whilst low cost Council owned units sit empty.

### **Our conclusions set against the questions asked by TMBC in the consultancy commission**

- a) What has changed in the national and regional context since the previous TA review and how should this impact on our approach and targets? *We have fully set out the national context and how these impact on the approach TMBC should take to tackling homelessness including a revised suggested target for TA.*
- b) Have the process changes that have been implemented to date been successful and what additional process changes could aid efficiency in the service? *We have listed the changes that have been successful in reducing TA numbers and costs and what gaps remain including the need for further process changes*
- c) Are our policies for TA (TA Policy, PRS Discharge Policy) sufficiently robust? *There have been improvements but the PRS discharge policy lacks structure and we have set out in the report how this should be addressed*
- d) Could some advice be given on accessing the PRS and the process for evidencing the route to finding a PRS offer, potentially out of borough. *We have fully detailed a new approach to improve the chances of accessing more PRS properties both within TMBC and beyond the Borough.*
- e) How can we strengthen our Personal Housing Plans and develop our suite of advice on accessing the PRS? *We suggest this is done through the development of move on plans for all households in TA which should form part of an applicant's PHP.*
- f) Given the work by Altair on our options for our TA portfolio, what would the advice be on additional HMO accommodation as identified in the last review? *We still are of the belief that a reasonable number of HMO units should form part of the Council's TA portfolio. The concern re the existing HMO units relate more to the problems of managing these units rather than whether they are required. Most of the proposed 80 unit portfolio will be self-contained units and it may be difficult to manage single people with complex needs in these type of dispersed units.*
- g) Given caseloads currently and likely future caseloads given the national context, how should the service structure itself to meet these challenges? *We have set out a suggested structure including the need to bring together all aspects of TA procurement and management into an Accommodation team*
- h) Should the increased focus on prevention be maintained or increased? What is a reasonable target caseload for officers? *It should be increased and become far more structured. A target caseload for a prevention officer should be around 30 active cases*
- i) Is the monitoring regime that is in place sufficiently robust? *We believe the performance monitoring system needs to be enhanced as set out in the report*
- j) What additional training/support could we offer to staff to ensure that they are able to efficiently and effectively deliver the Service? *In early 2024 LOCATA will launch an on-line Training Academy covering all of the core training required for new and existing officers across all of the HSS functions. TMBC should sensibly subscribe to the service. It does not require a Council to be a member of LOCATA to subscribe.*
- k) Is our approach to lessons learnt and feedback to staff sufficient to support service development? *TMBC's approach in recommissioning the same consults to revisit the service 2 years on from the 2021 report to assess progress is a sensible approach to lessons learnt and seeking to further improve to service. The further action plan arising out of this report will help the Council to control its TA numbers and costs.*



## Appendix 1: Embedding a performance culture underpinned by the adoption of a set of key performance indicators and targets

The new operating model must be underpinned by a set of performance targets for the HSS as a whole and a sub-set for each team and for each individuals within that team.

This requires an exercise to develop with the HSS management team and staff teams a set of performance measures. We suggest using the example KPI framework below as your starting point for discussion. There is a need to make sure this is embedded in the HSS infrastructure, so everyone understands what is expected and the role they play in helping to meet or exceed targets.

Proposed KPIs		
No	KPI	Comments
1	To set a temporary accommodation ideal revised target is 90 for 2024, with a range of 90 to 120 being acceptable and ensure that this figure is not exceeded.	Measured monthly. Starting point is an expected to be 120 in TA as at 1 <sup>st</sup> January 2024 <i>Monitored through HCLIC returns</i>
2	Percentage of decisions issued on an applicant's initial homelessness application within target timescale	Target 75% within 33 working days <i>Monitored internally - not available through HCLIC</i>
3	The number of lets into the private rented sector against the target set	Target of 72 new lets per annum into the PRS through newly configured PRS access scheme <i>Monitoring through HCLIC at prevention, relief and main duty end points</i>
4	The % of lets into social housing for households in TA against the target set	50% of all general needs social housing vacancies to be allocated to households in TA <i>Monitored internally – data is not available as move on destinations for relief cases specifically in TA but HCLIC data is available for Main duty case destinations, almost all of which are in TA</i>
5	To achieve within 12 months a successful prevention outcome rate which exceeds the regional average of 52.7% by 10%	Measured quarterly. TMBC's prevention success rate is for the end of June 2023 45.9% (end Q1 HCLIC data 2023/24). <i>Monitored through HCLIC returns</i>
6	For a successful prevention outcome at least 50% should be achieved through keeping the household in the home presented from by the end of June quarter 2024	To be measured against the current baseline which is 29.4% (end Q1 HCLIC data 2023/24). <i>Monitored through HCLIC returns</i>
7	Number of Part 7 homelessness cases closed must exceed the number of new cases opened every month	Indicator to help meet the objective of controlling caseloads Measured monthly <i>Monitored internally - not available through HCLIC</i>
8	Number of families with children living in TA for more than 6 weeks should never be more than zero throughout 2024 <i>Excluding families in TA under a power or under an intentional homelessness duty</i>	Monitored monthly <i>Monitored through HCLIC returns</i>

Proposed KPIs		
No	KPI	Comments
9	No more than 20% of homelessness decisions needing to be overturned following a Section 202 review for cases where no substantial new evidence has been submitted following a request for review	Indicator of the quality of casework at the initial decision stage  Measured quarterly <i>Monitored internally. No HCLIC field for this.</i>
10	To reduce the number of people sleeping rough, using the figure obtained from the 2023 annual rough sleeping count in TMBC as a baseline to set the target.	Needs to be linked to a baseline figure from the 2023 annual count and monitored through your regular RSI street counts. The target reduction figure should be set once the annual count is completed. <i>Annual count for DLUHC each November</i>
11	The percentage of main duty assessments to be completed with 57 days of the commencement of a relief duty	Target of 90% Measured monthly <i>Monitored internally. No HCLIC field for this.</i>
12	The targets below should be used to assist practice on making evidence-based decisions against statutory tests – they are not intended to be used to encourage gatekeeping or unlawful decisions. Targets to be set for: 1) % of not homeless decisions set against homeless applications taken 2) % of not in priority need decisions should reflect the regional average for 3) % of intentional homelessness (IH) decisions should reflect the regional average for the South East region	1) 7% was the South East region percentage for April – June 2023. 2) 20% is the South East region percentage for not in priority need decisions at the end of the relief duty (end Q1 HCLIC data 2023/24) 3) 4.5% is the South East region percentage of for IH decisions for cases where a relief duty has been ended <i>Monitored through HCLIC returns</i>

## Annex 2

### A review of progress and challenges in management of statutory homelessness and Temporary Accommodation over the last 24 months

#### Action Plan

<b>Action No.</b>	<b>Action</b>	<b>Lead</b>	<b>Indicative Timescale</b>	<b>Notes</b>
1	Recommence regular corporate TA monitoring meetings	DPHEH	First meeting to be held by 1/4/24	Incorporate into MT meeting as a corporate priority?
2	Revise the TA target to reflect the national pressures. Revised target is 90 with a range of 90 to 120.	DPHEH	Complete by 1/4/24	Report into MT, H&PSSC and Cabinet.
3	Make permanent the Housing Solutions Service officers on fixed term contracts whose contracts are due to expire at the end of March 2024.	HoHH	Complete by 30/4/24	Report into MT, General Purposes and Council. In meantime extend existing temporary contracts until 30/9/24.
4	Work with Human Resources to address workforce planning issues around remuneration, training and development.	HoHH	Ongoing	To link into corporate work on workforce strategy including retention focus.
5	An Accommodation Team to be established to be responsible for all aspects of temporary accommodation and accessing the private rented sector including the responsibilities for procurement, inspection, placement (including the test of suitability), and the managing of TA (including rent collection) and	HoHH	Complete by 31/12/24	

	accessing the private rented sector to discharge duty. The permanent TA Welfare post should be part of the new Accommodation Team along with consideration of a Move-On Officer role.			
6	There should be a simple process for allocating spending from the Council's 'Homelessness Prevention Grant' (HPG) to pay for additional staffing to tackle demand and other homelessness pressures.	HoHH/CFSO	Complete by 31/5/24	
7	For all offers to resolve and prevent homelessness for any case that would otherwise be placed into TA a cost-benefit calculation should be carried out set against the net cost of Temporary Accommodation. This will require the introduction of a cost-benefit framework with clear guidelines for officers negotiating solutions.	HoHH/CFSO	Complete by 31/5/24	
8	A second post for Triage should be recruited to on a temporary basis using TMBC's Homelessness Prevention Grant.	HoHH	Complete by 29/2/24	Post already in place – proposal to extend by six months to go to MT
9	Review the work with families where there is a threat of homelessness to ensure thorough enquiries, including home visits, take place and actively use prevention tools to resolve homelessness.	HoHH/HSM	Complete by 30/6/24	
10	Implement a formal Triage procedure	HoHH/HSM	Complete by 30/6/24	An example model procedure will be provided as part of this review.
11	All applicants referred through from Triage to the Housing Solutions casework team, where there may be a temporary accommodation	HoHH/HSM	Complete by 30/6/24	Liaison required with Customer Services/Duty Officers

	duty must be seen in person. No applicant should be booked into TA as a result of a telephone interview unless there is a disability that prevents them from attending the office or it is an out of hours placement.			
12	Implement an expanded 'duty day' operational team which can be achieved within the existing resources (assuming the recommendation on the fixed term contracts is agreed and implemented) to better deal with and control the assessments of emergency presentations and pre-booked appointments.	HoHH/HSM	Complete by 30/6/24	
13	Implement a casework control and monitoring procedure for managing casework once a household is placed into temporary accommodation.	HoHH/HSM	Complete by 30/6/24	
14	Implement a new framework to strengthen statutory casework for parent and family exclusions	HoHH/HSM	Complete by 30/6/24	Support staff with refresher training on legislation and decision making. Ensure case review process is robust.
15	Implement a new framework to strengthen statutory casework for section 21 and other tenancy notices cases	HoHH/HSM	Complete by 30/9/24	Support staff with refresher training on legislation and decision making. Ensure case review process is robust.
16	Implement a new framework to strengthen statutory casework for applications due to a claim that an applicant is homeless due to being a victim of domestic abuse	HoHH/HSM	Complete by 30/9/24	Support staff with refresher training on legislation and decision making. Ensure case review process is robust. Domestic Abuse Specialist

				Officer recruitment currently underway
17	Caseworkers should be required to use the relevant interview sheets to determine homelessness, eligibility, priority need, intentional homelessness, and local connection where there is any doubt as to whether an applicant should be accepted or not against these 5 statutory tests.	HoHH/HSM	Complete by 30/9/24	Support staff with refresher training on legislation and decision making. Ensure case review process is robust.
18	The Service needs to be more robust on decision-making regarding cases that have been issued with a notice for deliberate rent arrears or unacceptable behaviour and make intentionally homeless decisions where appropriate.	HoHH/HSM	Complete by 30/9/24	Support staff with refresher training on legislation and decision making. Ensure case review process is robust.
19	Unless there is information to indicate that a suitable vacant property in the applicant's preferred area of choice will become available within 1 month a direct offer should be made regardless of the applicant's choice as long as it is assessed as suitable and there is no assessed risk of domestic abuse or other forms of violence.	HoHH/HSM	Complete by 29/2/24	
20	Implement routine use of 'Prevention Pathways', which set out the actions that must be taken for each presenting reason that result in a TA duty being accepted.	HoHH/HSM	Complete by 30/9/24	Template prevention pathways to be provided. Support staff with refresher training on legislation and decision making. Ensure case review process is robust.
21	To implement a TA Control and Monitoring spreadsheet/system as a matter of urgency	HoHH/HSM	Complete by 30/4/24	

22	Add capacity for move-on focus and develop a move-on planning and recording process.	HoHH/HSM	Complete by 31/12/24	
23	Introduce a more realistic landlord incentive combined with a more flexible landlord deal	HoHH	Complete by 31/12/24	Cabinet Member decision?
24	A dedicated PRS resource needs to be 'freed up' to put together flexible packages that meet the different interests and requirements of landlords.	HoHH	Complete by 31/12/24	To link into new Accommodation Team
25	Undertake more work to get over the message that social housing will not be the end solution for more than a minority of households in TA.	HoHH/HSM	Complete by 31/12/24	Includes review of Housing Allocations priorities.
26	Focus on sourcing PRS properties out of borough and especially in areas with a larger PRS market.	HoHH	Complete by 31/12/24	To link into new Accommodation Team
27	Consider implementing a 'find your own accommodation' scheme.	HoHH/HSM	Complete by 31/12/24	To link into new Accommodation Team
28	Improve the performance framework and monitoring system using KPIs	HoHH/HSM	Complete by 31/12/24	Link into improved monitoring available on Huume system
29	Consider creating new business intelligence capacity through reprioritising the responsibilities of an existing officer elsewhere in the Council who can work on business intelligence and performance. This will ensure dedicated expertise to produce information for analysis and planning including the development of a suite of Power BI reports	DPHEH/MT	Complete by 31/12/24	Link to any review of central support services?
30	Seek to build up a portfolio with Clarion of up to 40 properties over an agreed time frame with Clarion.	DPHEH/HoHH	Complete by 31/12/24	Discussion underway

31	Seek to explore small scale leasing deals with one or more of the other major Housing Associations with stock in the Borough	HoHH/HSEM	Ongoing	
32	Identify appropriate site for modular homes to be used as TA - up to 40 units	DPHEH/HoHH/HSEM	Complete by 31/12/24	Work underway
33	To consider that a reasonable number of HMO units should still form part of the Council's TA portfolio	DPHEH/HoHH	Ongoing	

DPHEH – Director of Planning, Housing and Environmental Health

HoHH – Head of Housing and Health

CFSO – Chief Financial Services Officer

HSM – Housing Solutions Manager

HSEM – Housing Strategy and Enabling Manager



## TONBRIDGE & MALLING BOROUGH COUNCIL

### HOUSING AND PLANNING SCRUTINY SELECT COMMITTEE

19 March 2024

#### Report of the Director of Planning, Housing and Environmental Health

#### Part 1- Public

#### Matters for Information

### 1 BIODIVERSITY DUTY

#### 1.1 Background

- 1.1.1 The council has a statutory duty to conserve and enhance biodiversity (habitats and species) as set by the Environment Act 2021 and the amended Natural Environment and Rural Communities Act 2006 (NERC Act). This is known as 'the biodiversity duty'. The Department for Environment, Food & Rural Affairs (DEFRA) has published guidance on purpose and compliance.
- 1.1.2 The council must:
- Consider what it can do to conserve and enhance biodiversity.
  - Agree policies and specific objectives based on its consideration.
  - Act to deliver its policies and achieve its objectives.
  - Report on its biodiversity duty actions.
- 1.1.3 To comply, the council must periodically consider the opportunities available across the full range of its functions. The aim is to provide for the enhancement or improvement of biodiversity, not just its maintenance in its current state.
- 1.1.4 The first part of delivering the 'biodiversity duty' is to identify the work of the council that contributes towards the conservation and enhancement of biodiversity. The Biodiversity Duty First Consideration Report in Annex A highlights the main areas of the councils work that help achieve this.
- 1.1.5 Public authorities are then required to publish a biodiversity report by no later than 1 January 2026 and every five years (or less) thereafter and publish all reports within 12 weeks of the reporting period end date. Therefore, it is intended that officers will report annually to Members on progress against these actions and that individual workstreams will be presented to Members as required.

## **1.2 Legal Implications**

- 1.2.1 The general duty to conserve and enhance biodiversity is set out in the Environment Act 2021 and the Natural Environment and Rural Communities Act 2006 (NERC Act) as amended.

## **1.3 Financial and Value for Money Considerations**

- 1.3.1 None.

## **1.4 Risk Assessment**

- 1.4.1 Failure to comply with legislation could result in the Council facing legal action.

## **1.5 Recommendation**

- 1.5.1 HPSSC is asked to note the content of the Biodiversity Duty First Consideration Report in Annex 1.

Background papers:

contact: Jenny Knowles

Nil

Eleanor Hoyle  
Director of Planning, Housing and Environmental Health



**Biodiversity Duty**  
**First Consideration Report**  
**February 2024**

## 1. Background

- 1.1 Since 1 January 2023, all public authorities have been under an enhanced statutory duty to conserve and enhance biodiversity. From 1 January 2024 public authorities are required to set out a plan confirming how they will comply with this duty and the actions they can take. Thereafter, authorities must set appropriate policies and specific objectives; and then they must take action.
- 1.2 In terms of the legal context, the Environment Act 2021 introduced a strengthened 'biodiversity duty' requiring all public authorities in England to consider what they can do to conserve and enhance biodiversity. Guidance on [complying with the biodiversity duty](#) was published in May 2023 which, in summary, confirmed that authorities must:
  - a) Consider what they can do to conserve and enhance biodiversity by 1 January 2024. No formal reporting template has been provided for this;
  - b) Agree policies and specific objectives based on their consideration as soon as possible after 1 January 2024; and
  - c) Act to deliver the policies and achieve these objectives and report on them.
- 1.3 The first part of delivering the 'biodiversity duty' is to essentially identify the work of Tonbridge and Malling Borough Council (TMBC) that contributes towards the conservation and enhancement of biodiversity. This table below highlights the main areas of TMBC's work that help to deliver this duty.
- 1.4 This is a corporate responsibility that is relevant to all Council departments, actions and decision making. The end date of the first reporting period should be no later than 01 January 2026 and thereafter every 5 years.

## 2. Summary of current work/action that contributes to the biodiversity duty

- 2.1 The council has formally recognised the need for urgent action on biodiversity through a declaration of a climate and biodiversity emergency at Full Council in July 2019.
- 2.2 The table below sets out how Tonbridge and Malling Borough Council meets the first requirement to consider what they can do to conserve and enhance biodiversity by 1 January 2024.

Work Area	Relevant policies/strategies already in place	Detail/key policies	Future plans/comments
Planning Policy	<a href="#">Core Strategy (2007)</a>	CP7 – Areas of Outstanding Natural Beauty CP8 – Sites of Special Scientific Interest CP9 – Agricultural Land CP24 – Achieving a High Quality	Mandatory approach to Biodiversity Net Gain (BNG), will need to be integrated into the emerging Local Plan. A monitoring framework is yet to be provided.
	<a href="#">Managing Development and the Environment (2010)</a>	NE1 – Local Sites of wildlife, geological or geomorphological interest NE2 – Habitat Networks NE3 – Impacts of Development on Local Biodiversity NE4 – Tress, Hedgerows and Woodland SQ1 – Landscape and Townscape Protection and Enhancement OS1 – Protection of Open Spaces OS3 – Local Standards	Conservation and enhancement of biodiversity will need to be integrated into the emerging Local Plan.

Work Area	Relevant policies/strategies already in place	Detail/key policies	Future plans/comments
	Call for Sites	OS5 – Reinforcing Green Infrastructure  TMBC undertook a Call for Sites exercise as part of the emerging Local Plan in late 2021/early 2022, and again in autumn 2023, to identify sites for development, but also sites for Biodiversity Net Gain. The aim being to help identify off-site BNG opportunities within the borough.	Engage with BNG site promoters and encourage them to register their land on the Kent BNG Register and the National BNG Register, to support provision of BNG opportunities within the borough.
Development Management	Determination of planning applications in accordance with current wildlife legislation and policy.	Determination of planning applications in accordance with current wildlife legislation and policy.	Determination of planning applications in accordance with current wildlife legislation and policy.
Biodiversity Net Gain (BNG) Interim Policy Position Statement (2024)	Mandatory minimum 10% BNG for major developments from Feb 2024, and small-scale developments from April 2024, as set out in <a href="#">the Draft biodiversity</a>	Until a Local Policy on BNG is adopted, an Interim Policy Position Statement has been adopted by the council as a	Keep under review and include as a policy in the emerging Local Plan.

Work Area	Relevant policies/strategies already in place	Detail/key policies	Future plans/comments
	<a href="#">net gain planning practice guidance</a>	material consideration, to encourage delivery within the borough.	
<a href="#">Corporate Strategy 2023-2027</a>	One of the four key priorities for the borough is ‘Sustaining a borough which cares for the environment.’	<p>The council committed to creating a borough which protects the environment and provides beautiful spaces for our residents and visitors to enjoy.</p> <p>Between now and 2027 we will:</p> <p>Deliver climate change plans which focus on cutting emissions and increasing biodiversity.</p> <p>Build on our track record of recycling more than anywhere else in Kent with measures to further improve rates while reducing overall levels of waste and fly-tipping.</p> <p>Improve environmental</p>	Explore opportunities for integrating monitoring and reporting on the requirements of the biodiversity duty.

Work Area	Relevant policies/strategies already in place	Detail/key policies	Future plans/comments
		<p>quality in the borough by tackling sources of pollution such as car idling and taxi emissions, backed up by design-led approaches in new developments and encouraging sustainable travel.</p> <p>Continue our successful management of parks, open spaces and leisure centres so the best recreational facilities are available to everyone.</p> <p>Recognise and support our local built heritage to give people pride in the place they live.</p>	
Partnership working	Kent Nature Partnership	We are an active member of the Kent Nature Partnership. This is a joint venture between all the councils in Kent and Medway with an aim to provide	The council is a supporting authority for Making Space for Nature, the Kent and Medway Local Nature Recovery Strategy.



Work Area	Relevant policies/strategies already in place	Detail/key policies	Future plans/comments
		<p>a coordinated source of information, knowledge-sharing and expertise around nature recovery, nature based solutions and biodiversity net gain. Interim Strategic Significance Guidance for BNG has been developed to assist applicants/decision takers.</p>	
	<p>Local Wildlife Site System for Kent</p>	<p>The council is consulted on proposed changes to Local Wildlife Sites in the borough.</p>	<p>Continue to engage and reflect the most up-to-date site information in the Local Plan.</p>
	<p>Kent Downs National Landscape Joint Advisory Committee</p>	<p>Work with the Kent Downs National Landscape and other relevant local authorities to prepare and adopt the Management Plan.</p>	<p>Continue to engage and have regard to the Management Plan in decision taking.</p>
	<p>High Weald National Landscape Joint Advisory Committee</p>	<p>Work with the High Weald National Landscape and</p>	<p>Continue to engage and have regard to the</p>

Work Area	Relevant policies/strategies already in place	Detail/key policies	Future plans/comments
		other relevant local authorities to prepare and adopt the Management Plan.	Management Plan in decision taking.
Green Infrastructure	A Green Infrastructure Strategy has been commissioned for the borough	<p>The Green Infrastructure Study will undertake a baseline study of current Green Infrastructure assets to help identify areas of highest environmental value', identify areas of the borough that have access to green space or water within a 15-minute walk from their home in line with the Environmental Improvement Plan, and identify areas of strategic significance where off-site BNG could be targeted to support existing habitats and species.</p> <p>It will also identify opportunities to</p>	This will help to inform policies in the Local Plan and Climate Change Strategy, as well as the Kent and Medway Nature Recovery Strategy.

Work Area	Relevant policies/strategies already in place	Detail/key policies	Future plans/comments
		<p>create new or enhanced green infrastructure, provide policy recommendations for inclusion in the Local Plan and Climate Change Strategy, as well as make recommendations for how council owned land can help to enhance the green infrastructure network, with the identification of potential sites for off-site BNG delivery.</p>	
Climate Change	<p>Climate Change Strategy 2020 – 2030</p> <p>Climate Change Action Plans (annual)</p>	<p>Annual Climate Change Action Plans include biodiversity actions each year under the themes:</p> <p>Sustainable development</p> <p>Strengthen local protection and enhance protection of species, habitats and biodiversity</p>	<p>Continue to deliver against and develop further climate change actions that support achievement of biodiversity benefits of related relevant policies, including Partnership working and the Corporate Strategy, and Green</p>

<b>Work Area</b>	<b>Relevant policies/strategies already in place</b>	<b>Detail/key policies</b>	<b>Future plans/comments</b>
		Work with partners in the community to engage the public and identify areas of collaboration for climate change action, adaptation, protection and enhancement of the environment.	Infrastructure Strategy.
Tree Charter	The Tree Charter sets out the borough's approach to ensuring the protection, management and increase in trees, in line with the other policies and strategies listed here.	Work with partners to maintain and increase trees in the Borough  Explore available grant funding opportunities to maximise opportunities for tree planting schemes  Work on tree conservation	Delivery of the Tree Charter is considered ongoing work in delivering a number of different policies and monitored in that context. E.g. the climate change action plan includes tree planting commitments.
Open space management	Street Scene, Leisure, Waste and Technical Services – Departmental Service Delivery Plan 2019-2024.	Produce Five-year Management Plans for key sites managed by TMBC (TRS, HCP) and identify projects to enhance biodiversity.  Five-year Management	Continue to produce five-year Management Plans for key sites managed by TMBC (TRS, HCP)

Work Area	Relevant policies/strategies already in place	Detail/key policies	Future plans/comments
		<p>Plans for Leybourne Lakes Country Park (managed by TMAActive) and identify projects to enhance biodiversity.</p> <p>Increase volunteering opportunities</p>	<p>Continue to produce five-year Management Plans for Leybourne Lakes Country Park (managed by TMAActive)</p> <p>Continue to support volunteer and community groups to enhance biodiversity within MBC owned public open spaces (including HCVP, Platt Wood Management Committee). Continue to attend meetings with community groups</p>
	TMBC Tree Safety Policy	Inspect all mature trees on Council Owned Land on a three-year cycle to identify and carry out any required Health and Safety Works.	Continue to inspect all mature trees on Council Owned Land and ensure that consideration is given to replacement planting where appropriate.

2.3 This table provides an overview of actions currently being taken by TMBC to conserve and enhance biodiversity and details the positive changes being made. It is intended that this report will be updated and further developed alongside development of the LNRS and Local Plan work to set out specific policies and objectives.

### 3. Future Actions

3.1 [Government guidance](#) confirms that the Authority must publish a 'Biodiversity Report' setting out the policies and actions that have been carried out to comply with the biodiversity duty. This will include the actions we have completed to meet biodiversity net gain obligations as a local planning authority. The end date of the first reporting period should be no later than 1 January 2026, and the end date of each reporting period after this must be within 5 years of the end date of the previous reporting period. All reports must be published within 12 weeks of the reporting period end date.

3.2 Specific on-going actions and priorities are envisaged to include:

- Preparing a new Local Plan. This includes developing an enhanced understanding of biodiversity within the borough through the evidence base, as well as developing policies to secure its conservation and enhancement.
- Continued involvement in the preparation of a Kent and Medway Nature Recovery Strategy- this will help define our actions and prioritise these in conjunction with the Local Plan.
- Continued development and implementation of a Green Infrastructure Strategy.
- Implementation of Biodiversity Net Gain and working with landowners/managers to help deliver strategic offsets aligned with the evolving Local Nature Recovery Strategy.
- Investment in skills and resources including training existing staff, contributing to an enhanced Kent Ecological Advice Service resource and securing software solutions to help manage Biodiversity Net Gain assessment, monitoring and reporting.
- Look at potential ecological enhancement opportunities on council owned land.
- Delivery and reporting of mandated Biodiversity Net Gain.

3.3 Council officers will report annually to Members on progress against these actions and others identified to meet our legislative requirements.

## TONBRIDGE & MALLING BOROUGH COUNCIL

### HOUSING AND PLANNING SCRUTINY SELECT COMMITTEE

19 March 2024

Report of the Director of Planning, Housing and Environmental Health

#### Part 1- Public

#### Matters for Information

### 1 NATIONAL PLANNING FEE INCREASE

The Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2023 came into force on 6 December 2023 and laid legislation to increase planning fees.

#### 1.1 Background

1.1.1 The regulations do the following:

- Have increased the planning application fees by 35% for applications for major development and 25% for all other applications.
- Have introduced an annual indexation for planning applications fees, capped at 10%, from 1 April 2025.
- Have removed the fee exemption for repeat applications (the 'free-go'). An applicant will still be able to benefit from a free-go if their application was withdrawn or refused in the preceding 12 months, subject to all other conditions for the free-go being met.
- Have reduced the Planning Guarantee for non-major planning applications from 26 to 16 weeks.
- Have introduced a new prior approval fee of £120 for applications for prior approval for development by the Crown on closed defence sites.

#### Increase in planning fees

1.1.2 The regulations also mean that fees will increase annually from April 1<sup>st</sup>, 2025. Previously fees didn't rise with inflation, fees rose only when the fee regulations were amended. The last time the fees were raised was on the 17<sup>th</sup> of January 2018.

### Removal of the 'free-go'

- 1.1.3 Prior to the new fee regulations coming into force, applicants could resubmit an application for a similar development as long as they met a prescribed set of circumstances. This was called the free go. The removal of the free go means that a fee will be payable on applications which were previously exempt. However, this may increase the risk of applications being appealed. It should be noted that cases determined or withdrawn between the 5<sup>th</sup> December 2022 and 5<sup>th</sup> December 2023, will still benefit from the free-go so the full implications of this change may not immediately to be felt. Risks have been explored in more detail in the risk assessment section.

### Planning Guarantee

- 1.1.4 Under the Planning Guarantee, planning application fees must be refunded to applicants where no decision has been made within a specified time, unless a longer period has been agreed in writing between the applicant and the local planning authority. For applications for non-major development, the Planning Guarantee has been reduced from 26 to 16 weeks.
- 1.1.5 Reducing the planning guarantee from 26 to 16 weeks for non-major applications, where the majority of cases sit will increase the risks of fees being paid back. Risks have been explored in more detail in the risk assessment section.

## **1.2 Legal Implications**

- 1.2.1 A general increase to the planning fees was introduced by the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) (Amendment) Regulations 2023. Local planning authorities use the 2012 Fees Regulations, as amended, to charge the correct fee for each application, based on the details of the application.

## **1.3 Financial and Value for Money Considerations**

- 1.3.1 The impact of a 25% increase in minor planning application fees and 35% in major planning application fees is an expected revenue increase of approximately £440,000 in 2024/25, based on projected 23/24 application numbers. The £440k has being included within the estimates and have been approved by Council and that the MTFS has allowed for CPI increases over the medium term.

## **1.4 Risk Assessment**

- 1.4.1 The main risks to the Council following the introduction of the new regulations are:
- A potentially higher number of appeals
  - A greater chance of the planning guarantee being used.



- 1.4.2 The loss of the free -go will potentially mean, more appeals to the Planning Inspectorate. Planning applications have previously been refused or withdrawn and resubmitted using the free go to address reasons for refusal. Applicants may potentially instead go straight to appeal as there will now be a financial cost to put in a further planning application. The main risk for the Council is if over 10% of appeals are overturned, the consequences for an authority with a high rate of overturned appeals is that they could be put in special measures.
- 1.4.3 Under the 'special measures' regime, local planning authorities can be designated as poorly performing if they fail to meet criteria for either speed or quality of decision-making, allowing developers to submit applications directly to the Planning Inspectorate.
- 1.4.4 Any authority that has more than ten per cent of either major or non-major applications overturned at appeal over a two-year period is at risk of designation.
- 1.4.5 It is important for the decision maker to ensure the decisions they make are reasonable and defensible. Advice and second opinions will be sought where required. Officers will also advise Councillors if they consider a reason for refusal, cannot be substantiated at planning committee, in line with the Constitution. Officers will encourage agents to use the pre application service and encourage early engagement to help get acceptable schemes on initial submission.
- 1.4.6 The risks regarding the planning guarantee are being mitigated by a new reporting tool which has been built to highlight when cases are 3, 2 and 1 week from fee payback to ensure Extensions of Time (EOT) are in place where possible. The reporting tool which has been built, can also focus in on newer cases which will help managers and staff better monitor the age of planning applications. Once an EOT has expired a non-determination appeal can still be lodged.
- 1.4.7 It is also worth noting that applicants do not have to agree to an extension of time. Where possible planning applications should be determined within the statutory time frame.

## **1.5 Equality Impact Assessment**

- 1.5.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Background papers:

contact: Hannah Parker

Nil

Eleanor Hoyle  
Director of Planning, Housing and Environmental Health

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**TONBRIDGE & MALLING BOROUGH COUNCIL**  
**HOUSING AND PLANNING SCRUTINY SELECT COMMITTEE**

**19 March 2024**

**Report of the Director of Planning, Housing and Environmental Health**

**Part 1- Public**

**Matters for Information**

**1 PLANNING APPEAL COSTS**

**This report is for information purposes about the amount spent on appeals, focusing on what awards of costs have been made against the Council and how much has been paid out since 2021.**

**1.1 Background**

1.1.1 Costs against a party in a planning appeal can be awarded where:

- a party has behaved unreasonably; and
- the unreasonable behaviour has directly caused another party to incur unnecessary or wasted expense in the appeal process.

Unreasonable behaviour in the context of an application for an award of costs may be either:

- procedural – relating to the process; or
- substantive – relating to the issues arising from the merits of the appeal.

1.1.2 The following table details the planning appeals where a costs application was made and was successful from 2021 onwards.

**Table 1 : Cost awards against the Council for unreasonable behaviour**

<b>Planning/enforcement Reference</b>	<b>Site Address</b>	<b>Inspectors reference and Procedure</b>	<b>Appeal Decision and date</b>	<b>Costs Decision and amount</b>	<b>Level of decision</b>
19/00786/FL	The Oast House Hollow Lane Snodland	APP/H2265/W/20 /3257861	Allowed 15 <sup>th</sup> January 2021	Full £1,500	Committee level

		Written representation			Officer Recommendation Approve Committee Overturn
20/02255/FL	1 Green Lane Trottiscliffe	APP/H2265/W/21/3272585 Written representations	Allowed 17 <sup>th</sup> November 2021	Partial £TBC	Committee level Officer recommendation Approve. Committee Overturn
21/00864/FL	4 And 4A High Street, Snodland	APP/H2265/W/21/3282371  Written representation	Allowed 17th August 2022	Full £11,400	Committee Level Officer Recommendation Approve Committee Overturn
21/01542/FL	Rear Of 78 To 80 High Street, Tonbridge	APP/H2265/W/22/3294498  Public inquiry	Allowed 18 <sup>th</sup> August 2022	Partial £TBC	Delegated Decision
20/00036/WO RKM	The Bend, The Bend Riding Lane Hildenborough Tonbridge	APP/H2265/C/21/3281643 - 3281644  Written representations	Allowed 20 <sup>th</sup> January 2023	Partial £360	Enforcement appeal
20/01398/LDE	2 Keepers Cottage, Hurst Wood	APP/H2265/X/21/3273837  Public inquiry	Allowed 26 <sup>th</sup> April 2023	Full £49,236	Delegated Decision
21/02710/FL & 21/02711/LB	83 High Street, West Malling	APP/H2265/W/22/3300796 APP/H2265/Y/22/3300801  Written representation	Allowed 17 <sup>th</sup> May 2023	Full £13,172	Delegated Decision

22/02358/FL	2 Albion Close, Hadlow	APP/H2265/D/23/ 3314875  Householder appeal	Allowed  19 <sup>th</sup> June 2023	Full  £1,296	Delegated Decision
20/00023/USE H	Land West of Laxton Farm, Common Road, Hadlow	APP/H2265/C/21/ 3268771  Hearing	Quashed  14 <sup>th</sup> August 2023	Partial  £2,400	Enforcement appeal
22/01353/FL	Woodruff Mill Lane Basted	APP/H2265/D/22/ 3308038  Householder appeal	Allowed  18 <sup>th</sup> September 2023	Full  £2,200	Delegated Decision
22/00113/OA EA	Land at Eccles, East and West of Bull Lane, Eccles	APP/H2265/W/2 3/3321880  Public Inquiry	Allowed  6 <sup>th</sup> February 2024	Full  £tbc	Committee level Officer recommendatio n to refuse
				Total  £81, 564	

1.1.3 To summarise we have had 11 cost decisions which have been awarded against the Council as outlined above from 2021. Also, since January 2021, seven costs decisions were refused where the Council were found not to have acted unreasonably.

1.1.4 To add further context since 1<sup>st</sup> January 2021 we have received 131 appeal decisions. 48 appeals were allowed, 76 appeals were dismissed, and 7 appeals was withdrawn.

1.1.5 When a figure is TBC, this amount is still outstanding.

1.1.6 From the figures provided, householder appeals generally command lower fees. Householder appeals are considered via the fastrack route. The procedure for

householder appeals is simpler and doesn't allow for further consultations or LPA comments which accounts for the smaller amounts claimed in costs.

- 1.1.7 Written representation appeals introduce further statements by both the LPA and the appellant. A consultation exercise also takes place as part of a written representation appeal. This means more parties may be involved from the appellants side such as planning consultants and transport advisors. This can account for the increased amounts in costs claimed, illustrated above, when costs are awarded against the Council under the written representation appeals.
- 1.1.8 Cases heard at hearings are likely to command even higher costs due to the fact they are often held in person. If costs are awarded against the LPA in full, expert witness day rates, accommodation and travel can also be added to the costs of an appeal. TMBC has not had many recent hearings where costs have been involved. From the table above only one partial cost claim has been successful at hearing within the last 3 years.
- 1.1.9 Finally public inquiries will often command the highest fees if costs are awarded against the LPA. On top of the expenses which have been outlined above in the hearing and written representation sections are barrister's fees. Counsel's fees, especially KC's, often amount to a substantial sum. Generally, a greater number of expert witnesses are called for public inquiries. This is illustrated in the table above with a claim of £49,236 for a public inquiry.
- 1.1.10 To minimise the amount of costs paid out when costs are awarded against the LPA, officers seek information to validate claims. These are usually in the form of invoices, hourly rates, breakdowns and timesheets. These are requested to ensure what is claimed is reasonable and can be substantiated. Officers do go back to claimants when the cost claimed are unreasonable to reach an agreement. Costs can be assessed in the Senior Courts Costs Office if not agreed.
- 1.1.11 The most recent costs claim which has been awarded against the Council is Land at Eccles, East and West of Bull Lane, Eccles, Kent, ME20 7EH. This case was heard at public inquiry. The costs against the Council have not been included in this report as have not yet been finalised but they are likely to be significant. The Inspector concluded on the cost application that by not consulting the statutory consultee (National Highways) until late into the application, that the Council had delayed development that should have been permitted and that this was unreasonable behaviour on behalf of the Council.

## **1.2 Lessons Learnt**

- 1.2.1 What we can learn and how we can do better is explored in this section. Costs have been awarded against the Council for both procedural and substantive reasons since 2021.

- 1.2.2 As a department we must ensure our decisions are sound and when harm is demonstrated, it is backed up by policy. We need to also be mindful that a condition may also be appropriate which may negate the reason for refusal. Conditions should be used where they can, in order to prevent a refusal.
- 1.2.3 It is also imperative that the right person leads the appeal. (This will usually be the original case officer, wherever possible) Costs have been awarded against the Council due to the wrong person leading the case. Direct evidence needs to be given where possible.
- 1.2.4 Accurate record keeping is essential to ensure the appeals evidence base is sound. This is especially important when looking at enforcement and lawful development certificates existing appeals. As these generally rely on first hand evidence. If a third party is presenting a case on the Council behalf, they must have access to all records.
- 1.2.5 Clear lines of communication between the Council and the appellant is also required so that errors can be spotted and rectified early. The Council has been criticised for not engaging at the right points. Cooperation and early engagement are key.
- 1.2.6 Costs have been awarded against the Council for non-determination causing unnecessary delays in development. With this in mind, we need to determine cases in a timely manner where possible.
- 1.2.7 The Council also must not bring in new evidence as part of an appeal. Bringing in new grounds is unreasonable. Reasons for refusal must be fully justified at the point of determination.
- 1.2.8 Costs have been awarded as key statutory consultees have not been consulted at the appropriate time. We need to ensure our check list for statutory consultee are followed at the consultation stages of an application and regularly checked and updated to ensure compliance with the legislation. A new tab has been developed in Agile, which requires officers to check the application is complete and correct.

### **1.3 Legal Implications**

- 1.3.1 It is important that decisions are made in line with the development plan and any other material considerations to the reduce risk. Reasons for refusal should be fully substantiated and considered defensible at appeal.

### **1.4 Financial and Value for Money Considerations**

- 1.4.1 The Council's total exposure to costs due to unreasonable behaviour amounts to £81,564, over the last 3 years which excludes the costs associated with the Eccles, rear of 78 To 80 High Street and 1 Green Lane appeals.

1.4.2 However, it also should be noted that unreasonable behaviour is only part of the appeal cost to the Council. The total amount spent on appeals and services associated with appeals /potential appeals between 2020-2024 was £287 446. This figure includes the costs paid out for unreasonable behaviour.

## **1.5 Risk Assessment**

1.5.1 You cannot mitigate the risks of appeals and appeal costs completely as the Planning Inspectorate is a separate independent body. However, as a department/ decision maker, we are acutely aware of the risks of appeal and the potential for costs against the Council. Table 1 above sets out the reasons for costs being awarded.

1.5.2 As decision makers we need to ensure we make reasoned and sound decisions. It is important that officers work together to seek each other's views to ensure consistent approaches. Checking consultation have been carried out correctly is imperative at the early stages of an application. Planning surgeries, one to ones and training all help with consistent and sound decision making. We need to learn from mistakes and be open so colleagues can learn from each other.

1.5.3 A reporting tool has been developed which will highlight when cases are coming up to their statutory expiry to help highlight when we are at risk for non-determination.

1.5.4 As outlined in the Constitution, officers will also warn councillors if they come up with a reason for refusal, that in their view cannot be substantiated and defensible, and there is a significant risk of costs. Regular members training is also essential so all decision makers are aware of the risks.

## **1.6 Equality Impact Assessment**

1.6.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

Background papers:

contact: Hannah Parker

Nil

Eleanor Hoyle  
Director of Planning, Housing and Environmental Health



## TONBRIDGE & MALLING BOROUGH COUNCIL

### HOUSING AND PLANNING SCRUTINY SELECT COMMITTEE

19 March 2024

#### Report of the Director of Planning, Housing & Environmental Health

#### Part 1- Public

#### Matters for Information

### 1 HOUSING ALLOCATIONS UPDATE

#### 1.1 Background

- 1.1.1 The Council's new Housing Allocations Scheme was implemented in June 2023.
- 1.1.2 The Council gave households who were already on the housing register a specific reapplication window, during which they retained their 'list date' - this ran until 31 August 2023. For any households where we did not have email contact details, they received a hard copy letter explaining what was happening and giving them contact details to discuss their case.
- 1.1.3 The move to a new software system did cause some initial slowness in processing applications as staff gained familiarity with how it functioned. However, the staff team are now proficient in use of the system.
- 1.1.4 In the vast majority of cases being assessed, some of the required documentation was incorrect or missing. The level of requirement was set having considered good practice guidance and formed part of the Housing Allocations Scheme that Members approved.

#### 1.2 Current position

- 1.2.1 The first stage assessment, which involves checking all documentation submitted for accuracy and completeness, is now completed on all applications with list date up to June 2023, which means that the majority of those with an existing application have been assessed. However, there are a number of cases where applicants did not link their new application to their existing one, although this was part of the requirement when reapplying. This will mean that their applications haven't yet been assessed and will be linked as they're reached in order, which is likely to be in the next few weeks.
- 1.2.2 Cases that have had their documentation confirmed are now undergoing their second stage assessment to either be given a banding on the register or receive confirmation that they do not meet the criteria. In the latter cases, they have a right to have the decision reviewed. We assess cases in date order. There may be some cases that come to our attention that requires urgent assessment out of

date order, and we consider these, but the vast majority will be assessed in date order.

1.2.3 The key statistics are as follows;

- There are currently around 921 applications submitted where applicants have told us they have completed all their actions
- 804 households who have submitted applications but who have not completed their actions and will likely be removed if that information is not supplied.
- 144 live applications on the housing register
- 1041 households have been assessed and removed for failing to supply documents or not meeting the allocations criteria.
- 67 households have submitted a pre-assessment but have not gone on to complete a full housing register application.

1.2.4 Members will note that the number of households who have already been removed is significantly higher than the number of live housing applications on the housing register. The revised assessment criteria are resulting in a much higher percentage of applicants not being eligible for our housing register. Members may recall that considerations around how to set the assessment criteria to ensure that they enabled best use of very limited social housing stock were part of the engagement sessions prior to the Housing Allocations Scheme being presented for approval. The document requirements are comparable with requirements in other Councils. The application form provides guidance information on the documentation requirements at each stage. Even with this in place documents that aren't relevant or are partially complete are being found in the majority of assessments.

1.2.5 There is additional resource in place both for the first stage assessment process (document checking) and the more detail assessment process. This includes both overtime for existing Housing staff, who have the skill set needed to quickly assess documentation, and some additional fixed term resource in the allocations team. The system does issue reminders to applicants to make sure that they have submitted the correct information – this is set by the system, which is used in housing authorities across the country.

1.2.6 If a household is accepted onto the housing register, there will still be waits for properties to become available. There is unlikely to be a significant rise in supply of affordable housing and therefore the number of lets is unlikely to go up significantly. This will mean that the previous average waiting time of 2 years is likely to remain the same. Of course, those reapplying who have an existing list date will potentially have a shorter wait, but every individual case is dependent on a suitable property becoming available.

1.2.7 Housing Allocations position and progress is monitored closely by senior officers and discussed with the Cabinet Member for Finance & Housing on a regular basis. It is proposed that monthly updates, with the data set above at 1.2.3, are sent to Members each month.

### **1.3 Legal Implications**

1.3.1 The allocation of housing by Local Authorities is framed by Part VI of the HA 1996. The council is required to have a scheme for determining priorities and the procedures that will be followed when allocating social housing.

### **1.4 Financial and Value for Money Considerations**

1.4.1 The additional capacity for assessing applications is being funded from the Homelessness Reserve.

### **1.5 Risk Assessment**

1.5.1 There are review processes in place for decision making, which ensure that appropriate checks and balances.

### **1.6 Policy Considerations**

1.6.1 Customer Contact

1.6.2 Human Resources

### **1.7 Recommendations**

1.7.1 HPSSC is asked to NOTE the position on Housing Allocations and that a monthly update will be sent to Members.

Background papers:

Nil

contact: Linda Hibbs, Head of Housing

Eleanor Hoyle

Director of Planning, Housing and Environmental Health

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## TONBRIDGE & MALLING BOROUGH COUNCIL

### HOUSING AND PLANNING SCRUTINY SELECT COMMITTEE

19 March 2024

#### Report of the Interim Chief Executive

#### Part 1- Public

#### Matters for Information

### 1 CORPORATE KEY PERFORMANCE INDICATORS

This report provides data on Key Performance Indicators (KPIs) that are aligned to the Corporate Strategy 2023-2027 and monitored on a quarterly or annual basis. The data provided in this report relates to the period up to the end of December 2023.

#### 1.1 Overview of KPIs

1.1.1 The aligned KPIs are provided in **Appendix 1**, with the data for October-December 2023 representing the most up-to-date available statistics in most instances. However, due to the lag in some statistics and the very tight turnaround in this quarter, the previous quarter does still represent the most up to date figures.

1.1.2 There are some quarterly **trends** that can be identified and highlighted in this report. These include:

- **032:** Our Housing Land Supply has increased from 3.22 years to 3.65 years.
- **038:** The number of people in temporary accommodation has increased slightly from 113 in July-Sept 2023 to 120.
- **039:** 19 rental properties have seen improved conditions following Council intervention (up from 14 in July-September 2023).
- **041:** 18 disabled facilities grants were completed in the borough and is on track to meet the target of 80 this financial year.
- **100:** 4 out of 5 major applications (80%) were decided in time.
- **101:** 25 out of 29 minor applications (86%) were decided in time.
- **102:** 74 out of 85 'other' applications (87%) were decided in time.

## 1.2 Benchmarking

- 1.2.1 Benchmarking data has started to be introduced for a number of the Corporate KPIs in this round of reporting and as such there are columns in Appendix 1 which now show comparators in order to give greater context to our performance as a Council. This is still a work in progress and whilst some KPIs will not be able to be benchmarked in a meaningful way, the aim is to work towards a situation where the majority of KPIs do have a benchmark, using statistics from LG Inform Plus (a data portal) to help fill the gaps.
- 1.2.2 It should also be noted that the Office for Local Government (Oflog) has recently launched a new online tool to bring together a selection of existing metrics across a number of service areas that are available at different levels of local authority - <https://oflog.data.gov.uk/>. The aim of this new tool is to provide accessible data and analysis about the performance of local government, and to support its improvement. This tool is a work in progress and will expand to incorporate further service areas in time, but at present, from the Council's perspective, the most helpful data relates to Corporate and Finance, Waste and Planning.
- 1.2.3 The data from this tool, does provide useful information, but it is worth noting that at this stage the data relates to the period 2020-22, and as such it is quite out of date in comparison to much of the data being collected by the Council through our own performance management. However, when used alongside other data it does help to provide a snapshot in time. For example:

**Planning:** in 2020-22, 72% of major planning applications and 79.8% of non-major planning applications were decided on time (*this compares to data in Oct-Dec 2023 showing an improvement to 80% and around 87% respectively*). The number of both major and non-major applications overturned on appeal was also higher than the England median in 2020-22 although the situation has been improving since this time.

## 1.3 Legal Implications

- 1.3.1 The matters set out in this briefing note are considered routine or uncontroversial and a legal opinion has not been sought.

## 1.4 Financial and Value for Money Considerations

- 1.4.1 The Corporate Key Performance Indicators are administered, analysed and reported in-house.

## 1.5 Risk Assessment

- 1.5.1 Performance Management is identified in the Strategic Risk Register and currently assessed as a medium risk with a positive direction of travel. Within the register it is highlighted that without an effective performance management framework in

place, the authority will not be able to understand any required improvements or achieve value for money.

## **1.6 Policy Considerations**

- 1.6.1 The Corporate Key Performance Indicators are aligned to the Corporate Strategy 2023-2027, and aim to provide data and analysis about the performance of the authority and support its improvement.

Background papers:

Nil

contact: Jeremy Whittaker,  
Strategic Economic  
Regeneration Manager

Adrian Stanfield  
Interim Chief Executive

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## Appendix 1 – KPIs October-December 2023

				BASELINE				SSC	2023/24				Target/ Aspiration 2023/24	TREND	Data Assurance	BENCHMARKING				Explanatory Comments
CS Priority Action	Ref. No.	Aligned KPI	Lead	Value	Date	Frequency	Source		Apr-Jun	Jul-Sept	Oct-Dec	Jan-Mar				Value	Date	Compa rator	Source	
Develop a Local Plan which will ensure the provision of new homes in appropriate locations, focusing on tackling the need to deliver a range of housing for the whole community.	032	Housing Land Supply (years)	GuA	3.22	2022	Annually	HLS Study	HPSSC	N/A	N/A	3.65		5-year supply	↑	Yes	2.9 (GBC) 3.9 (SDC) 4.29 (TWBC) 6.0 (MBC)	2022/23	Adjoin ing Authori ties	Publicly available on websites.	Improved situation but still well below the 5-year target.
	033	Milestones achieved on delivering the T&M Local Development Scheme	GuA	Regulation 18 Consultation Closed	Nov-22	Quarterly	Local Development Scheme	HPSSC	Report to Cabinet on impact of NPPF on plan-making	Feedback on the Reg 18 consultation to HPSSC.	Working towards Reg 18b approval		Reg 18B consultation approved for April 2024.	→	Yes				N/A	
Ensure a supply of affordable housing for people who would struggle to buy on the open market	034	Number of affordable homes built out per annum	GiA	30	2022/23	Annually	New Homes Bonus	HPSSC	N/A	N/A	N/A		75			TBC	TBC	TBC	40% of annual housing target	
Use every power we can to support those who are most in need of housing support and at risk of becoming homeless.	035	Number of people on housing register	LH	1208	Jan-Mar 2023	Quarterly	Locata	HPSSC	N/A	N/A	85		1000 by end of financial year.		Yes	TBC	TBC	TBC	Kent Housing Group	A new IT system was implemented from June 2023 and all households on the housing register were asked to reapply. There is a backlog in HR assessments and so the number on the register is artificially low at the moment. We are unable to provide the waiting time for assessment of HR applications at the moment.
	036	Number of HR applications received	LH	541	Jan-Mar 2023	Quarterly	Locata	HPSSC	N/A	N/A	571		350 by end of financial year		Yes				N/A	
	037	Waiting time for assessment of HR applications (days)	LH	140	Jan-Mar 2023	Quarterly	Locata	HPSSC	N/A	N/A	N/A		100 by end of financial year		Yes				N/A	
	038	Number of people in Temporary Accommodation	CK	91	Jan-Mar 2023	Quarterly	Locata/T A System	HPSSC	110	113	120		80-100	↓	Yes				N/A	

				BASELINE				2023/24				BENCHMARKING								
CS Priority Action	Ref. No.	Aligned KPI	Lead	Value	Date	Frequency	Source	SSC	Apr-Jun	Jul-Sept	Oct-Dec	Jan-Mar	Target/Aspiration 2023/24	TREND	Data Assurance	Value	Date	Comparator	Source	Explanatory Comments
Improving standards in rented accommodation.	039	Number of properties where property conditions have been improved	HS	10	Jan-Mar 2023	Quarterly	Uniform	HPSSC	19	14	19		60 for 2023/24	↑	Yes				N/A	On course to meet target of 60 per annum.
	040	Number of housing enforcement notices served	HS	0	Jan-Mar 2023	Quarterly	Notices Register	HPSSC	0	0	0		Reactive to Need	→					N/A	
	041	Number of disabled facilities grants completed in the borough.	TM	80	2022/23	Quarterly	Housing Improvement Team Database	HPSSC	22	20	18		80	→		TBC	TBC	TBC	DFG Delta Return	

**Additional KPIs:**

Ref. No.	Aligned KPI	Lead	Value	Date	Frequency	Source	SCC	Apr-Jun	Jul-Sept	Oct-Dec	Jan-Mar	Target/Aspiration 2023/24	TREND	Data Assurance	Value	Date	Comparator	Source	Explanatory Comments
<b>Planning</b>																			
100	% against Government target of 60% (for major apps)	JB	100%	Jan-Mar 2023	Quarterly	PS1/2 Returns	HPSSC	100%	100.00%	80%		75%	↓	Yes	60%		Govt Targets	HMCLG - NI157a	4 out of 5 – data currently not verified
101	% against Government target of 65% (for minor apps)	JB	85%	Jan-Mar 2023	Quarterly	PS1/2 Returns	HPSSC	91.89%	88.16%	86%		80%	↓	Yes	65%		Govt Targets	HMCLG - NI157b	25 out of 29 – data currently not verified
102	% against Government target of 80% (for 'others')	JB	93%	Jan-Mar 2023	Quarterly	PS1/2 Returns	HPSSC	94.09%	96.02%	87%		92%	↓	Yes	80%		Govt Targets	HMCLG - NI157c	74 out of 85 – data currently not verified.
103	Number of appeals received	JB	15	Jan-Mar 2023	Quarterly	PS1/2 Returns	HPSSC	11	5	11			↓						Appeals data is currently not verified
104	Number of appeals determined - allowed	JB	3	Jan-Mar 2023	Quarterly	PS1/2 Returns	HPSSC	8	5	5			→						Appeals data is currently not verified
105	Number of appeals determined - dismissed	JB	4	Jan-Mar 2023	Quarterly	PS1/2 Returns	HPSSC	12	7	9			↑						Appeals data is currently not verified
106	Number of planning enforcement cases opened	JB	80	Jan-Mar 2023	Quarterly	PS1/2 Returns	HPSSC	66	81	N/A			→						Increase in cases opened as staffing levels recovered.
107	Number of planning enforcement cases closed	JB	117	Jan-Mar 2023	Quarterly	PS1/2 Returns	HPSSC	45	64	N/A			→						Increase in cases closed although fewer than were opened for the second quarter.
108	Number of planning enforcement notices served	JB	0	Jan-Mar 2023	Quarterly	PS1/2 Returns	HPSSC	0	0	1			↑						

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**HOUSING AND PLANNING SCRUTINY SELECT COMMITTEE – UPCOMING MATTERS**

**2024-25**

C=Council; CAB = Cabinet; DEL = Delegated to Committee; INFO = matters for information. Cabinet are responsible for ALL Key Decisions (KD). Some Non-Key Decisions (NKD) can be taken by Cabinet Members outside of/following the meeting.

<b>DECISION (TITLE)</b>	<b>DESCRIPTION</b>	<b>C/CAB/ DEL/INFO</b>	<b>KD/NKD</b>	<b>CAB MEMBER DN Y/N</b>	<b>PART 1 OR 2</b>	<b>MEETING DATE</b>	<b>OFFICER IN PERSON ATTENDANCE Y/N</b>
TPO Protocol and TPO Enforcement Protocol						21 May 2024	
Housing Strategy Year 3 Action Plan	To provide an update on progress to date against the Housing Strategy and draft action plan for year 3	CAB	NKD		1		Y
Key Performance Indicators	Standing item	Info					
Work Programme	Standing item	Info					
						16 July 2024	
Key Performance Indicators							
Work Programme							

DECISION (TITLE)	DESCRIPTION	C/CAB/ DEL/INFO	KD/NKD	CAB MEMBER DN Y/N	PART 1 OR 2	MEETING DATE	OFFICER IN PERSON ATTENDANCE Y/N
						24 September 2024	
Key Performance Indicators							
Work Programme							
						10 December 2024	
Key Performance Indicators							
Work Programme							
						18 March 2025	
Key Performance Indicators							
Work Programme							

# Agenda Item 15

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

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# Agenda Item 16

The Chairman to move that the press and public be excluded from the remainder of the meeting during consideration of any items the publication of which would disclose exempt information.

**ANY REPORTS APPEARING AFTER THIS PAGE CONTAIN EXEMPT  
INFORMATION**

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# Agenda Item 17

Any other items which the Chairman decides are urgent due to special circumstances and of which notice has been given to the Chief Executive.

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