

Public Document Pack



Aspirational for our people, our place and ourselves

To: MEMBERS OF THE PLANNING POLICY COMMITTEE
Councillors Sayer (Chair), C.Farr (Vice-Chair), Blackwell,
Bloore, Booth, Botten, Gray, Jones, Lockwood, Prew and
Steeds

for any enquiries, please contact:
customerservices@tandridge.gov.uk
01883 722000

Substitute Councillors: Crane, Flower and Robinson

C.C. All Other Members of the Council

14 September 2022

Dear Sir/Madam

PLANNING POLICY COMMITTEE THURSDAY, 22ND SEPTEMBER, 2022 AT 7.30 PM

The agenda for this meeting of the Committee to be held in the Council Chamber, Council Offices, Station Road East, Oxted is set out below. If a member of the Committee is unable to attend the meeting, please notify officers accordingly.

Should members require clarification about any item of business, they are urged to contact officers before the meeting. In this respect, reports contain authors' names and contact details.

If a Member of the Council, not being a member of the Committee, proposes to attend the meeting, please let the officers know by no later than noon on the day of the meeting.

Yours faithfully,

David Ford
Chief Executive

AGENDA

1. Apologies for absence (if any)

2. Declarations of interest

All Members present are required to declare, at this point in the meeting or as soon as possible thereafter:

- (i) any Disclosable Pecuniary Interests (DPIs) and / or
- (ii) other interests arising under the Code of Conduct

in respect of any item(s) of business being considered at the meeting. Anyone with a DPI must, unless a dispensation has been granted, withdraw from the meeting during consideration of the relevant item of business. If in doubt, advice should be sought from the Monitoring Officer or her staff prior to the meeting.

3. Minutes of the meeting held on the 23rd June 2022 (Pages 3 - 14)

4. To deal with any questions submitted under Standing Order 30

5. **Planning Protocol** (Pages 15 - 48)
6. **Housing Delivery Test Action Plan September 2022 and Interim Policy Statement for Housing Delivery** (Pages 49 - 72)
7. **Future work on Our Local Plan 2033 following the former Secretary of State's letter to the Planning Inspectorate regarding decisions on emerging local plans** (Pages 73 - 84)
8. **Development Management staffing** (Pages 85 - 92)
9. **Quarter 1 2022/23 Budget Monitoring - Planning Policy Committee** (Pages 93 - 100)
10. **Any urgent business**

To consider any other item(s) which, in the opinion of the Chair, should be considered as a matter of urgency – Local Government Act 1972, Section 100B(4)(b).

TANDRIDGE DISTRICT COUNCIL

PLANNING POLICY COMMITTEE

Minutes and report to Council of the meeting of the Committee held in the Council Chamber, Council Offices, Station Road East, Oxted on the 23rd June 2022 at 7:30pm.

PRESENT: Councillors Sayer (Chair), C.Farr (Vice-Chair), Blackwell, Bloore, Booth, Botten, Gray, Jones, Lockwood, Prew and Steeds

ALSO PRESENT: Councillors Allen, Crane, S.Farr, Gillman and N.White

ALSO PRESENT (Virtually): Councillors Moore, O'Driscoll and Pursehouse

43. MINUTES OF THE MEETING HELD ON THE 10TH MARCH 2022

These were confirmed and signed as a correct record.

The Chair updated the Committee regarding the following two minutes:

Minute 275 – 2022/23 budget – Recommendation C

Details of non-householder pre-application fees had been agreed soon after the (10th March 2022) meeting and were now shown on the website at bottom of the pre-application advice request form. (The setting of these fees had been delegated to the Interim Chief Planning Officer and Chief Finance Officer, in consultation with the Chair and Vice Chair of the Committee).

Minute 279 – Planning Protocol

The Chair explained why it had not been possible to prepare a final draft Planning Protocol for consideration by the Committee for this (23rd June 2022) meeting. This had been due to other unforeseen work pressures, especially in pursuit of legal injunctions against unauthorised Green Belt incursions. The Chair confirmed that a revised Planning Protocol would be submitted to the Committee's next scheduled meeting on the 22nd September 2022.

44. MINUTES OF THE MEETING HELD ON THE 26TH MAY 2022

These were confirmed and signed as a correct record.

45. QUESTION SUBMITTED UNDER STANDING ORDER 30

A question was submitted by Councillor O'Driscoll regarding the backlog of planning applications and associated staffing matters. The Interim Chief Planning Officer responded to both this and a supplementary question from Councillor O'Driscoll, the details of which are attached at Appendix A.

The Chair was then pleased to confirm that a Principal Planning Officer had taken up post earlier in the week and that a Senior Planning Officer would be joining early next month. She also advised that a limited number of householder applications had been contracted out for a period of six weeks to help clear the backlog.

46. COMMUNITY INFRASTRUCTURE LEVY (CIL) WORKING GROUP - 8TH JUNE 2022

Before any discussion took place regarding the minutes of the Working Group's meeting on the 8th June 2022, the following Councillors declared non-pecuniary interests:

Councillor	Nature of interest
Councillor Botten	Governor of St Peter & St Paul school, Caterham. Councillor Botten left the Chamber before any discussion took place.
Councillor Pursehouse	Member of the Blanchman's Farm Local Nature Reserve Management Committee. Councillor Pursehouse remained on-line.
Councillor Bloore	Council's representative on the Blanchman's Farm Local Nature Reserve Management Committee. Councillor Bloore remained in the Chamber.

Councillor Blackwell, as Chair of the CIL Working Group, proposed that its recommendations regarding the allocation of CIL funds be approved. This was seconded by Councillor Lockwood and approved by the Committee without further discussion.

RESOLVED – that the minutes of the CIL Working Group's meeting on the 8th June 2022, attached at Appendix B, be received and the recommended CIL allocations in item 4 be adopted.

47. LEVELLING UP AND REGENERATION BILL

A report was presented which informed Members about the coverage of this Bill and the potential implications for the Council in terms of future plan making, development management and enforcement processes.

It was anticipated that key aspects of the Bill would be subject to future consultation and possible amendment prior to receiving Royal assent in 2024. Any additional resource requirements associated with new regulations would need to be assessed in due course. At the present time, there was little detail about how the proposals within the Bill would be implemented. The Interim Chief Planning Officer responded to questions and clarified that:

- the Bill was unlikely to weaken environmental standards or undermine the Environment Act 2021 – the objective was to simplify the process for presenting the environmental impact of proposed developments
- key elements of the Local Plan making process would have to continue until the relevant aspects of the Bill become law
- Parish Councils should continue to be encouraged to bring neighbourhood plans forward.

The Committee discussed the implications for the Local Plan making process.

In view of the likely changes to the planning policy / development management regime, the Chair proposed that a Planning Policy Working Group of four Members be established (2 x IOLRGA; 1 x Liberal Democrat; 1 x Conservative) to enable timely engagement with Members. The Group would have no decision-making powers but would enable officers to consult more effectively in between Committee meetings. It could also be asked to monitor supplementary planning documents that will be coming to the Committee. This proposal was seconded by Councillor C.Farr. Following a request from Councillor Pursehouse, it was agreed that the Independent Group could also be given a seat on the Working Group.

RESOLVED – that:

- A. the report be noted; and
- B. a Planning Policy Working Group be established comprising:
 - two IOLRGA Councillors
 - one Liberal Democrat Councillor
 - one Conservative Councillor
 - one Independent Group Councillor.

48. LOCAL PLAN UPDATE

The Committee was required to adopt a Local Development Scheme (LDS) 2022 on behalf of the Council. This was in connection with:

- (i) the ‘best case’ work programme issued to the Planning Inspector on 27th April 2022 (TED55) as part of the on-going Local Plan examination; and
- (ii) the Planning and Compulsory Purchase Act 2004 (Section 15) which required Local Planning Authorities to maintain such schemes.

A draft LDS was presented on this basis. The work programme referred to in (i) above set out, as far as reasonably possible, how the Council will seek to meet the Inspector’s requirements as set out in ID16, ID20 and ID21. The timescales for the individual elements were based on Officers’ understanding of the types of work being sought and how long these would usually take. However, as explained within the accompanying report, some timescales were dependent on the work of third parties which was beyond the Council’s control. Certain variables could also affect progress, including national policy changes and case law.

The Council's current LDS had been adopted in January 2020. The proposed 2022 version reflected the impacts of the extended Local Plan examination period. The report also provided an update about the budget for the planning policy service.

During the debate, it was highlighted that certain tasks in the work programme had slipped passed their deadlines. The Interim Chief Planning Officer stated that these were 'works in progress' and confirmed that more detailed analysis of the status of each task could be circulated to Members without having to wait for the next scheduled Committee meeting. The Chair also advised that fall back positions for implementing the work programme would be discussed with the Planning Policy Working Group (Minute 47 refers).

It was confirmed that the emerging Lingfield Neighbourhood Plan was about to become the subject of a 'Regulation 14 consultation' once approved by Lingfield Parish Council.

The Chair was sorry to announce that this was Marie Killip's (Strategy Specialist) last Planning Policy Committee meeting. The Chair thanked Marie for her valued services to Tandridge and wished her well for the future. This was echoed by other members of the Committee. The Chair also confirmed that two additional officers (currently interims in the Development Management Team) would be joining the Planning Policy Team and that the process for recruiting a Head of Planning Policy was underway.

RESOLVED – that:

- A. the content of the report be noted; and
- B. the Local Development Scheme 2022, attached at Appendix B to the report, be adopted.

49. LIMPSFIELD CONSERVATION AREA APPRAISAL AND MANAGEMENT PLAN (SUPPLEMENTARY PLANNING DOCUMENT)

The Committee was invited to adopt a Limpsfield Conservation Area Appraisal and Management Plan (LCAAMP) which had been produced in partnership with Limpsfield Parish Council and Surrey County Council's Heritage Team. The accompanying report also recommended minor changes to the boundaries of the conservation area and a renaming to 'Limpsfield Village Conservation Area'.

The LCAAMP:

- fulfilled a commitment of the Limpsfield Neighbourhood Plan which had been 'made' by the Council in June 2019
- described the key features and historical importance of the conservation area, and how they can be preserved and enhanced
- assessed the previous boundary and recommended minor changes
- identified management actions to preserve and enhance the conservation area
- would serve as a Supplementary Planning Document to support and inform planning decisions in the conservation area in line with the Core Strategy and adopted Limpsfield Neighbourhood Plan.

The report also summarised the consultation process undertaken by both the Parish and District Councils which culminated in the production of the draft LCAAMP.

During the debate, Members acknowledged the hard work of all concerned which had contributed to such a high-quality document.

RESOLVED – that:

- A. the recommended minor adjustments to the boundary of the conservation area be made;
- B the name of the conservation area be changed from Limpsfield Conservation Area to Limpsfield Village Conservation Area; and
- C the LCAAMP be adopted as a Supplementary Planning Document which will form part of the local planning policy framework for the Council to be used in the assessment of planning applications within the Limpsfield Village Conservation Area.

50. GATWICK UPDATE

A report was presented to update Members on the progress to date with Gatwick Airport Limited's 'Northern Runway Project Development Consent Order' (DCO) and other related workstreams. The report included reference to:

- GAL's indicative timetable of next steps following its statutory consultation towards the end of 2021 – this confirmed GAL's intention to submit the DCO to the Planning Inspectorate during the first quarter of 2023 (over six months later than originally intended)
- GAL's six-week public consultation (ending on the 27th July) regarding its updated highway design proposals
- the work to be undertaken by officers regarding the DCO process, both at the pre-submission stage and as part of the subsequent examination process
- work undertaken with the Gatwick Member / Officer Group to respond to GAL consultations regarding:
 - the Future Airspace Strategy Implementation (FASI) change proposal; and
 - the Gatwick Airspace Route 4 Option 7 Design Change
- a preliminary response to a GAL consultation regarding the way aircraft noise from Gatwick is considered in planning applications for noise sensitive developments.

The report also proposed that the Gatwick Member / Officer Group should continue with its exiting terms of reference and membership (i.e. Councillors Botten, Flower, Gillman, Lockwood and Moore). In this respect, the Chair considered that a more comprehensive geographical representation would be achieved by the addition of an Oxted or Limpsfield Ward Councillor.

Councillor Lockwood advised that GAL would be engaging with stakeholders concerning its obligation to create a 'noise envelope' (applicable to all airports seeking to increase capacity) and that she had been invited to represent the various Gatwick noise management / monitoring groups (of which she was a member) on the GAL's Noise Envelope Working Group. She would therefore be inviting all Members to provide her with any relevant comments / suggestions about Gatwick for her feedback to GAL via that forum.

RESOLVED – that:

- A. the contents of the report regarding the progress made to date in the DCO process and other workstreams be noted;
- B. the authority delegated to the Chief Executive and / or the current Interim Chief Planning Officer, in consultation with the Chair and Vice Chair, to respond to future consultations and other forms of engagement from relevant stakeholders at various stages of the DCO process remains as previously agreed; and
- C. the Gatwick Member / Officer Group will continue with its existing terms of reference and that its membership be increased by the addition of an Oxted or Limpsfield Ward Councillor.

Rising 8.40 pm

Planning Policy Committee – 23rd June 2022 - Agenda Item 5**Question submitted under Standing Order 30 from Councillor O’Driscoll**

A resident of Tandridge has approached me and advised they have put in a planning application which has taken five weeks to acknowledge and is still 19th in the queue to receive a letter of acknowledgement at the time of submitting this question. I feel this is completely unacceptable as it gives our residents a lot of uncertainty around whether they can trust our planning department to deliver the best service for our residents.

Could an explanation be given as to why it is taking so long for Tandridge to process planning applications and what steps are being taken to reduce the staff turnover in the planning department?

Response from the Interim Chief Planning Officer

“To clarify one matter ...whether a planning application is submitted electronically to the Council through the planning portal, or as hard copy by post, the standard procedure in both cases is that an acknowledgement letter is sent out straight away. This letter contains a Council application number. The letter has also been recently amended to refer to the backlog of applications awaiting validation so applicants are aware of the current situation.

Unfortunately, the Planning Department’s validation team do have a backlog of applications awaiting validation. This is due to both staff changes within the Planning Department and the increased number of applications being received. Consequently, there has been a delay in sending out letters confirming (or not) that a particular application is valid and giving a determination date and this may be what is being referred to by the complainant who has contacted Cllr O’Driscoll.

Steps are being taken to urgently reduce the number of applications awaiting determination, including:

- increasing the number of validation officers from within existing staff numbers in the Planning Department;*
- recruiting a new validation officer for which there is existing provision in the Planning Department staffing structure and budget; and*
- retaining an interim validation officer, pending the completion of training of transferred or new validation staff members.*

In general terms, within the Development Management team over the last two months, staffing levels have improved. The number of planning applications being handled by individual planning officers has fallen sharply. This means that applications are being determined more quickly. While there are no reasons to be sanguine, the situation is steadily improving, both in terms of interim / temporary and permanent planning staff recruitment.

What this Council is facing, like other Councils across Surrey, is an acute shortage of experienced Development Management planning officers. Every effort is being directed at recruiting new, permanent planning staff, including new initiatives to attract potential candidates. Other short-term initiatives to reduce the number of applications awaiting determination are also being tried to make individual officer caseloads more manageable still.”

Supplementary question from Councillor O'Driscoll

It's really positive that we are managing to recruit more staff, but have we got a timeframe for the validation officers?

Response from the Interim Chief Planning Officer

One is already in post – the individual was transferred from another position in the Development Management team in the last few weeks. There is one vacancy as a result of placing a former validation officer on a career path (planning assistant) who expressed an interest in becoming a planning officer. This reflects a wish to work towards 'growing our own' professional staff as much as possible and to encourage those who aspire to progress and become professionally qualified. So, we have this one permanent validation officer post to fill which is currently occupied by a temporary member of staff. With all the changes going on within the Council as part of the overall transformation project, I have discussed with the Chief Executive the desire to fill it with someone currently working elsewhere within the Council who might otherwise be made redundant.

CIL WORKING GROUP

Minutes of the meeting of the Working Group held in the Council Chamber, Council Offices, Station Road East, Oxted on the 8th June 2022 at 6.30pm.

PRESENT: Councillors Blackwell, Bloore, Farr, Flower, Gaffney, Hammond, Langton, Lockwood and Moore.

APOLOGIES FOR ABSENCE: Councillor Botten.

1. ELECTION OF CHAIR FOR THE REMAINDER OF 2022/23

Councillor Blackwell was elected Chair of the Working Group for the remainder of the 2022/23 municipal year.

2. UK SHARED PROSPERITY FUND

The Executive Head of Communities advised that £1million had been allocated to the Council to spend against an investment plan to be submitted to the Government between 30th June and 1st August 2022. It was agreed that the CIL Working Group was ideally placed to help develop the plan (prior sign off in consultation with Group Leaders) and that a further meeting might be required within the next few weeks for this purpose.

3. DECLARATIONS OF INTEREST

In respect of Item 4 below, Members declared interests as follows:

Councillor Bloore declared that he was a Warlingham councillor and the Council's representative on the Blanchman's Farm Management Committee. He did not vote on the Blanchman's Farm CIL bid but remained in the Chamber for the presentation and associated discussions.

Councillor Flower declared that he was a Chaldon councillor and was familiar with the St Peter & St Paul school expansion project. However, he did not consider his position on the Group to be compromised and he took part in the discussion and voting regarding the CIL bid.

Councillor Gaffney advised that her partner did voluntary work at Blanchman's Farm but did not consider her position on the Group to be compromised and she took part in the discussion and voting regarding the CIL bid.

4. APPLICATIONS FOR CIL FUNDS – SPRING 2022

The Group had been provided with written copies of the completed application forms and officer assessments in respect of five CIL applications, i.e.:

Project (applicant shown in brackets) in order of application number	CIL requested	Original Officer ranking
Expansion of St Peter & St Paul school, Chaldon (Surrey County Council)	£1,250,000	3
All weather disabled trackway refurbishment (Blanchman's Farm Local Nature Reserve in Warlingham)	£104,000	4
Telescopic floodlights for 3G football pitch de Stafford school, Caterham (GLF Schools)	£80,000	1
Opening up the countryside (Dormansland Parish Council)	£91,700	2
Clubhouse renovation project (Warlingham Sports Club)	£556,500	5
Total CIL requested	£2,082,200	
Potential balance of available CIL funding if all five applications were approved in full	£2,501,707	

Representatives of each organisation gave presentations about their bids and responded to Members' questions.

Following the presentations, the Group discussed the merits of the bids and whether they should be supported in full, in part, or not at all. The key points to emerge were:

Expansion of St Peter & St Paul Infant School, Chaldon

From September 2022, the school would be expanded from 'infant' to 'primary' status with an increase in capacity from 90 to 210 places. The planning application for the required building works was due to be considered by Surrey County Council (SCC) later in the summer and a procurement exercise was imminent. The estimated cost comprised £3M for the building programme and £830,000 for highway improvements. The SCC representative explained that 'basic needs grant' funding from the government was always insufficient to cover every school place, hence the need for SCC to pursue external contributions from CIL and the Diocese of Southwark to cover the shortfall.

The required highway / road safety measures were still being worked up by SCC's travel consultants (to form part of the planning application) and would be phased in following completion of the building works.

The Group supported a CIL allocation but considered that SCC should make a greater contribution. It was agreed that CIL funding should be prioritised for the highway / road safety mitigations and that the exact nature of those works, together with an implementation timeline, should be considered by the Group prior to the release of CIL funds. An 'in principle' (reduced) award of £1M was recommended on that basis.

Blanchman's Farm all weather disabled trackway refurbishment

The intention to lay a new concrete path on the existing base (as opposed to a cheaper but less durable tarmac alternative) was explained following the presentation.

Members acknowledged the community benefits of the scheme and commended the approach being taken towards project management and efforts to secure value for money. The Group recommended that the bid be approved in full.

Telescopic floodlights for 3G Football Pitch de Stafford School

The CIL bid was for the additional cost of telescopic (retractable) floodlights, given that that a previous planning application for a scheme with fixed columns was refused in October 2021.

The School's relationship with Freedom Leisure was explained following the presentation. The Group welcomed the project and recommended that the bid be approved in full, subject to the granting of planning permission.

Opening up the countryside in Dormansland

The Group expressed reservations about this bid, including the lack of early community engagement. However, the applicant explained that the Parish Council's website now provided detailed information via its home page, including an invitation to submit views to the Council's CIL team. This had resulted in several messages of objection prior to the meeting.

A further concern was that other areas of the District demonstrated a more pressing need for infrastructure improvements to mitigate against residential development.

Warlingham Sports Club - clubhouse renovation project

The CIL bid was for phase 2 of the project (new changing facilities) and was conditional upon the completion of phase 1 (new entrance and toilets for function area). If granted, it was anticipated that CIL monies would be claimed in 2023/24 and the applicant hoped that, in the meantime, the offer of a CIL award would provide a catalyst for contributions from other sources.

Officers confirmed that the terms of the trust deed concerning the Club's charitable status and protections afforded to the site against alternative use would be verified as part of the due diligence process. The Group wished to support the project and recommended that the bid be approved in full.

RECOMMENDED – that the following be ratified by the Panning Policy Committee:

A. awards of CIL be made as follows:

Project	Award	
All weather disabled trackway refurbishment (Blanchman's Farm Local Nature Reserve)	£104,000	
Floodlights for 3G Football Pitch de Stafford School (GLF Schools)	£80,000	(subject to the granting of planning permission)
Clubhouse Renovation Project (Warlingham Sports Club)	£556,500	
Total CIL grant awarded		£740,500

B. regarding the St Peter & St Paul school (Chaldon) expansion project, an award of £1,000,000 be agreed in principle subject to:

- (i) the award being utilised to cover the highways improvement scheme in the first instance, with any balance being allocated against the extended school building costs;
- (ii) the Working Group being satisfied with the proposed highway / road safety mitigation measures, including an implementation timeline, the details of which will be requested for consideration at a meeting (of the Working Group) to be arranged for November 2022

C. the bid from Dormansland Parish Council for the 'Opening up the Countryside' project be refused.

The meeting closed at 10.21pm.

Planning Protocol

Planning Policy Committee Thursday, 22 September 2022

Report of: Head of Legal Services & Monitoring Officer

Purpose: For decision

Publication status: Open

Wards affected: All

Executive summary:

This report presents a proposed, updated Planning Protocol for the Committee's consideration. As the Protocol forms part of the Constitution, adoption of a new version is subject to ratification by Full Council.

This report supports the Council's priority of: 'Building a better Council'

Contact officer Lidia Harrison Head of Legal & Democratic Services
lharrison@tandridge.gov.uk –

Recommendation to Committee:

That the proposed new Planning Protocol, attached at Appendix A, be recommended to Full Council for adoption.

Reason for recommendation:

As the current Planning Protocol was adopted in December 2011, a review is long overdue. The Protocol is contained within the Council's constitution (Part F), substantive amendments to which are among the powers reserved for Full Council. The Committee's decision is, therefore, required to be in the form of a recommendation, to be determined by Council on 20th October 2022.

Introduction and background

- 1 The purpose of the Planning Protocol is to guide Members and Officers in the discharge of the Council's statutory planning functions.
- 2 A proposed updated version has been prepared and shared with Members as part of a Zoom briefing on 5th September. The draft protocol at Appendix A reflects the comments and suggestions made by Members during that briefing.
- 3 The revised procedures and recommendations developed within the proposed protocol have been reached after consideration of best practice in other local authorities.

Key implications

Comments of the Chief Finance Officer

There are no financial implications associated with this report.

Comments of the Head of Legal Services

The adoption of the updated and revised planning protocol will undoubtedly assist the Council deliver an improved, effective, transparent and inclusive development management service for the benefit of all stakeholders.

Equality

There are no specific equalities implications.

Climate change

There are no specific climate change implications.

Appendices

Appendix A – proposed new Planning Protocol

Background papers

None

----- end of report -----

Planning Protocol

Draft as at 18.00 on 13.09.22



1. Introduction

- 1.1 This Protocol has been prepared to guide Members and Officers in the discharge of the Council's statutory planning functions. It has been produced in accordance with the Planning Advisory Service publication 'Probity in Planning' – December 2019.
- 1.2 Members' role in the planning process is to make decisions openly, impartially, with sound judgement and for justifiable planning reasons. When planning applications are reported to Committee, the report will contain an Officer recommendation as to whether planning permission should be granted or refused. Members are entitled to bring their own judgement to bear on planning applications and to make a decision contrary to an Officer recommendation, but it is important that such decisions are taken on sound planning grounds which will withstand scrutiny at a possible appeal (if planning permission is refused) or if the decision is referred to the Local Government Ombudsman.
- 1.3 Members should bear in mind their overriding duty is to the whole community, not just to the people in their Ward and, taking account of the need to make decisions impartially, they should not favour, or appear to favour any persons, business or locality irrespective of other considerations.
- 1.4 The provisions of this Protocol are designed to ensure that planning decisions are taken on proper planning grounds, are applied in a consistent and open manner and that Members and Officers making such decisions are held accountable for those decisions. The protocol is also designed to assist Members and Officers in dealing with approaches from property owners.
- 1.5 Central Government has legislated that decisions on planning applications must be taken in committee meetings that are open to the public and Members should always bear in mind that their statements during Planning Committee debates can lead to formal complaints to the Council and sometimes be referred to the Local Government Ombudsman.

2. When this Protocol applies

- 2.1 This Protocol applies to all Member involvement in Planning functions (i.e. whether or not they are Members of the Planning Committee), including not only consideration and determination of applications for planning permission but also planning enforcement action and the formulation and adoption of planning policies.

If you have any queries or concerns about the application of this protocol to your own circumstances, you should seek advice early from the Monitoring Officer or Deputy Monitoring Officer and preferably well before any meeting takes place.

3. Relationship to the Members' Code of Conduct

- 3.1 The Council has adopted a Members Code of Conduct ('Code') which reflects the principles of selflessness, integrity, objectivity, accountability, openness, honesty and leadership.
- 3.2 This Protocol is intended to supplement the Code where Members are involved in the planning process.

- 3.3 The rules set out in the Code must be applied first and must always be complied with.
- 3.4 Where a Member does not abide by the Code and/or this Protocol when involved in the planning process, it may put the Council at risk of challenge on the legality of any decision made or at risk of a finding of maladministration.
- 3.5 A breach of this Protocol may, in some circumstances, constitute a breach of the Members' Code of Conduct. A complaint would be made to the Council's Monitoring Officer who, in consultation with the Independent Person will determine whether or not there are reasonable grounds for believing there has been such a breach and, if so, whether the complaint warrants reference to the Council's own Standards Committee.

Members should apply common sense in the interpretation of this Protocol.

4. Conduct of Councillors and Officers

- 4.1 The PAS publication 'Probity in Planning' 2019 states: "*Councillors and officers have different but complementary roles within this system, and effective communication and a positive working relationship between officers and councillors is essential to delivering a good planning service.*" Both serve the public, but Members are responsible to the electorate, whilst Officers are responsible to the Council as a whole. Officers advise Members and the Council and carry out the Council's work. They are employed by the Council, not by individual Members and therefore formal instructions can only be given to Officers through a decision of the Council or its Committees. A successful relationship between Members and Officers will be based upon mutual trust, understanding and respect of each other's position. The Council has a protocol giving guidance on relationships between Officers and Members.
- 4.2 Planning Officers who are licentiate, associate and chartered town planners are subject to the Royal Town Planning Institute (RTPI) Code of Professional Conduct, breaches of which may be subject to disciplinary action by the Institute. In addition, the Council has a Code of Conduct for employees. Members should recognise and respect that Officers involved in the processing and determination of planning matters must act in accordance with their professional codes of conduct. As a result, Planning Officers' views and opinions will be presented on the basis of their overriding obligation of professional independence, which may, on occasion, be at odds with the views, opinions or decisions of the Committee or its Members. Members should bear in mind that in assessing planning applications and formulating their recommendations, Officers will have particular regard to the Council's adopted planning policies.
- 4.3 Members should not put pressure on Officers to put forward a particular recommendation. (This does not prevent Members from asking questions or submitting views, which may be incorporated into any Committee report, neither does it prevent Members from 'testing' Officer opinions and the basis of those opinions).
- 4.4 Members should be aware that Planning Officers handling appeals or public inquiries have a duty first and foremost to the tribunal hearing those appeals or public inquiries. Officers have to attest as such in their statements of evidence. This does not mean they cannot represent the Council stating the Council's case. However, they must not include anything in evidence which they do not believe in or can substantiate based on their professional experience.

- 4.5 Members can express a view on behalf of their constituents to a Planning Officer about the matters to be given weight in the determination of a planning application that has been refused by the Council so that these views can be expressed in the Council's Statement of Case or evidence. Planning Officers have a professional duty to decline to include such views in the Council's evidence if they disagree with such views. In the alternative, Members can use their own (or encourage their residents to use theirs) right to make representation to the Planning Inspectorate about planning matters to be taken into account in the determination of an appeal.
- 4.6 Serving Members who act as agents for people pursuing planning matters within the Council should not be members of the Planning Committee.
- 4.7 A successful relationship between Members and Officers can only be based upon mutual trust and understanding of each other's positions. This relationship and the trust which underpins it must never be abused or compromised.
- 4.8 Members have a right to expect a prompt reply to any matters they wish to raise with Planning Officers whether this is in respect to planning applications, enforcement or the draft Local Plan. All Officers dealing with planning applications, trees and hedgerows and enforcement are provided by the Council with a mobile phone to ensure they can communicate effectively and efficiently with Members of the Council, applicants, agents and the public. A list of these mobile phone numbers will be circulated to Members and updated as necessary. The expectation is that Officers with a mobile phone will be available to answer that phone throughout their working day.

5. Role of the Committee Chair

- 5.1 The role of the Committee Chair is to lead and manage the Planning Committee and in particular:
- to determine the order in which questions may be addressed from the Committee Members following Officer presentations;
 - ensuring that the public speaking procedure in section 18 is followed;
 - managing the Committee debate about applications, including the order in which Councillors who wish to address the Committee may speak;
 - determining when the debate has come to a close and votes should be cast in the order in which the motions were first completed (i.e. where the motion has been moved and seconded by Members of the Planning Committee)
 - ensuring that debate and decisions made are suitably focused on relevant planning considerations.

6. Role of Members

6.1 Members sitting on the Planning Committee should:

- make planning decisions on applications presented to the Committee openly, impartially, with sound judgement and for sound planning reasons;
- consider only development plan policies and material planning considerations (including the National Planning Policy Framework or NPPF) in determining applications
- exercise their responsibilities with regard to the interests of the District as a whole rather than with regard to their particular Ward's interest and issues;
- come to meetings with an open mind;
- not allow anyone (except Officers, other Committee Members and public speakers when they are addressing the Committee) to communicate with them during the meeting (orally or in writing) as this may give the appearance of bias. For the same reason, it is best to avoid such contact immediately before the meeting starts;
- consider the advice that planning, legal or other Officers give the Committee in respect of the recommendation or any proposed amendment to it. Members need to consider "significant" planning considerations in the determination of a planning application having regard to what the Planning Officer's report states is a significant consideration and be prepared to justify their view if different before the Committee;
- comply with section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires the Local Planning Authority to make decisions in accordance with the development plan unless there are good planning reasons to come to a different decision based on material planning considerations;
- have regard to material planning considerations which can be but are not limited to:
 - Overlooking/loss of privacy
 - Loss of light or overshadowing
 - Right to peaceful enjoyment of property
 - Government policy
 - Previous planning decisions (including appeal decisions)
 - Economic benefits of a proposed development nationally or for the local area
 - Community benefits
- come to their decision only after due consideration of all of the information available to them, including the local information that Members are uniquely placed to access, but always remembering to take decisions on planning grounds alone. If Members feel there is insufficient time to digest new information or that there is insufficient information before them, they should seek an adjournment to address these concerns;
- not vote on a proposal unless they have been present to hear the entire debate, including the Officer update and any public speaking;

- make sure that if they are proposing, seconding or supporting a decision contrary to the Officer's recommendation or the development plan, they clearly identify and understand the planning reasons leading to this conclusion and that they take into account any advice planning, legal or other Officers give them (they should seek such advice before the Committee meeting including resolutions contrary to the Officer's recommendation, reasons for refusal or draft planning conditions). Their reasons must be given prior to the vote and be recorded. Be aware that they may have to justify the resulting decision by giving evidence in the event of challenge;
- avoid requests for Officers to speed up or delay the determination or assessment of particular applications for their own personal or political convenience or following lobbying by applicants, agents/advisers, local residents or other interested parties;
- not allow anyone (except Officers and other Committee Members) to communicate with them during any site visit (orally or in writing).

6.2 Issues such as loss of view, or negative effect on the value of properties are not material considerations. There is no set list defining material considerations and it is a matter for Members to decide upon in the context of determining a particular planning application having regard to a Planning Officers advice on the matter

7 Role of Planning Officers

7.1 The role of Planning Officers at Committee is:

- to use professional judgement when recommending decisions on applications and other planning matters;
- to provide professional advice to the Committee on planning applications and other matters at any point in the meeting.

8. Discussions with constituents

8.1 It is important that Members should be able to receive the views of their constituents. Accordingly, Members may discuss planning matters with any of their Ward constituents, including those constituents who have made or intend to make an application for planning permission. For the protection of Members it would be prudent for a Member having any such discussion to make a written note of the meeting. If a Member considers that it would be appropriate to have an Officer present when they meet with a constituent, they should contact the Chief Planning Officer to agree the arrangements. If a Member is requested to meet with a constituent to discuss a planning matter, they should make clear that no third party (such as a developer who is not a constituent or a planning agent) can be present. If the constituent advises that they wish a third party to be involved, the Member should advise their constituent that they should use the Pre-Application process. If in the event a constituent does attend the meeting with a third party, the meeting should not proceed further.

8.2 In any discussions with constituents, Members may indicate their view in relation to the matter but should not commit themselves to voting or determining the matter in a particular way.

- 8.3 In any discussions concerning planning applications (i.e with constituents) Members should be careful not to convey the impression or to represent that they are doing anything other than expressing their personal views. Notably, Members should be careful to avoid giving the impression that they have authority to speak on behalf of the Council.
- 8.4 Members should inform the Monitoring Officer if they feel they have been exposed to undue or excessive lobbying or approaches (including inappropriate offers of gifts or hospitality) whether from a constituent or a third party.

9. Discussions with non-constituents

- 9.1 Members should not have individual discussions with persons (including developers and their planning agent or other representative) who are not constituents of the Ward which they represent save:-
- (a) with constituents of the Ward in which the Member resides;
 - (b) with other Members; or
 - (c) with Officers.
- 9.2 Where a formal meeting would be useful in clarifying the issues, this should be part of a structured arrangement organised and attended by Officers. The officer(s) will then ensure that those present at the meeting are advised from the start that the discussions will not bind the Council to any particular course of action, that the meeting is properly recorded on the application file and the record of the meeting is disclosed when the application is considered by the Committee or by an Officer under delegated powers.
- 9.3 Members should remember that the formal meeting set out in Para 9.2 is not part of the formal process of debate and determination of any subsequent application, as this will be carried out by the Committee or by an Officer under delegated powers.

10. Frequency of Planning Committee meetings

- 10.1 The Planning Committee will normally meet at least once every calendar month. Additional meetings will be at the discretion of the Chair of the Committee. No meeting will take place in the month of August. Meetings will conclude no later than 11.00pm unless otherwise agreed by Committee Members. Any items on the agenda that have not been considered at that time will be adjourned for consideration at a reconvened meeting.

11. Quorum for the Planning Committee

- 11.1 The quorum for the Planning Committee is defined within Standing Orders. Should the Committee be inquorate, planning applications cannot be determined and should therefore be withdrawn from the agenda and returned to the next Planning Committee meeting.

- 11.2 Where the Planning Committee becomes inquorate, not due to Committee Members being absent but due to Committee Members declaring an interest, the planning application concerned should be deferred to the next Planning Committee meeting to allow each Member to seek advice as to whether their interest of concern is in fact an interest which would prevent them considering and voting upon the planning application. In the event that a Member or Members, on receipt of advice, are comfortable that there is no interest to prevent them considering and voting upon the application, the reasoning for such a position should be so recorded in the minutes of the next Planning Committee meeting.
- 11.3 In the event of Planning Committee still being inquorate, due to Members declaring an interest, the Committee is deemed to not be able to determine the application, which is then referred to the Chief Planning Officer for a delegated decision.
- 11.4 The Chief Planning Officer will normally attend all Planning Committee meetings, in addition to Planning Officers presenting application reports and recommendations and can choose to introduce a deferral of an application to a subsequent committee, or an additional or alternative recommendation to that proposed by other Planning Officers present, if he deems it expedient to do so and sets out those reasons to the Committee.

12. Substitutions

- 12.1 A political group may vary its representation on the Planning Committee by the temporary substitution of a previously nominated Member in accordance with the deadlines prescribed by the relevant Standing Order. Such temporary substitutes must have received relevant training. The group must give notice in writing to the Planning Committee Clerk as soon as possible. The substitute Member must be a member of the same group at the Planning Committee that he/she is replacing. The arrangement which can be for a particular meeting (not part of a meeting) or for a period of time must be set out in the notice.
- 12.2 Where the meeting is adjourned the substitute arrangement will remain in place when the meeting is re-convened.
- 12.3 A Member substituting shall have the same rights as other Members of the Committee, including the right to vote.
- 12.4 At the end of the period stated in the notice, the substitute Member shall cease to be a Member of the Committee and the original Member will resume his/her representation on the Committee. A notice which has been duly served may be withdrawn at any time prior to the start of the meeting and the arrangements in place before the notice was served shall apply.
- 12.5 The Planning Committee Clerk shall inform the Committee of any such arrangements which are in place for that meeting. Where the arrangement is for a period of time he/she will notify the Committee at subsequent meetings including any reconvened meeting following an adjournment.
- 12.6 The Planning Committee Clerk will ensure that any substitute Member receives a copy of the Agenda for the meeting as soon as practicable after service of the notice. The substitute Member should ensure that they have read all relevant reports prior to the meeting.

12.7 Any substitute Member who has not previously received training in being a Member of the Planning Committee should contact the Chief Planning Officer to arrange such training prior to attending a Planning Committee meeting.

13. Referring applications to the Planning Committee

13.1 All Councillors will receive copies of the weekly list of planning applications validated and proceeding to determination for detailing the reference number, proposal, location, decision, number of objections, and a hyperlink to connect to the relevant part of the Planning Portal to enable Planning Committee Members to view more details about the application.

13.2 If a Councillor wishes an application to go before the Planning Committee (to be 'called-in') rather than be determined through Officer delegation, they should make this request in writing (including by email) to the Planning Officer and copy in the Chief Planning Officer as soon as possible, The planning grounds on which the call-in is based should be stated as fully as possible.

13.3 The Planning Officer and/or Chief Planning Officer shall then mark the record of that application as "Referral to Committee".

13.4 "Call-ins" are of two types:

- i) when a Member would want to have Planning Committee consider the application in the event of an Officer recommendation of refusal because of their awareness of a material consideration that indicates planning permission should be granted; or
- ii) when a Member would want to have Planning Committee consider the application in the event of an officer recommendation of permission because of their awareness of a material consideration that indicates planning permission should be refused.

In either case, if Members consider there may be circumstances in which an alternative Officer delegated decision may be acceptable (eg amendments to a scheme of development imposition of planning conditions), they should still make a "call-in" in writing but indicate to the Chief Planning Officer that they may be minded to change their view subject to further discussion once Officers had come to an initial opinion.

13.5 Councillors must have reasonable and material planning ground(s) upon which to make the request to reverse an Officer's indicated recommendation. All Call-ins will be reviewed. Should the Chief Planning Officer find the planning grounds to be insufficient for the reversal of an Officer's recommendation then the Chief Planning Officer will immediately consult with the Chair, Vice Chair and delegated Planning Officer before presenting in writing to, and subsequently discussing with, the member concerned their reason(s) to withdraw their Call-In. The decision for a Call-in rests with the Member but no reasonable and sound request for withdrawal shall be refused.

13.6 The agenda for the next appropriate meeting will be amended as soon as possible to reflect those applications that have been 'called-in'. The Planning Officer will also inform the Member of the date of the Committee when the application will be heard. The Member making the call-in request will be invited to;

- i) discuss the wording of an alternative resolution for permission/refusal with the Case Officer/another Senior Planning Officer to be forwarded to Democratic Services to ensure the smooth running of Planning Committee proceedings; and
 - ii) discuss the wording of an alternative set of planning conditions/ reasons for refusal with the Case Officer/another Senior Planning Officer to ensure these meet the test of reasonableness and to be forwarded to Democratic Services to ensure the smooth running of Planning Committee proceedings.
- 13.7 The Chief Planning Officer has absolute discretion to refer any otherwise delegated application to the Planning Committee for determination, for example, when such an application raises issues considered to be of District wide importance.
- 13.8 Members of the public and other third parties **cannot** request that an application be referred to the Planning Committee.
- 13.9 The number and nature of delegated applications referred to the Planning Committee will be reviewed on a regular basis.

14 Applications for Consideration at Planning Committee

- 14.1 The following matters are reserved to the Planning Committee:
- Where the proposal is significant development which has caused substantial local interest and objection.
 - Where the officer recommendation is for approval contrary to policy in the Development Plan, Neighbourhood Plans, DPD or other adopted guidance to an application that is subject to representations that object to the grant of planning permission.
 - Where the application is recommended for approval or refusal, contrary to the reasons for referral submitted by a Member, providing the reasons for referral submitted by a Member are based on sound planning reasons.
 - Any application for development in which the Council has a significant interest in the proposal or the application relates to Council owned land
 - Any application for development submitted by a Member of the senior leadership team or an officer employed within Development Management and Planning Policy or an elected member of the Council or an application submitted within 12 months of their leaving the Council submitted by or on behalf of a Member of the senior leadership team or an officer employed within Development Management and Planning Policy or an elected member of the Council.
 - Any application for development which as a consequence of the scale of objection or for any other reason the Chief Planning Officer deems it to be appropriate or expedient for the matter to be referred to the Committee;

Applications that are time sensitive, for example Prior Approvals are not usually heard at Committee.

15. Pre-Application discussions and pre-application notifications

- 15.1 The National Planning Policy Framework recognises the value of and encourages Pre-Application discussions between Local Planning Authorities and developers. The NPPF notes that the more issues that can be resolved at pre-application stage, the greater the benefits, and exhorts Local Planning Authorities to encourage developers to take up any pre-application services offered. The appropriate involvement of Members in the Pre-Application process in accordance with the provisions set out below should enhance its value. As a general principle, Members should, where appropriate, seek to encourage promoters of development schemes to engage in the Pre-Application process.
- 15.2 Promoters of development schemes wishing to engage Members in Pre-Application discussions will be advised that:-
- (a) for major applications, a presentation to Ward Members and Planning Committee Members (but not excluding any other Council Member wishing to attend) is preferred in the interest of transparency for which an additional pre-application advice fee (to that payable for officer time) will be payable;
 - (b) if they wish to secure more limited Member input into the Pre-Application discussions they can request that the Ward members attend a meeting with a Planning Officer present. The decision as to whether or not a Ward Member attends such a meeting rests with the Member. An additional pre-application advice fee (to that payable for Officer time) will be payable;
 - (c) although (subject to the Environmental Information Regulations Act and any other relevant legislation) the Council will respect the confidentiality of information which the scheme promoter makes clear is disclosed in confidence, all Council Members will have access to Council files on Pre-Application discussions.
- 15.3 The Planning Department will include new requests for Pre-Application discussions on the weekly list of Planning applications circulated to Members.
- 15.4 If a Member wishes to express their views on a matter which is the subject of Pre-Application discussions, they may set out those views in writing sent to the relevant Planning Officer who will place a copy of the communication from the Member on the Pre-Application file. Members should be aware that such comments may in due course become publicly available. Any such views will not fetter the professional judgement and views of the Planning Officer dealing with the pre-application advice.
- 15.5 Members should not disclose any confidential information or documents held on Pre-Application files other than to another Member or to an officer of the Council.
- 15.6 Officers should always use their best endeavours to make both serving Members of Planning Committee and relevant local ward Members aware of any impending or submitted major planning applications or controversial applications.
- 15.7 Officers should always encourage intending applicants to discuss their proposals with Parish Councils before an application is submitted.

16. **Agenda and reports**

- 16.1 Officer reports to Committee must be comprehensive and should include the substance of any objections and other responses received to the consultation. Relevant information should include a clear assessment of the development proposals against relevant development plan policies (including Neighbourhood Plans, Supplementary Planning Guidance, relevant parts of the National Planning Policy Framework (NPPF) and other government planning policy guidance) and must include consideration of all material planning considerations, including any local finance considerations (excluding consideration of CIL payments to the Council).
- 16.2 Members may seek clarification from Planning Officers if they do not consider the published Committee papers fulfils the requirements of paragraph 16.1 above sufficiently to undertake their role at the Planning Committee.
- 16.3 Planning application reports will always include an Officer recommendation for approval or refusal, with a reasoned justification.
- 16.4 Reports should contain succinct and clear technical appraisals (including internal and external expert technical guidance which clearly justify the recommendation. If Members wish to clarify such technical guidance at Planning Committee, they should notify the Chief Planning Officer/ case officer in advance so that the appropriate technical expert can be asked to attend.
- 16.5 If the report's recommendation is contrary to the provisions of the development plan, the material considerations which justify the departure must be clearly stated. This is not only good practice, but also failure to do so may constitute maladministration or give rise to a Judicial Review challenge on the grounds that the decision was not taken in accordance with the provisions of the development plan and the Council's statutory duty under S38A of the Planning and Compensation Act 2004 and S70 of the Town and Country Planning Act 1990.
- 16.6 Planning Committee agendas must be published on the Council's website a minimum of 5 clear working days prior to the Committee meeting.
- 16.7 An update note may also be provided to Members by Officers on the day of the Planning Committee detailing any relevant information including minor changes, variation to conditions or representations received after the publication of the agenda, which will be considered and responded to by Officers in the note. Democratic Services shall circulate the update note electronically and provide paper copies for Members and the public at the meeting. The update note is a public document and will subsequently be uploaded to the Council's website with the agenda pack and minutes.
- 16.8 At Planning Committee, a Planning Officer will present the report and the contents of any update note and will table any relevant consultation responses and representations received after the update note has been published. Public speaking will then take place as set out below.
- 16.9 Following the speakers, the Chair will invite any queries from Members to Officers. In some circumstances it may be appropriate for further responses to be sought from speakers.

- 16.10 The Chair will then facilitate discussion of the application. Members are advised not to duplicate questions to Officers and the Chair may seek to conclude the debate if it is clear that all relevant points have been made (and e.g. to avoid repetition).
- 16.11 Whilst the order of consideration of items at Planning Committee is ultimately a matter for the Chair, planning applications will normally be heard first, followed by other items.

17. Decision making

17.1 Declaration of Interests

17.1.1 The Council's Monitoring Officer has provided all Councillors with detailed guidance on the Member Code of Conduct and in particular, declaration of interests. This is regularly updated. Members of the Planning Committee must ensure they are familiar with the Code. The requirements must be followed scrupulously, and Members should review their situation regularly. It is the personal responsibility of individual Members to ensure they comply with the Code of Conduct and make all appropriate declarations at Planning Committee meetings. Members should take advice early, from the Monitoring Officer or the Deputy Monitoring Officer, and preferably well before any meeting takes place, if they are in any doubt as to their position.

17.1.2 The Member Code of Conduct sets out detailed requirements for the registration and disclosure of disclosable pecuniary interests. Members should not participate in any decision and should leave the meeting where they have a disclosable pecuniary interest unless they have first obtained a dispensation. In addition, unless they have obtained a dispensation, they should:-

- NOT participate or give the appearance of trying to participate in the making of any decision on the matter by the Council
- NOT get involved in the processing of the application
- NOT use their position to discuss the proposal with Officers or Members when other members of the public would not have the opportunity to do so or in any other way seek or accept any preferential treatment or give the appearance of so doing.

17.1.3 The Member Code of Conduct requires Members to consider whether they have a non-registrable interest or personal interest in any item. Such an interest will arise where the matter may reasonably be regarded as affecting the wellbeing or financial standing of the Member concerned, a member of their family or a person with whom they have a close association to a greater extent than many of the constituents of the ward affected by the application at Planning Committee. Such an interest will also arise where it would be a disclosable pecuniary interest but relates to a member of their family or to a close associate rather than to the Member themselves or to their spouse or partner.

17.1.4 In the event that a Member considers that they have a non-registrable pecuniary interest or personal interest in any matter they should disclose the existence and nature of the interest as requested by the Chair during the course of the meeting but, in any case, no later than the hearing of the specific item to which an interest relates.

- 17.1.5 A Member who has a personal interest in a planning application must also consider whether that interest also constitutes a prejudicial interest. The test of this is whether it would be reasonable for a member of the public with knowledge of all the relevant facts to consider that the nature of the Member's interest was likely to affect their judgement of the public interest - i.e. affect or influence their voting intentions.
- 17.1.6 If a Member only has a personal interest to declare, which they do not consider to be prejudicial, they are entitled to remain in the meeting and speak and vote.
- 17.1.7 If a Member decides that their personal interest is a prejudicial interest, they must declare that fact in the usual way. They should leave the meeting for the discussion regarding that item unless exercising their public speaking rights, after which they should then leave the meeting for the remainder of the consideration of the item.
- 17.1.8 A Member with a disclosable pecuniary interest should, subject to any dispensation, leave the meeting for the discussion regarding that item and not participate in the matter. If there is any doubt, further advice for Members is available in advance of the meeting from Legal Services.
- 17.1.9 The obligation to disclose the existence and nature of an interest applies to **all Councillors attending the Planning Committee meeting, whether sitting as a Member of the Planning Committee or as a Councillor addressing the Planning Committee or sitting in the public gallery**. The responsibility rests with individual Councillors to ensure they indicate to the Chair that they have an interest to declare.
- 17.1.10 Members should carefully consider whether they have a disclosable interest if they have participated in a Parish Council meeting or a County Council committee with respect to a particular planning application.

17.2 **Predisposition, predetermination or bias**

- 17.2.1 To preserve the integrity of Planning Committee decisions, it is vital that Members do not make up their minds before they have all relevant materials and arguments before them at the Committee meeting. Members must retain an open mind at the time the decision is made and not make up their minds or appear to have made up their minds, until they have heard the Officer's presentation and evidence at the Planning Committee when the matter is considered. This is particularly important if a Member is contacted by an external interest or lobby group. If a Member has made up their mind prior to the meeting and is not able to reconsider their previously held view, they will not be able to participate in the determination of the matter because if they did take part in the discussion or vote it would put the Council at risk in a number of ways. Firstly, it would probably, in the view of the Local Government Ombudsman, constitute maladministration. Secondly, the Council could be at risk of legal proceedings on a number of possible grounds, e.g.
- that there was a danger of bias on the part of the Member; and/or
 - predetermination; and/or
 - failure to take into account all of the factors which would enable the proposal to be considered on its merits

- 17.2.2 Members are entitled to feel predisposed towards a particular decision but must still be able to consider and weigh relevant factors before reaching their final decision. Predetermination arises when Members' minds are closed, or reasonably perceived to be closed, to the consideration and evaluation of the relevant factors. This risks making the whole decision vulnerable to legal challenge. Section 25 of the Localism Act 2011 provides that a Member should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter. For example, a Member who states "*wind farms are blots on the landscape and I will oppose each and every wind farm application that comes before committee*" has a closed mind. A Member who states "*many people find wind farms ugly and noisy and I will need a lot of persuading that any more wind farms should be allowed in our area*" does not have a closed mind although they are predisposed towards opposing such applications.
- 17.2.3 Where a Member may have campaigned for or against a proposal, they need to be careful to consider and ensure it is apparent that they have considered all relevant considerations and made their decision in accordance with their statutory duty. Members must be prepared to change their view right up to the point of making the decision. Members can listen to applicants and objectors, and indicate their view, but must not be biased in their consideration of the issues. Members can support or oppose an application and represent the views of their constituents in their role as a Ward Councillor. To do so as a Planning Committee Member MIGHT compromise their role on the Committee and Members are advised to seek advice from the Monitoring Officer or Deputy Monitoring Officer.
- 17.2.4 The fact that Members may have campaigned against a proposal will not be taken as proof that they are not open-minded. However, a Member who has expressed particularly extreme views, it will be more difficult in practice to be able to get away from the impression that they would approach the decision with a closed mind.
- 17.2.5 Pre-determination does not arise where Members have not expressed a concluded view on a planning application but consider they are still approaching the determination of that application with an open mind.
- 17.2.6 Members on the Planning Committee who also serve on bodies (such as Parish or County Councils) that are consulted about planning applications need to think carefully about their participation in that consultation process to avoid the impression that they have already made their minds up before the matter arrives at the Planning Committee. Members will be familiar with the fact that, when they receive the consultation on a particular matter, they only receive the proposal and not the full Officer report. It is at the point when the Officer report is submitted to Members that all material considerations are before them. A firm decision before that point is as stated above therefore premature in terms of planning law. This does not prevent a Member from listening to a debate at a Parish or County Council, so long as the Member does not take part in the debate or express a view during the debate or openly afterwards..

17.2.7 Where a Parish Council or County Council has a Planning Committee, District Planning Committee Members should avoid joining that Committee. Councillors may also well consider whether it would be preferable to leave the room or simply listen to debate in the Parish or County Council but express no view during the debate or openly afterwards until the matter comes before the District Planning Committee. Members should be aware of, and have regard to, guidance issued from time to time by the Planning Advisory Service in relation to this issue.

17.3 Moving the Motion

17.3.1 A motion to resolve the application shall follow substantive debate (proportional to the application). The Chair can move the motion as deemed appropriate or it may come from any member of the Planning Committee.

17.3.2 The Planning Committee has a duty to consider all applications placed before them. There are 3 options available in relation to the decision:

- Resolve as per Officer recommendation
- Alternative motion differing from officer recommendation
- Deferral of decision

17.4 Resolution as per Officer recommendation

17.4.1 In this instance a mover would move the motion and speak to it, this should then be seconded and the seconder would speak to it (or reserve the right to speak). There should then follow the option, if the Chair deems it necessary, for further short debate, which may result in amendments, with the mover having a right to reply before being put to the vote. The Chair may invite Officer comments if further clarifications are required.

17.5 Resolution as per Officer recommendation with amendments

17.5.1 Where the motion under debate is to grant planning permission, a Member may propose an amendment to vary or delete a proposed condition or to add an additional condition. Where the motion under debate is to refuse planning permission, a Member may propose an amendment to vary or delete a ground of refusal or to add an additional ground of refusal. Any Member proposing an amendment will be required to give planning based reasons for the amendment which will be recorded in the minutes of the meeting. 'Negativising' amendments i.e. that propose the direct reverse of the motion under consideration, are not in accordance with the rules of debate.

17.6 Refusal of Planning Permission against Officer advice

17.6.1 Where the Planning Committee is minded to refuse planning permission against Officer advice, the Planning Committee is required to give adequate and intelligible reasons on good planning grounds for refusing to grant planning permission and these ground(s) of refusal must be in the minds of Members of the Planning Committee at the point of refusal. This must be clearly articulated by Members for the purposes of the minutes. The precise wording of a reason for refusal, as it would appear on the decision notice, can be delegated to the Planning Officer as part of the resolution in order to expedite the decision. Members should be mindful that the Council is at risk of having costs awarded against it, if, subsequently on

appeal, it is unable to justify each ground of refusal and is found to have acted unreasonably.

- 17.6.2 A motion to refuse permission against officer advice can be put forward by any Member of Planning Committee who should then speak to that motion. This should then be seconded and the seconder should speak to this (or reserve the right to speak). A debate can then follow. The Chair may invite Officer comments if further clarifications are required.
- 17.6.3 Planning Officer(s) and/or Legal Adviser(s) will have the opportunity to explain the implications of the Planning Committee's proposal to determine the application contrary to the Officer recommendation prior to Members voting on the proposal.
- 17.6.4 Consideration will need to be given by the Members of the Planning Committee as to whether the decision and the reasons provided for such decision are adequate and capable of being defended at an appeal with the potential for award of costs against the Council or defended if challenged through a judicial review. Members are strongly advised that in these circumstances they seek the advice of the Chief Planning Officer and/or Legal Officer before moving on to a vote.
- 17.6.5 The reasons for any decision which are made contrary to the Planning Officers' recommendation must be fully, formally and expressly recorded in the minutes and a copy placed on file. Committee Members are required to give reasons for a decision when such decision is contrary to the Planning Officers' recommendation. These reasons are likely to be adduced as evidence in the event of an appeal, in a judicial review or other legal proceedings and will be reviewed by such bodies. Therefore, time and care is required to provide robust reasons as appropriate for particular decisions and their context.
- 17.6.6 Given the potential pitfalls relating to "unreasonable" planning decisions set out above, and not wanting to fetter Members' discretion to pursue a particular course of action, it is strongly recommended that any Member pursuing a decision contrary to the Planning Officers' recommendation discusses the matter at the earliest opportunity with the Chief Planning Officer and/or Legal Officer and takes careful account of any guidance they receive.

17.7 Grant of Planning Permission against Officer advice

- 17.7.1 Where the Planning Committee is minded to grant planning permission against Officer advice, the Planning Committee is required to give adequate and intelligible reasons for granting planning permission, as well as considering what conditions should be imposed and the reasons for those conditions. In addition, where the grant of permission would constitute a departure from a policy or policies in the Development Plan, Members will need to identify clear and substantial material considerations that justify departing from the Development Plan. Such reasons will be recorded in the minutes.
- 17.7.2 A motion to grant permission against Officer advice can be put forward by any Member of the Planning Committee who should then speak to that motion. This should then be seconded and the seconder should speak to this (or reserve the right to speak). A debate can then follow. The Chair may invite Officer comments if further clarifications are required.

17.8 Deferral

- 17.8.1 Members should only seek deferral of an application where it is absolutely necessary in order to make a defensible decision. Otherwise, applications should be determined without delay. Deferral will, by its nature, lead to delay and, potentially, a risk of appeal against non-determination. In the absence of clear reasons for deferral, which have a clearly identified concluding point for the decision, it is considered that this risk would increase. Appeals against non-determination remove the decision-making responsibilities from the Council and give them to the Planning Inspectorate, who will act independently of the Council. For the purposes of that process it would still be the case that Members would need to provide a view to be taken into account in the appeal process.
- 17.8.2 Examples of potential sound reasons for deferral are where material considerations not covered in the Planning Officer report are raised in public speaking, or in questions from Committee Members, or if Members consider Officers have not fully taken account of policy considerations or material considerations, or for a necessary site visit so that Members can consider aspects of a development for themselves.
- 17.8.3 A motion to defer an application can be put forward by any Member of the Planning Committee who should then speak to that motion. This should then be seconded and the seconder should speak to this (or reserve the right to speak). A debate can then follow. The Chair may invite Officer comments if further clarifications are required.

17.9 Voting

- 17.9.1 At the conclusion of the consideration of the motion the Chair will call for a vote. Voting on any motion will be signified by verbally by Members turning on the microphone and stating their vote. In the event of an equality of votes the Chair may exercise a casting or second vote. No record shall be made at the time of voting of the votes of individual Members for the minutes. Immediately after a vote has been taken, by affirmation or a show of hands, a Member may request that his or her vote is recorded in the minutes of the meeting.
- 17.9.2 Members must be present for the entire item, including the Officer's introduction and update; otherwise **they cannot** take part in the debate or vote on that item. This also applies to those applications deferred from a previous meeting, i.e. if a Member was absent from the previous meeting at which an application was debated, but no decision reached and subsequently deferred, that Member cannot take part in the debate or vote on that application at the next meeting.

18. Public Speaking on planning applications

- 18.1 The Council operates a system of limited public speaking at Planning Committee, to allow Members to hear representations from several interested parties before the application is considered. Representations are limited to 3 minutes per speaker with 3 speakers allowed one in favour (e.g. an applicant, agent or supporter); one objector; and the Parish Council. They are taken in the order of objectors and then applicant and/or supporters. No individual will be allowed to speak in more than one capacity and as set out above; Members of the Committee should not assume one of these roles.

- 18.2 Each speaker must pre-register with Democratic Services no later than 16.30 on the day before the Planning Committee, with registration opening on the publication of the agenda. Details of how to register to speak will be provided to the applicant and third parties who have made representations on the proposal on the publication of the agenda. Speakers are registered on a 'first come first served' basis, that is to say the first speakers to register will be successful. Ward and Parish councillors are expected to adhere to the identified timeframes, and any exceptional circumstances that mean that this has not been possible may be considered by the Chair.
- 18.3 There shall be no transfer of time between registered individuals, or to others not registered, except in exceptional circumstances and with the prior approval of the Chair.
- 18.4 Speakers should arrive for the Planning Committee no later than 15 minutes before the start of the Committee. A speaker arriving after the start of the meeting will not be recorded as present and may not be eligible to speak. Changes to the order of the agenda may be made at the Planning Committee and at the discretion of the Chair.
- 18.5 Exceptionally, the Chair may decide during the meeting to increase the time available, for example if an application straddles a parish boundary or if a large number of people wish to speak. In such cases the time will be increased equally for each of the groups.
- 18.6 Messages should never be passed to individual Committee Members, either from other Councillors or from the public. This could be seen as seeking to influence that Member improperly and will create a perception of bias that will be difficult to overcome.

19. Public attendance

- 19.1 The Planning Committee is open for the general public to attend as observers without pre-registering. Public speaking will only be permitted to those pre-registered. The Planning Committee is a formal meeting; any anti-social behaviour may result in the adjournment of the meeting until the situation is rectified. For health and safety reasons the capacity of the venue may be limited, and members of the public asked to wait in another room for a particular application to be heard. Where number limitations are exceeded it may be necessary to refuse entry. This is likely to occur only in very exceptional circumstances.

20. Circulation of additional plans, photos or information at Planning Committee

- 20.1 Requests for the circulation of additional information or photographs directly to the Planning Committee before or during the meeting by the applicant, public or other interest parties will not normally be permitted. The opportunity is provided to all interested parties to submit any comments and additional information to the Planning Team through the publicity processes associated with the application well in advance of the Planning Committee. These representations are placed in the public domain and are summarised and responded to in the report to the Planning Committee. Circulation of additional information during the meeting does not allow sufficient opportunity for its proper consideration and would reduce the transparency of the process.

20.2 Exceptions to this may be made in special circumstances and will be at the discretion of the Chair.

21. Chair's Pre-meet briefing (Call-over)

21.1 After the publication of the agenda but before the start of the Planning Committee, the Chair will hold a pre-meeting, normally attended only by the Chair, Vice Chair and Officers (Planning/ Legal and Democratic Services), so that Officers can inform the Chair and Vice Chair of any additional matters since publication of the agenda that do not appear in the reports.

21.2 Such pre-meetings enable notification of concerns or amendments to any application and enable the Chair and Vice Chair to consider if such amendments constitute a material change, or whether a verbal report from the Officers to the Committee is acceptable.

22. Lobbying of and by Members

22.1 Lobbying is a normal part of the planning process. Those who may be affected by a planning decision, whether through an application, a site allocation in a development plan or an emerging policy, will often seek to influence it through an approach to their ward Member or to a Member of the Planning Committee. The Nolan Committee's 1997 report stated: *"it is essential for the proper operation of the planning system that local concerns are adequately ventilated. The most effective and suitable way that this can be done is through the local elected representatives, the councillors themselves"*.

22.2 Lobbying can, however, lead to the impartiality and integrity of a Member being called into question, unless care and common sense is exercised by all the parties involved.

22.3 When being lobbied, Councillors and Members of the Planning Committee in particular, should take care about expressing an opinion that may be taken as indicating that they have already made up their mind on the issue before they have been exposed to all the evidence and arguments.

22.4 In such circumstances, Members should consider restricting themselves to giving advice about the process and what can and cannot be taken into account.

22.5 Members can raise issues which have been raised by their constituents with Officers.

22.6 If a Member does express an opinion to objectors or supporters, it is good practice to make it clear that they will only be in a position to make a final decision after having heard all the relevant arguments and having taken into account all relevant material and planning considerations at Planning Committee.

22.7 If any Member, whether or not a Planning Committee member, speaks on behalf of a lobby group at the Planning Committee, they should withdraw from the meeting once the opportunity to make representations has been completed in order to counter any suggestions that Members of the Committee may have been influenced by their continuing presence.

- 22.8 In no circumstances should planning decisions be made on a party-political basis in response to lobbying. The use of political whips to seek to influence the outcome of a planning application is likely to be regarded as maladministration.
- 22.9 Members should in general avoid organising support for or against a planning application and should not lobby other Councillors.
- 22.10 Members should not put pressure on Officers for a particular recommendation or decision and should not do anything which compromises, or is likely to compromise, the Officer's impartiality or professional integrity.
- 22.11 Members should pass any lobbying correspondence received by them to the Chief Planning Officer at the earliest opportunity and should declare that they have been lobbied about a particular agenda item at the start of the relevant Planning Committee meeting.
- 22.12 Members should not accept gifts or hospitality from any person involved in or affected by a planning proposal.
- 22.13 Members should inform the Monitoring Officer where they feel that they have been exposed to undue or excessive lobbying or approaches, including inappropriate offers of gifts or hospitality, who will in turn advise the appropriate Officers to follow the matter up.

23. Review of Decisions

- 23.1 It is good practice for Members to visit a sample of implemented planning permissions to assess the quality of the decisions and the development. This should improve the quality and consistency of decision making, strengthen public confidence in the planning system, and can help with reviews of planning policy.
- 23.2 Reviews should include visits to a range of developments such as major and minor schemes; upheld appeals; listed building works and enforcement cases. Briefing notes should be prepared on each case. The Planning Committee should formally consider the review and decide whether it gives rise to the need to reconsider any policies or practices.
- 23.3 The outcome of selected appeals against the decisions of the Council will be reported regularly to the Planning Committee when these raise issues of wider importance, particularly interpretation of matters of policy. The outcome of appeals against enforcement cases, and legal proceedings, will also be reported regularly so that the Planning Committee can review the Council's own decision-making processes whether at officer or Member level.
- 23.4 All appeals that result in an award of costs against the Council will be reported to Planning Committee to draw lessons to avoid such awards of costs in the future.

24. Complaints

- 24.1 Complaints relating to planning matters will be dealt with in accordance with the Council's complaints procedures.

- 24.2 So that complaints may be fully investigated and as general good practice, record keeping should be complete and accurate. Every planning application file should contain an accurate account of events. It should be possible for someone not involved in that application to understand what account was taken of any representations received and how these were dealt with and why, what the decision was and why and how it had been reached. This applies to decisions taken by Planning Committee and under delegated powers, and enforcement and development plan matters.
- 24.3 What is most important is to ensure that complaints that become vexatious or are based on other unreasonable grounds are dealt with from the outset giving a full reasoned explanation of a decision taken and why that decision was reasonable.
- 24.4 There may be occasions when Members will want to complain about the conduct or lack of action on the part of a Planning Officer either on their own behalf or that of a constituent. Complaints could arise with respect to Officers in Development Management, Enforcement or Planning Policy. From the Council's perspective, such complaints must be treated impartially and transparently to retain confidence in the standard of the Council's planning service.
- 24.5 Any complaint about a Planning Officer (excluding the Chief Planning Officer) should for the time being be addressed to the Chief Planning Officer who will initiate an investigation into the complaint and respond with findings and what action, if any, has been taken against the Officer.
- 24.6 Any complaint about the Chief Planning Officer should for the time being be addressed to the Chief Executive who will initiate an investigation into the complaint and respond with findings and what action, if any, has been taken against the officer.
- 24.7 In submitting complaints, Members should include as much information as possible about the basis of the complaint. In the interests of natural justice, such information will need to be disclosed to the planning officer being complained about. What is important is that such information is based on fact about how an officer has conducted himself or herself. Complaints cannot be based on conjecture about what a Planning Officer may have thought or done. Planning decisions are always based on a balancing of development plan policy and material considerations and this is a planning officer's prerogative in making delegated decisions. What also has to be recognised is that all Planning Officers' decision are checked and signed-off by another Planning Officer before being issued, so providing independent scrutiny of each and every delegated decision.
- 24.8 Complaints about Officer delegated decisions should not rely on generalities. Instead, such complaints should detail any procedural, planning policy or material consideration, Any complaint should be raised as soon as possible and if applicable, following the issuing of a planning decision to ensure the timely consideration of the complaint against all relevant facts.

24.9 The timescale for determination of complaints are set out below: -

- The receipt of a complaint will be acknowledged within 3 working days, this will include a due date for a fuller response.
- The complaint will be investigated and a more detailed response will be sent to the complainant within 20 working days. Occasionally it may not be possible to conclude an investigation and respond within 20 working days. In these circumstances the investigating manager will inform the complainant of the reasons for the delay and the expected response date.

25. Appeals against planning decisions

25.1 Where an appeal arises against a decision to refuse an application, Officers will normally represent the views of the Council at the appeal and other proceedings, together with the Council's technical advisors.

25.2 Where Planning Officers may be unable to defend decisions on appeal (due to requirements of the professional conduct rules of the Royal Town Planning Institute) the Planning Committee should be made aware of this before the final vote is taken. In such cases, the Committee shall, on the advice of the Chief Planning Officer, agree to the appointment of planning or other technical, consultants or different planning officers (in finely balanced cases), than those who made the original recommendation to represent the Council at appeal.

25.3 Councillors can have an important role to play in appeals and may, within set deadlines, make written representations to the Planning Inspector, and may also appear at informal hearings or as a witness at public local inquiries. In doing so, they should state whether they are acting in their local Councillor capacity or, exceptionally, representing the Council's case.

25.4 Members attending or wishing to make representations at appeals will receive support from Planning and Legal Officers. Planning and Legal Officers will advise Members on preparing and delivering evidence. Legal Officers will attend inquiries or assist in preparing representations when legal representation is required.

25.5 Where a Member wishes to support the Council, or an appellant, on any appeal against a Council decision on any planning matter, that Member shall as a matter of courtesy give written notice of his or her intention to the Monitoring Officer; Chief Planning Officer and the appellant. Where the appeal is to be dealt with by written representations this written notice shall be given at, or as soon thereafter, as the appeal is lodged. Where the appeal is to be dealt with by a hearing this written notice shall be given at, or as soon thereafter, the appeal is lodged and accepted as a hearing. Where the appeal is to be dealt with by public inquiry, this written notice shall be given at, or as soon thereafter, the public inquiry procedure is accepted.

25.6 In deciding whether to make representations on an appeal Members should consider very carefully beforehand whether there could be any allegation that they are in breach of this Protocol or any other provisions in the Member Code of Conduct.

26 Local Development Plan

- 26.1 The principles set out in this Protocol apply equally to decisions on the Local Development Plan. Whilst it is expected that Members will be fully involved in community engagement and discussions, Members should avoid putting themselves in a position of predetermination.
- 26.2 Preparation of the Local Development Plan differs from the consideration of individual planning applications in that it both relates to the consideration of individual sites and to how sites relate to the needs of the wider area. It is important that even where Members or Officers have a prejudicial interest in relation to a site that they are able to contribute to the work and discussion concerning a wider area. However, whenever the discussion or preparatory work focuses on the comparison of individual sites or could otherwise be seen as impacting on or in some other way relevant to their site, they must exclude themselves from the work and decision making.

27 Training for Councillors

- 27.1 The Council considers that Members of the Planning Committee should undertake training. This opportunity will be offered to all Councillors. No Member appointed to the Planning Committee can sit at a Planning Committee meeting without having undertaken annual training in planning procedures before-hand.
- 27.2 The subject matter for training will cover planning procedures, the development plan and material planning considerations, probity and other subject determined from time to time by Officers in consultation with Members.
- 27.3 Other training will be available in the form of additional sessions, short presentations to the Committee, and the circulation of briefing notes and appeal decisions.

28. Planning applications submitted by sitting or previous Councillors, Parish Councils and Officers

- 28.1 Planning applications submitted by, or on behalf of Councillors, or Officers employed by the Council, or by, or on behalf of a spouse, partner, parent, child or sibling of a Councillor or Officer of the Council, where known, shall be decided by the Planning Committee and not under delegated powers by a Planning Officer. This will also apply where that person is acting as an agent for another party.
- 28.2 The affected Councillor(s) must declare an interest, and nature of the interest/relationship. The Member shall have the right to address the Committee as the applicant in accordance with the Council's rules on public speaking. Immediately after addressing the Committee, the Member shall leave the Chamber unless he/she has been granted dispensation from the Monitoring Officer and Chief Planning Officer.
- 28.3 Officers **must not** play any part in the processing of an application and any recommendation made to the Planning Committee where they have, or can be perceived to have, a conflict of an interest. Such interests would include financial or professional interests and the interests of family and friends.

28.4 The same provisions as in paras 28.1 and 28.2 above shall apply to any Councillor who has within the preceding 12 months stood down from the Council or any previous Officer who has left the Council in the preceding 12 months.

28.5 Where a Parish or County Council submits a planning application, any Members who have had input, been part of any consultations or have been supportive of the application in their role of a Parish or County Councillor and are also Members of the Planning Committee should declare their interest and withdraw from the District Planning Council meeting. Those Members, can re-join the meeting after the decision has been made by the Committee and can take part in any remaining agenda items.

29. Planning applications submitted by the Council

29.1 It is essential that the Council treat applications for its own development (or a development involving the Council and another party) in a similar manner to all other applications, and that is seen to be the case.

29.2 All such proposals will be subject to the same administration processes, including consultation, as private applications. Determination shall similarly take into account planning policy, and any other material planning consideration(s).

29.3 In order to ensure transparency and openness in dealing with such applications, Council applications (except for discharge of conditions) that involve land owned by the Council and/or where the Council has a financial interest will not be dealt with under delegated powers but will be determined by the Planning Committee.

30. Recording of proceedings of Planning Committee meeting

30.1 All Planning Committee meetings shall be webcast by the Council.

30.2 Recordings of each meeting will be made by the Council, with the exception of items discussed in "Part 2" i.e. "confidential items". These recordings will be posted on the Council's webpages after the meeting.

31. Gifts or Hospitality

31.1 Members shall not accept gifts or hospitality from developers or from any person involved in or affected by a planning proposal, including pre-application proposals. A gift or hospitality might be considered to influence a Member's judgement and it is important that there can be no justifiable grounds for suggesting a decision either has been, or appears to have been, influenced or biased in any way. The Member Code, of Conduct in any event, requires that a Councillor must within 28 days of receiving any gift or hospitality over the value of £50, provide written notification to the Monitoring Officer of the existence and nature of that gift or hospitality. A gift over £50 will constitute a personal interest and be registerable as such. All details will go on the register of gifts and hospitality, which is open to public inspection and will remain on the register for 3 years. Members must consider whether any gift or hospitality over the value of £50 constitutes a prejudicial interest.

32. Ward Councillors addressing the Planning Committee

- 32.1 If a Ward Councillor wishes to address the Planning Committee about a matter in their ward being considered at the Planning Committee, they should advise the Chair (or Vice Chair in his/her absence) and the Committee Clerk prior to the meeting itself and will be entitled to speak after the objector and applicant have addressed the Planning Committee. Ward Councillors should comply with the procedure for declaration of interests if they speak at a Planning Committee meeting in the same way as Members of the Committee. Where the Ward Councillor has a prejudicial interest, they may only address the Planning Committee if they are the applicant or lead objector and must withdraw from the room (or virtual meeting where appropriate) once they have made their representations.

33. Submission of Documentation

- 33.1 Documents must be submitted **at least three clear working days** before the Planning Committee meeting. For example, if the Planning Committee was held on a Wednesday, documents should be received by the Council by 3pm on the previous Friday. Any late documents should not be circulated to the Planning Committee as all parties may not have time to react to the submissions, and members of the Planning Committee may not be able to give proper consideration to the matter. Officers may not be able to provide considered advice on any material considerations arising. This must be made clear to those who intend to speak. Members of the Planning Committee should not read emails or correspondence received after the deadline for submission of documents. The acceptance of circulated material could imply a willingness to take the necessary time to investigate any issues raised and lead to the need to defer the application or risk a complaint about the way the material has been considered. This care needs to be taken to avoid the perception of external influence or bias.

34. Recess

- 34.1 When the Planning Committee meeting lasts longer than 2 hours a minimum 15 minute recess shall be taken at 2-3 hourly intervals.

35. Minutes

- 35.1 Minutes of all Planning Committee meetings will be published on the Council's website. The minutes will not be verbatim and will focus on recording decisions and associated reasons.

36. Site Visit Procedure

- 36.1 The Chief Planning Officer (or his appointed representative) will oversee the conduct of site visits. The site meeting will start promptly at the time notified to Members and Planning Officers. At the request of the Planning Committee Chair/Vice Chair, the Chief Planning Officer (or his appointed representative) may be invited to describe the proposal to Members. Whilst Planning Committee Members will be expected to be familiar with the Planning Officer's report, plans/drawings may be used where necessary.

- 36.2 The Chief Planning Officer (or his appointed representative) may indicate matters of fact in relation to the proposal and surrounding land which Members can take account of. Members may ask the Chief Planning Officer (or his appointed representative) for factual clarification on any planning matter relating to the proposal or surrounding land, such as distances to adjoining properties or the location of proposed car parking.
- 36.3 At no time during the site visit should Members debate the merits of the planning application. To do so outside of the Planning Committee meeting might imply that Members had made their mind up. If Members want clarification or additional information on any matter of fact during the site visit they should ask for this through the Chief Planning Officer (or his appointed representative). The Chief Planning Officer (or his appointed representative) will then seek that information through the applicant (or his appointed representative) to avoid any opportunity for lobbying Members.
- 36.4 In order to assist Members to retain their objectivity, they should keep together in one group with the Chief Planning Officer (or his appointed representative) and should avoid breaking away into smaller groups. Once a site visit is concluded, Members should leave the site promptly. The Chief Planning Office will suggest a convenient location to reconvene so that Members may ask any questions and request further action or advice before the next Planning Committee
- 36.5 The Chief Planning Officer will keep a record of Members' attendance at the site visit and will pass this information to Democratic Services. The Chief Planning Officer will also prepare a written report on the site visit together with answers to any questions and request for further action before the next Planning Committee. This report will be presented at the next meeting of the Planning Committee scheduled to discuss the particular application.
- 36.6 If a Member finds it necessary to visit a site alone (perhaps because it was not possible to attend the site visit), he or she shall view it from public vantage points only, seek to avoid discussion with interested parties, and, if discussions occur, make it clear that a decision will be taken when it has been discussed by the Committee after the visit.
- 36.7 Following the site visit the application will be discussed at the Planning Committee.

37 Planning Enforcement

- 37.1 The Council has a team of planning enforcement officers tasked with following up complaints of breaches of planning control (alleged unauthorised development and breaches of planning conditions relating to permissions). There is a separate team of trees and hedgerow officers tasked with following up complaints relating to contraventions of Tree Preservation or Hedgerow Orders. These two separate enforcement functions are referred to here collectively as "planning enforcement".

- 37.2 The decision whether or not to pursue planning enforcement action is discretionary and based on considerations of expediency (the severity of any breach) and what actual planning harm is occurring. That decision is generally delegated to the Principal Planning Enforcement Officer or the Senior Tree Officer. Any final decision to serve an enforcement notice, stop notice, seek an injunction or pursue a prosecution for failure to comply with any notice or injunction has to be agreed by the Chief Planning Officer as there are significant resource implications (both staffing and financial).
- 37.3 While officers must share information with Members on active enforcement investigations, information on complainants cannot be shared in the same way. The Council is under a duty not to disclose the identity of complainants and not to do anything that may result in their identity being disclosed. Disclosure is maladministration and can result in action against the Council by the Ombudsman.
- 37.4 Members may disclose the generality of action being taken by Enforcement Officers with respect to active enforcement complaints with their constituents. However, it may hinder successful action against breaches of planning control if too much information is disclosed. The Chief Planning Officer or other senior officers will always be available to discuss what could or could not be disclosed with Members.
- 37.5 In the event that a Member disagrees with an officer recommendation to take no action with respect to a particular enforcement matter, the Member should as soon as possible, contact the Chief Planning Officer requesting that such a recommendation be reviewed and setting out their reasons for that review.

38. The Local Government Ombudsman

- 38.1 Although the Local Government Ombudsman will not investigate the merits of a particular planning decision they may agree to investigate a planning complaint in relation to the way in which a decision was taken. If it is found injustice has been caused by maladministration in the light of statutory or established Council procedures they will recommend redress, which may take the form of compensation.

39. Appeals to the Secretary of State

- 39.1 An applicant who has been refused planning permission has a right of appeal to the Secretary of State. If an appeal is successful and it is shown that the Council's conduct in dealing with the matter was unreasonable the appellant's costs may be awarded against the Council. Examples of "unreasonable behaviour" are failing to follow the Council's policies; no evidence of significant harm; and giving too much weight to local opposition to proposals.

40. Judicial Review

- 40.1 If objectors are convinced that the Council in determining to grant an application did not observe their statutory duties to carry out all necessary procedures, did not base their decision on the development plan and or did not take into account all relevant representations they may apply for Judicial Review of the decision which might result in the decision being suspended and subsequently quashed. In such circumstances it would be normal for the costs of the applicant to be awarded against the Council.

41. Powers of the Secretary of State

- 41.1 The Secretary of State possesses a range of powers which could be exercised where the Council appears to make inconsistent decisions or decisions which are seriously in conflict with national and Development Plan Policies. This could involve the greater use of the power to call in applications whereby an application will be determined by the Secretary of State following a Public Inquiry. Where permission has already been granted by the Council, powers exist to revoke or modify permissions or to require discontinuance of a land use which if exercised would give rise to a liability to compensate on the part of the Council.

42. Review

- 42.1 This Protocol will be kept under annual review in order to update changes in law and practice, and to have regard to experience and lessons learned from individual situations.

Appendix 1

STANDARDS FOR RESPONSE

1. The Council's Customer Services reception is open throughout normal office hours. Customer Services (CS) Officers are trained in dealing with general basic planning enquiries. Where CS Officers are not able to deal with a query, they will refer to the Duty Planning Officer.
2. **The Role of the Duty Officer**
 - 2.1 The Duty Officer is intended to help you by:
 - explaining the Council's planning policies
 - giving general advice on permitted development rights
 - explain which type of application is necessary for a proposal.
 - 2.2 The Duty Officer **will not** be available to:
 - give any form of pre-application advice
 - discuss the technical merits (principle, design, submitted reports, consultee responses, neighbour comments) of any applications, refusals or appeals
 - consider minor amendments to planning permissions
 - discuss enforcement enquiries
 - grant immunity from enforcement
 - carry out searches; such as whether Permitted Development Rights exist for properties, planning history of sites
 - 2.3 The service costs £180 for half an hour meeting by telephone or Microsoft Teams. If you require a follow up summary note, we will charge an additional fee of £70.
 - 2.4 Any advice given by the Duty Officer either orally or in writing, in the course of their duties does not indicate a formal decision of, nor binding on, the Local Planning Authority. Any views or opinions expressed are given in good faith and to the best of their ability and is based on the information and evidence made available to them at the time. The opinions are therefore without prejudice to the formal consideration of any planning application.
3. **Processing planning applications**
 - 3.1 Planning Officers are required to:
 - Keep the statutory register of applications maintained on our Planning Portal website up to date with information placed in the register within five working days.
 - Acknowledge in writing the receipt of all applications within 3 working days.
 - Advise in writing if an application is incomplete or invalid within 10 working days.

- Allow at least 21 days for anyone to make representations on an application in which they have an interest and consider late representations up and till the point that a report is prepared. If significant changes are made to the application, neighbours will be contacted again and given a further 14 days to comment.
- Acknowledge any written representations made on proposals within 3 working days, and subsequently advise those who have made such representations of the eventual decision within 10 working days of it being issued.
- Place copies of valid applications in the statutory register within 3 working days of it being validated.
- Ensure that sites of planning proposals are visited by the Planning Officer within 2 weeks of the receipt of the valid application.
- Determine at least 80% of all planning applications within 8 weeks.
- Forward decision notices on determined applications within 3 working days.
- Notify applicants in writing where it is not possible to give a decision within 8 weeks of receipt and notify the outcome to those making representations.
- Issue decision letters on matters required to discharge planning conditions within two months. Compliance with conditions may require approval prior to commencement of work or during or at completion. The purification of conditions is becoming increasingly complex often requiring consultation with other parties. Failure to comply with conditions can result in a breach of planning control and can have serious consequences.
- Advise the applicant to submit a new planning application when amendments are proposed that significantly alter the proposed development.
- Advise the applicant of appeal rights if the Council does not determine the application within statutory or agreed timescales, refuses the application, or imposes conditions on any permission granted.
- Act proactively to reduce the likelihood of breaches occurring.
- Approach and address alleged breaches of control with an open mind.
- Acknowledge all complaints within 3 working days.
- Inspect alleged breaches of control within 15 working days.
- Notify complainants of the decision to authorise formal enforcement action or that there is no breach within 10 working days

3.2 Letters of representation will be made available on the Council's website and will be summarised in any report and taken into account when a decision is made.

- 3.3 Planning Officers will give consideration to all comments received. However, in respect of applications that are considered by Committee, comments received after the Committee report has been prepared will not be included as part of the report. Such comments will be reported as a supplementary report or orally to the Committee by Officers if they raise new matters not already addressed in the Officer's report. Individuals should be aware that comments received in respect of a planning application and most other planning matters will be in the public domain.
- 3.4 Voicemail facilities are available for applicants, third parties, members of the public to leave messages for Officers. Such messages will be responded to no later than the end of the next working day. Where Officers are expected to be absent from the office, the voicemail message will be amended accordingly.
- 3.5 Telephone messages will not be "recorded in writing" and entered upon a planning application file. The reason for this is because it is important that the person making the telephone call should have their views truly represented and, quite often, the omission of one word can make quite a difference. The Council cannot accept responsibility for any omissions and errors and therefore all people who make contact by telephone will be advised that they should confirm their views by letter, e-mail or via the Council's web site.
- 3.6 E-mail communications will be dealt with on the same basis as paper letters as stated above. 'Out of office' messages will be kept updated.

The Housing Delivery Test Action Plan (HDTAP), September 2022 and the Interim Policy Statement for Housing Delivery.

Planning Policy Committee – 22 September 2022

Report of: Interim Chief Planning Officer

Purpose: For decision

Publication status: Unrestricted

Wards affected: All

Executive summary:

- The Council has prepared a Housing Delivery Test Action Plan (HDTAP), September 2022, (see Appendix 1) in accordance with the requirements of the National Planning Policy Framework (NPPF).
- The HDTAP includes an Interim Policy Statement for Housing Delivery setting out a consistent Planning Policy approach to the determination of planning applications for new housing development in the short-term.
- The Interim Policy Statement being part of the HDTAP will be a material consideration in the determination of planning applications for new housing development in the short-term.

This report supports the Council's priority of:

Creating the homes, infrastructure and environment we need but prudently managing financial resources.

Contact officer Cliff Thurlow - Email: cthurlow@tandridge.gov.uk

Recommendations to Committee:

It is recommended that:

- A. The Housing Delivery Test Action Plan (HDTAP), September 2022, is agreed for publication;
- B. The Interim Policy Statement for Housing Delivery is adopted for development management purposes; and
- C. Future Housing Delivery Test Action Plans (HDTAPs) be presented to the Planning Policy Committee for approval and adoption as a material planning consideration in the determination of applications for housing development, prior to publication, to ensure elected members have the final decision on behalf of the Council.

Reason for recommendations:

All local planning authorities that deliver less than 95% of their central government prescribed housing requirement over the previous three years are required to produce an HDTAP in line with Paragraph 76 of the National Planning Policy Framework (NPPF, 2021).

Tandridge is a highly constrained district in planning policy terms with 94% coverage by Green Belt, two Areas of Outstanding Natural Beauty at the north and south of the district and access via strategic routes (that is M25 junction 6 and A22) that have existing capacity problems.

The Council has no scope to meet housing requirements defined by central government without encroaching into highly constrained areas in planning policy terms and without creating severe difficulties in terms of infrastructure capacity.

The HDTAP and its Interim Policy Statement for Housing Delivery will be material planning consideration in the determination of planning applications for housing development and this Committee should properly make the decision as to its acceptability.

Introduction and background

1. In response to the publication 'Fixing our broken housing market', the Government sought to demonstrate its commitment to improve the delivery of housing through various programmes. One of these, 'The Housing Delivery Test' (HDT) is an initiative that the Government introduced in November 2018 to measure current delivery and encourage an increase in housing development nationally. It is included as part of the revised National Planning Policy Framework (NPPF, July 2021). The HDT is a percentage measurement of the net number of homes delivered against the number of homes required by the central government within the area of the relevant plan-making authorities.

2. The results of the "Test" are published on an annual basis. The consequences of not meeting the HDT are set out in the revised NPPF. All local planning authorities that deliver less than 95% of their housing requirement over the previous three years, are required to produce an Action Plan in line with Paragraph 76 of the NPPF, 2021. As the adopted housing requirement figure for the Council is more than five years old, the 'minimum local housing need figure' (defined by central government in the HDT) is applied.
3. On 14 January 2022 the results of the 2021 HDT became available. The Council was identified as having delivered 38% of the required level and, in accordance with the process, must produce an Action Plan and add a 20% buffer onto the Five-Year Housing Land Supply.

Purpose, objectives and status of the Housing Delivery Test Action Plan (HDTAP)

4. The purpose of the Housing Delivery Test Action Plan (HDTAP), 2022 is to present an update to the previous HDTAP, 2021 (not approved by this Committee). Most importantly, the HDTAP has to identify what additional measures the Council will take to improve housing delivery (defined by central government). The HDTAP, 2022 analyses the District's housing delivery to date and the resultant Action Plan will act as a material planning consideration in the assessment of planning applications. The scope of the Action Plan includes housing delivery analysis; identification of root causes of current delivery position; responses and action plan; and project management and monitoring arrangements.
5. The HDTAP 2022 focus is to update the Council's approach to housing supply and delivery with full cognisance to the planning constraints, environmental and in terms of infrastructure, Districtwide.

Interim Policy Statement for Housing Delivery

6. An Interim Policy Statement for Housing Delivery has been drafted for Planning Policy Committee consideration to provide a consistent approach for Development Management for the determination of housing applications in the District going forward.
7. The Interim Policy Statement sets out from the Council's perspective the criteria that will be applied to a planning assessment of applications for residential development.
8. The primacy of the protection of the Surrey Hills Area of Outstanding Natural Beauty (AONB), the High Weald AONB, candidate areas for AONB status and the Green Belt, together with recognising the limitations of infrastructure constraints, will be the key planning consideration in determining planning applications under this interim policy.

9. The Interim Policy Statement is Appendix 1 to the HDTAP 2022.

Key implications

Comments of the Chief Finance Officer

There are no immediate financial implications arising from this report. A degree of housing growth based on past trends is built into our annual Council Tax Base projections (i.e. the number of properties that pay council tax) and has a financial impact through increased council tax income and increased demand for Council and other local services and infrastructure.

Comments of the Head of Legal Services

As set out in this report, The Housing Delivery Test (HDT) was introduced by the Department for Levelling Up, Housing & Communities (DfLUHC) in 2018 to ensure that local authorities are held accountable for their role in ensuring new homes are delivered. The new policy is designed to prove a consistent approach to enabling development to take place within District.

Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 require that planning applications must be determined in accordance with the development plan, unless material considerations indicate otherwise.

The preparation of an action plan where housing delivery has fallen below 95% over the previous three years is a requirement of the NPPF (paragraph 76). The NPPF is a material consideration in planning decisions and must also be taken into account in the preparation of Local Plans. The Housing Delivery Action Plan would similarly form a material consideration in decision making

The Housing Delivery Test Action Plan meets the requirements of the National Planning Policy Framework, 2021. The Presumption in Favour of Sustainable Development is set out in the NPPF, 2021

Equality

Duty under the Equalities Act 2010

In assessing this proposal, the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

Climate change

There are no significant environmental / sustainability implications associated with this report.

Appendices

Appendix 1: Housing Delivery Test Action Plan, September 2022, including the Interim Policy Statement for Housing Delivery.

Background papers

None

This page is intentionally left blank

Housing Delivery Test Action Plan

September 2022

Contents

1. Introduction	3
Background	3
Purpose, objectives and status	3
Relationship to other plans/strategies and council activities	4
Approach and Methodology	4
Scope of Report	5
2. Housing Delivery Analysis	6
Current Housing Supply Needs and Delivery	6
Lapsed Sites	9
3 Identification of Root Causes of Current Delivery Position	11
4. Responses and Action Plan	12
5. Project Management and Monitoring Arrangements	14
Annex A - Interim Policy Statement for Housing Delivery	15

1. Introduction

Background

- 1.1 In response to the publication 'Fixing our broken housing market'¹, the Government has demonstrated its commitment to improve the delivery of housing through various programmes. One of these, 'The Housing Delivery Test' (HDT) is an initiative that the Government introduced to measure current delivery and encourage an increase in housing development nationally. It is included as part of the revised National Planning Policy Framework (NPPF) (July 2021)². The HDT is a percentage measurement of the net number of homes delivered against the number of homes required³ by the Government in accordance with set criteria and within the area of the relevant plan-making authorities.
- 1.2 The HDT was introduced in November 2018 by Government and results of the test are published on an annual basis. The consequences of not meeting the HDT are set out in the revised NPPF. All local planning authorities that deliver less than 95% of their housing requirement over the previous three years, are required to produce an Action Plan in line with Paragraph 76 of the NPPF (2021) and in accordance with the guidance set out in National Planning Practice Guidance (NPPG)⁴. As the adopted housing requirement figure for Tandridge District Council is more than five years old, the 'minimum local housing need figure' (defined by Government in the HDT) is applied.
- 1.3 On 14 January 2022 the results of the 2021 HDT were published. Tandridge District Council was identified as having delivered 38%⁵ of the required level and in accordance with the process, must produce an Action Plan and add a 20% buffer onto the Five-Year Housing Land Supply. This is most relevant for the purposes of the Council's current assessment of planning applications through the decision-making process.

Purpose, objectives and status

- 1.4 The purpose of this action plan is to present an update to the previous Housing Delivery Test Action Plan (HDTAP) 2021⁶ and to identify what additional measures the Council will take to improve housing delivery. This HDTAP will analyse the district's housing delivery to date and the resultant Action Plan will act as a material planning consideration in the assessment of planning applications.

¹ [Department for Communities and Local Government, Fixing our broken housing market](#), Introduction, Page 9,

² [National Planning Policy Framework \(NPPF\) \(July 2021\)](#)

³ Where the latest adopted housing requirement figure is less than five years old, the figure will be the lower of the latest adopted housing requirement figure or the minimum annual local housing need figure. Where the adopted housing requirement is more than five years old, the minimum annual local housing need figure will apply.

⁴ [National Planning Practice Guidance \(NPPG\) \(2021\)](#)

⁵ [Housing Delivery Test: 2021 measurement](#)

⁶ [Housing Delivery Test Action Plan \(2021\)](#)

Relationship to other plans/strategies and council activities

1.5 The Action Plan is informed by a range of other existing Council strategies and activities that aim to encourage housing and economic growth. These include:

- **Housing Strategy 2019-2023⁷** – The Housing Strategy sets out the Council’s vision and plans for housing for the next five years. It identifies the challenges the Council faces in its enabling role as a builder of new homes, as a landlord in the context of a growing and ageing population, changing government policies, a high cost housing market and a challenging economic climate.
- **Strategic Plan 2020/21 to 2023/24⁸** - The Strategic Plan is a corporate document which sets out what the Council will deliver for local residents and businesses in the coming months and years. The plan will be continuously reviewed in line with progress made in implementing our corporate improvement plan. An important part of this work is to develop the Council’s new values and behaviours which will inform the way the actions in the Strategic Plan are delivered.
- **An Emerging Local Plan** - The Council, in responding to changed housing needs has issued a regulation 22 draft plan to replace the existing Local Plan. It has been the subject of a Public Examination with the public hearing sessions concluding with the Inspector’s preliminary conclusions and advice published. The inspector highlighted the need for extensive further work, including the ability of the M25 junction 6’s capacity to accommodate growth, and other work to enable the Emerging Local Plan to move forward to adoption by December 2023. In the interim, the Council recognises that the emerging plan will not come forward in sufficient time to address the immediate need for more housing sites. The Council is therefore proposing an Interim Policy Statement for Housing Delivery as part of this HDTAP.

Approach and Methodology

1.6 This Action Plan reviews the work the Council currently undertakes as part of the Authority’s Monitoring Report (AMR) and annually updates the housing land supply position. In addition, it has been prepared taking into account guidance set out nationally in the NPPG and in the context of the historic trends and characteristics of permissions and housing delivery for the District where relevant. Through this regular monitoring the Council has an understanding of the key challenges that face housing delivery in Tandridge. This comes from analysing the historical nature of, and progress on, permissions for housing and identifying general and site-specific delivery challenges.

⁷ [Tandridge Housing Strategy 2019-2023](#)

⁸ [Strategic Plan 2020/21 to 2023/24](#)

- 1.7 The Council has met its housing land requirements in full for the period of the adopted plan which has a further 4 years to run. However, the plan was adopted prior to the Government's push to significantly increasing housing provision. The emerging local plan sought to address the shortfall and significantly increased the housing target for the District. A delay in the local plan process (as described above) has led to a shortfall in the 5-year supply of housing land. Moreover, it has led to a delay in assessing the proportionate supply of housing in the District over the next fifteen years.
- 1.8 The Government methodology for calculating housing needs is a "policy off" approach. It is an unconstrained assessment of the number of homes needed in an area and is the first step in the process of deciding how many homes need to be planned for. It has no regard for key nationally important constraints to development such as Green Belt and AONB that affect this District and locally important infrastructure constraints which the Council has limited ability to resolve. Given the extent of these constraints it is considered unreasonable for the Council to meet its full housing needs as identified using the standard methodology, not least because 94% of the land area of the District is designated as Green Belt. Furthermore, the extent of the Surrey Hills Area of Outstanding Natural Beauty in Tandridge District is under review and, if further extended, will provide additional constraint on our ability to bring land forward for development. In the absence of any consideration of nationally recognised local constraints, the objectively assessed housing need assessment presents an inaccurate view of the realities of housing delivery for Tandridge District.

Action Plan – Key Point: Land is not readily available for development due to national policy constraints.

- 1.9 The Council is concerned to adopt a housing target that is locally appropriate to the constraints of the area. It is also concerned to ensure that growth in its area is plan-led.

Scope of Report

- 1.10 The following matters will be addressed in this Action Plan:
- Housing Delivery Analysis
 - Identification of Root Causes of Current Delivery Position
 - Responses and Action Plan
 - Project Management and Monitoring Arrangements
- 1.11 As this report is an update to the HDT Action plan 2021, its focus will be to update and support our approach to boosting housing supply and delivery.

2. Housing Delivery Analysis

Current Housing Supply Needs and Delivery

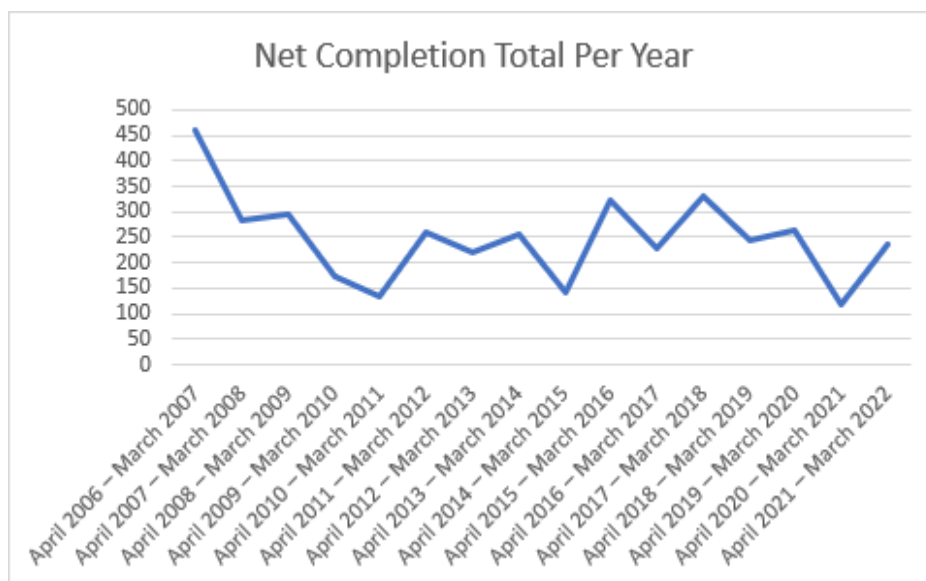
2.1 Housing delivery is monitored in the Council's Authority Monitoring Reports (AMR)⁹. The AMR and housing land supply position has historically been assessed against the policies contained in the Core Strategy (2008), including against the housing requirement of 125 dwellings per year. The Council has consistently met and exceeded the Core Strategy target. Table 1 illustrates the net number of homes that have been delivered since 2006.

Year	Net Completion Total Per Year	Cumulative Total
April 2006 – March 2007	459	459
April 2007 – March 2008	285	744
April 2008 – March 2009	297	1,041
April 2009 – March 2010	172	1,213
April 2010 – March 2011	132	1,345
April 2011 – March 2012	261	1,606
April 2012 – March 2013	221	1,827
April 2013 – March 2014	256	2,083
April 2014 – March 2015	142	2,225
April 2015 – March 2016	322	2,547
April 2016 – March 2017	228	2,775
April 2017 – March 2018	332	3,107
April 2018 – March 2019	244	3,351
April 2019 – March 2020	262	3,613
April 2020 – March 2021	117	3,730
April 2021 – March 2022	238	3,968

¹ This table has been taken from the AMR (2022)

⁹ [Authority's Monitoring Reports](#)

Figure 1: Net number of dwellings completed



- 2.2 Figure 1 identifies there has been a rise in housing completions this monitoring year in comparison to previous years. The impact of the pandemic last year had caused sites to be delayed or cease altogether. The pandemic, together with other factors such as changing import/export requirements, had widely reported effects on housing delivery such as a national shortage of certain building materials and access to tradespeople and professionals that may have been furloughed. Whilst the effects of these constraints are still being felt, it is positive to see that housing delivery is slowly returning to pre-pandemic levels.
- 2.3 As recorded last year, the pandemic saw a rise in householder applications in comparison to outline and major application schemes. The implications of this on housing delivery figures in future years remain and this will continue to be monitored and reported on in future AMRs.
- 2.4 Although the target has been met in accordance with the Core Strategy, the revised NPPF 2021 and accompanying requirements of the HDT require that adopted housing requirements that are more than five years old are to be measured against the Government assessed 'local minimum housing need' figure. This figure does not have regard to local constraints to development such as those identified consistently through each iteration of the NPPF, including Green Belt. Consequently, Tandridge is judged as underperforming in terms of housing delivery.

Action Plan – Key Point: The Council has consistently met and exceeded delivery targets set out in the adopted plan (the Core Strategy).

- 2.5 Tandridge has a history of housing development on predominantly small sites. The analysis of past completions and current supply identifies that most applications coming forward and being delivered are of under 10 units. These equated to 580 applications out of a total of 641 (90%). For sites accommodating under 10 dwellings, the average site size is 0.42 hectares. Small sites will continue to be a significant contribution to the housing land supply coming forward in Tandridge.
- 2.6 The majority of small sites that are coming through the planning process currently are windfall development and therefore a windfall allowance can be made for future housing supply coming forward. This is confirmed in Table 4 below which shows that a total of 516 residential dwellings have been completed since 2006-2022 at an annual average of 32 units. Although, it should be noted that the total small windfall completions from 2006-2022 is 802 dwellings, which is an annual average of 50 dwellings. However, due to the change of Government definition of windfall, the NPPF¹⁰ is clear that residential back gardens cannot be included within this figure and therefore these have been deducted from the total. Historically, a significant contribution to the housing supply has come from residential garden land and as a consequence what has been delivered is not accurately reflected in official figures.

¹⁰ NPPF (2019) Paragraph 70

Table 4: Small Site Windfall Completions (sites of 4 and under) between 2006 and 2022			
Year	Total Small Site Windfall Completions	Total Small Site Windfall Completions on Residential Garden Land	Total Small Site Windfall Completions Excluding Residential Garden Land
2006/2007	53	19	34
2007/2008	51	26	25
2008/2009	40	17	23
2009/2010	46	21	25
2010/2011	37	16	21
2011/2012	39	12	27
2012/2013	64	31	33
2013/2014	82	41	41
2014/2015	38	20	18
2015/2016	66	33	33
2016/2017	18	10	8
2017/2018	78	18	60
2018/2019	60	7	53
2019/2020	60	9	51
2020/2021	39	3	36
2021/2022	31	3	28
Average	50	18	32

2.7 Based on the above, it is considered highly likely that this consistent rate of delivery from small windfall sites will continue to play a role in meeting the District's housing requirement. Small sites (of less than 10 dwellings), take on average 820 days (around 27 months) to complete from date of permission. Large sites (of 10 dwellings or more) take on average 921 days (around 30 months). Although there are circumstances where some developments are taking longer to complete due to such things as planning conditions attached to the applications, S106/CIL contributions and issues during construction, on an average basis the data above indicates that the speed of delivery once a site is permitted is not a cause of concern.

Action Plan – Key Point: Speed of delivery in the District does not present an obstacle.

Lapsed Sites

2.8 Through the analysis process, unimplemented (lapsed) planning permissions were identified. From the analysis, 2,141 net units have been completed (delivered) since 2013¹¹. 164 net units permitted have lapsed in this time. The level of lapse against completions is therefore 8%. This is a very small proportion of the total housing permitted. It demonstrates that the majority of permitted sites coming forward are being built out. This reflects a generally high level of housing market viability and also a period of national and local housing market buoyancy. Lapses arise from a few very particular circumstances, such as where a previously unknown issue is discovered on site, or financial collapse of a developer, and there is little the Council can do to reduce this marginal level of lapses.

2.9 Further detail on the net number of units lapsed, broken down by monitoring year, is shown below:

Monitoring Year	Total Net Units Completed (Delivered)	Net Units Lapsed	Percentage Lapsed Within the Year
13/14	256	8	3%
14/15	142	13	9%
15/16	322	26	8%
16/17	228	5	2%
17/18	332	10	3%
18/19	244	12	5%
19/20	262	4	2%
20/21	117	47	40%
21/22	238	39	16%
Total	2,141	164	8%

2.10 In response to the pandemic during the 2020/21 monitoring year, the Government introduced the Business and Planning Act 2020 which temporarily modifies the Town and Country Planning Act 1990 and the Planning (Listed Buildings and Conservation Areas) Act 1990 to enable certain planning permissions and listed building consents in England which have lapsed or are due to lapse during 2020 to be extended¹². This is in recognition of the effect coronavirus has had on the planning system and the construction sector and in particular the delays it has caused to the commencement of new development. This extension will allow the commencement of the planning permissions and listed building consents without the need for a new application.

¹¹ Figure taken from Table 1 above. 2013/14 – 2020/21

¹² [Extension of certain planning permissions: guidance \(updated 22 July 2020\)](#)

2.11 As such, under section 93A of the Town and Country Planning Act 1990, unimplemented planning permissions with time limits for implementation which were due to lapse between 19 August 2020 (when the provisions came into force) and 31 December 2020 are extended to 1 May 2021. These applications will form part of the Council's current supply when calculating the Housing Land Supply.

2.12 Tandridge has 1,052 units on committed sites expected to come forward in the next 5 years. In discussion with applicants, as part of the Council's monitoring functions, where the Council have been notified where sites have complex matters that may hinder delivery at a quicker rate, these sites will continue to be monitored and the position on the timescale until delivery will be updated where necessary. The Council maintains regular contact with the site promoters involved as part of its housing monitoring work.

Action Plan – Key Point: The Council has low levels of lapsed sites and the vast majority of sites permitted are developed.

2.13 In summary, the analysis set out in this section shows that delivery of homes in the District has not previously been an issue. Whilst the Council is not performing against the Government's OAN, this is partly because of the highly constrained nature of the District, particularly with respect to the extent of Green Belt and AONB designation.

3. Identification of Root Causes of Current Delivery Position

3.1 This section of the report provides the current context for housing land delivery in the District as follows:

- **Planning Designations** – Notably the extent of Green Belt and other landscape constraints present in the District.
- **Infrastructure Constraints** – Cumulative impact on infrastructure from historic development. In addition, there have been limited contributions to help alleviate and improve existing infrastructure in and across the District. As work of the emerging Local Plan has demonstrated, J6 on the M25 is now almost at capacity and increasing problems at key junctions on the A22 which are operating at capacity at peak times are hampering growth both within the District and in surrounding areas.
- **Public Sector Role** – Historically limited role of the Council to bring forward housing. In recent years, the Council has begun to realise its aspiration to deliver its own homes and is now actively promoting and delivering a council-housebuilding programme.

3.2 The root causes listed above are consistent with the position identified in this current HDTAP September 2022.

4. Responses and Action Plan

- 4.1 The Council's Housing Delivery Test Action Plan is set out below and it responds to the housing delivery analysis in Section 2 and on reflection of the key considerations set out in Section 3.
- 4.2 The Council will take the following actions to enable increased housing delivery and boost supply in the District these are divided into short and medium-term solutions:

Short Term Measures

- **Criteria Based Policy for Housing Site Delivery** – the Council will prepare and adopt (for development management purposes) a criteria-based policy (known as the Interim Policy Statement for Housing Delivery) which will assist in bringing forward land for new housing development in the short term. Those draft allocations in the emerging plan that can be brought forward will be favourably considered as a matter of principle and development opportunities not previously identified will be encouraged that assist the Council in meeting its housing needs and that do not adversely impact on designated areas.
- **Planning Performance Agreements** - The Council will promote the use of PPAs to ensure the prompt consideration of planning applications for new housing and to ensure that specialist consultancy services are at hand to enable the Council to determine applications in a prompt manner
- **Continued Pre-Application Services** – The Council has re-commenced pre-application consultation services as of October 2021 to assist developers in bringing forward suitable sites for housing development and enhance the speed at which applications can be dealt with. The Council will continue to fund this service as part of its objective to encourage further housing development in the District.
- **Commissioning Further Infrastructure Related Works** – The Council has commenced further discussions with National Highways and Surrey County Council regarding J6 of M25. One primary objective is to identify the “tipping point” in terms of housing growth in the District when congestion at the junction will cause severe delays on the rest of the network. The Council is also taking part in a wide ranging A22 corridor study to identify improvements that need to be made to the capacity of junctions to accommodate growth both within and beyond the borders of the District.

Medium Term Measures

Interim Housing Delivery Policy

4.3 The Council has prepared an Interim Policy Statement for Housing Delivery set out at Annex A which will be an important material consideration in the determination of planning applications. This comprises sites that are coming forward on brownfield land and Green Belt sites from the emerging Local Plan which have been through two regulation 18 consultations and a regulation 19 consultation and have been rigorously assessed via the HELAA and Green Belt assessments. The Council will continue to assess planning applications against the adopted Core Strategy (2008) and Local Plan Part 2 – Detailed Policies (2014), unless material considerations indicate otherwise (NPPF Paragraph 47). In addition, proposals will be assessed for consistency with national planning policies as a whole.

- **Diversify Market Opportunities** - On 15 January 2019 members of the Housing Committee adopted the Council's Housing Strategy 2019-2023. Policy HS1 within the Housing Strategy aims to provide a mix of market housing on sites over 10 units in order to readdress the balance of housing types and provide smaller properties.
- **Greater, Direct Public Sector Role** - The Council's Strategic Asset Management team are leading on building and managing the Council's property portfolio and delivering housing development. The Council are keen to look at ways in which they can become more actively involved in land acquisition, general housing delivery and council house building.

5. Project Management and Monitoring Arrangements

- 5.1 The actions summarised above set out the work the Council will aim to undertake within the timescales stated. The Action Plan will be monitored and reviewed by the Strategy Team on an annual basis when the publication of the HDT results is available.

- 5.2 Information relevant to the Action Plan will be collected from a range of sources such as the AMR, IDP, Housing Topic Paper, Housing Strategy, Strategic Plan, and any other relevant documents.

Annex A Interim Policy Statement for Housing Delivery

This is an interim Policy Statement for Housing Delivery providing a consistent approach for Development Management for the determination of housing applications in Tandridge District going forward and will include consideration of the matters set out below.

The primacy of the protection of the Green Belt, Surrey Hills Area of Outstanding Natural Beauty (AONB) and the High Weald AONB, candidate areas for AONB status will be the key planning consideration in determining planning applications under this interim Policy.

Infrastructure constraints, such as local, strategic and national route highway capacity constraints and foul or surface water drainage constraints, will be key planning consideration in determining planning applications under this interim Policy.

Applications will be invited to come forward that meet the following criteria and are in accordance with the Council's development plan and with the National Planning Policy Framework (NPPF) and with national planning guidance:

- i) Provide for the re-development of previously developed land in the urban areas and the Green Belt;*
 - ii) Housing sites included in the emerging Local Plan where the Examiner did not raise concerns (see Appendix A);*
 - iii) Sites allocated for housing development in adopted Neighbourhood Plans which will make a contribution to the overall delivery of housing in the District;*
 - v) Provide for the release of infill or re-development sites in settlements washed over by the Green Belt where this would not conflict with maintaining the openness of the Green Belt;*
 - vi) Constitute enabling development (for charitable development or heritage asset conservation purposes) (See Appendix B);*
 - vii) Housing development meeting a recognised local community need or realising local community aspirations including affordable housing and the bringing forward of rural exception schemes in appropriate locations;*
 - viii) Sites that deliver flood mitigation measures for already identified areas of the District at serious risk of flooding;*
- and any such sites identified according to the above criteria must be deliverable and viable, having regard to the provision of any necessary on-site and off-site infrastructure, affordable housing requirements and payment of the Community Infrastructure Levy.*

All development proposals will be expected to comply with the requirements of the NPPF and the policies of adopted development plan, that is the Core Strategy (15th October 2008), Tandridge Local Plan Part 2: Detailed Policies 2014-2029 (July 2014), all adopted Neighbourhood Plans and Supplementary Planning Guidance where relevant.

Planning permission will only be granted for a limited period of 2 years to ensure the rapid development of the sites.

When considering planning applications for residential development on a specific site, the cumulative impact of development (and particularly wider highway capacity and safety considerations) will need to be taken into account.

Applications should be accompanied by Master Plans setting out how the site will be developed, the location of infrastructure, how the site will function, its visual appearance, how it relates to the surrounding area, and the adjacent transport network including roads, footways, cycleways and bridleways.

Tandridge District has a recognised deficit of infrastructure. Special consideration will be given to the development of sites that overcome existing infrastructure deficits.

Where the proposed development would create the need to provide additional or improved off-site infrastructure, funding or a programme of delivery should be agreed with the relevant infrastructure providers to ensure that these improvements are provided at the time they are needed.

Off-site infrastructure requirements essential to allowing the development to proceed will be expected to be included in a Grampian Condition or Section 106 Agreement or other legal agreement as appropriate.

An ecological impact assessment should be undertaken and appropriate measures identified and implemented accordingly to mitigate any potential adverse impacts of the development on biodiversity and to secure biodiversity net gain.

Appendix A - Examples of possible sites:

The emerging Local Plan process identified a number of large sites (75+ units) that could potentially be brought forward where the Examiner did not raise concerns. These sites have been rigorously assessed via the HELAA process and Green Belt assessments. They have also been through two Regulation 18 consultations, one Regulation 19 consultation as well as site specific Examination hearings.

Appendix B – Enabling Development in the context of this Interim Policy Statement for Housing Delivery:

Enabling development means allowing development to take place that would not normally be granted permission because it is contrary to development plan policy (and possibly national planning policy) but which enables the delivery of a development which provides exceptional and significant public benefit.

REASONED JUSTIFICATION

To seek to maintain the delivery of new housing in Tandridge District Council recognising the significant planning and other constraints the District is subject to.

This page is intentionally left blank

Future Work on Our Local Plan 2033 following the former Secretary of State's letter to the Planning Inspectorate regarding decisions on emerging local plans

Planning Policy Committee – 22 September 2022

Report of: Interim Chief Planning Officer

Purpose: For decision

Publication status: Unrestricted

Wards affected: All

Executive summary:

- The former Secretary of State, Greg Clark, sent a letter to Sarah Richards, the Chief Executive at the Planning Inspectorate (PINS) on 28th July 2022 regarding not finding emerging local plans unsound. This letter has introduced a significant degree of uncertainty regarding the plan making process.
- It is recommended that a letter (Appendix 1 attached) be sent from the Chief Executive to the Chief Planner at DLUHC asking for urgent and greater clarity about what the former Secretary of State's letter to PINS means for councils such as Tandridge preparing emerging local plans.
- Further, it is recommended that a letter be sent from the Chief Executive to the Inspector examining the emerging Local Plan (Appendix B attached) explaining the Council's current position.
- Pending further clarification of future Government policy and so that we are adopting a financially prudent approach, for the time being we will not proceed with commissioning or undertaking further work on the emerging Local Plan.
- That in addition to adopting for development management purposes the short-term Interim Policy Statement for Housing Delivery reported upon elsewhere in these papers, it is recommended that the committee authorise the Interim Chief Planning Officer to commence preparation of a Site Allocations Development Plan Document ('Site Allocations DPD') as envisaged in the Core Strategy. It is intended that this DPD will be a significant material consideration in planning decision making and will be a further "hedge" against the uncertainty introduced by the former Secretary of State's letter with respect to future planning policy for the determination of housing planning applications in Tandridge District.

This report supports the Council's priority of:

Creating the homes, infrastructure and environment we need but prudently managing financial resources.

Contact officer Cliff Thurlow, Email: cthurlow@tandridge.gov.uk

Recommendations to Committee:

It is recommended that:

- A. the letters referred to above be sent from the Chief Executive to the Chief Planner at DLUHC and the Inspector examining the Local Plan;
- B. the Council does not proceed with commissioning or undertaking further work for the time-being on the emerging Local Plan; and
- C. the Interim Chief Planning Officer be authorised to commence work on a Site Allocations DPD.

Reason for recommendation:

The former SoS's letter is considered by officers to be unprecedented. There are indications politically that major policy changes may be introduced relating to reducing Government targets for housing delivery and tightening policy relating to land releases in the Green Belt. If so, such policy changes could have major implications for this authority which is 94% covered by Green Belt and which is particularly challenged in attempting to meet Government housing targets.

The Local Plan inspector has indicated to the Council the significant amount of new work he requires be undertaken to enable the soundness of the emerging Local Plan to be further considered. There is no certainty that he will not find the emerging Plan unsound at any point going forward so there were already risks in continuing with the Local Plan. The former SoS's letter has now introduced further uncertainty and risk.

Accordingly, it is recommended that this Committee agrees the Council does not proceed with commissioning or undertaking further work on the emerging Local Plan for the time being and until there is clarification of future Government policy. This will support the Council's efforts to manage an already significant risk in terms of expenditure to be incurred in the continued preparation of the emerging Local Plan having regard to the financial constraints the Council is already seeking to manage. By continuing with work that may be found unnecessary in the short-term if there are changes to Government policy, the Council cannot be assured that such expenditure represents value for money or will not be wasted entirely.

The Committee should, however, seek to put in place a robust policy for determining future planning applications for housing through the preparation and adoption of a Site Allocations DPD that will carry significant weight in decision making.

Introduction and background

1. The letter from the former Secretary of State at DLUHC, Greg Clark, to Sarah Richards, the Chief Executive at the Planning Inspectorate (PINS) on 28th July 2022 not to conclude that local plans are unsound or recommend their withdrawal before a new prime minister is appointed, or "until the department advises you otherwise," has introduced a significant degree of uncertainty regarding the plan making process.
2. A copy of the former Secretary of State's (SoS) letter is at Appendix 3 to this report.
3. The former SoS said that "inspectors should not send letters or reports which conclude that local plans are unsound and incapable of being made so and/or which advise councils that local plans should be withdrawn".
4. The former SoS also said that this advice would remain in place "during this short period of transition before a new prime minister takes office, and until the department advises you otherwise" and that the government is "considering changes to the planning system".
5. In the experience of your officers, such an intervention is unprecedented and is considered to anticipate potentially major changes in Government policy particularly with regard to housing delivery and Green Belt releases of land for development.

Other Plan Making Authorities

6. Recently, a number of local planning authorities ('LPAs') have delayed work on their local plans, or withdrawn the plans from examination, citing government housing numbers as a factor in their decision. These LPAs include Thanet, Castle Point, Havant, Bassetlaw, Slough, Basildon and East Hampshire. The latter cited "deeply flawed planning rules and brutal housing targets" as the reason for its action. Similarly, in the foreword to its adopted local plan, published last month, Spelthorne Borough Council criticised the government's "brutal housing targets" and said that the green belt release it was required to include in the plan would make the area a "less attractive place to live".

Issues for Tandridge District Council

7. The former SoS's intervention in the decision-making process by independent Inspectors could last well into the autumn, taking into account the party-political conferences at the end of October, and that a newly appointed Prime Minister and cabinet will need time to make their own decisions on housing, Green Belt and other planning policies.

8. The Council has already spent over £3M since 2014 on the emerging Local Plan. The Council is under financial pressure and it is seeking to reduce spend and find ways to generate income. The estimate for completing the further work required by the examination inspector up to December 2023 to enable adoption of the Local Plan is £1.3M. Furthermore, the inspector has reserved his right to indicate at any time that the Council is unlikely to demonstrate that a sound plan can be produced before December 2023.
9. The majority of the District is Green Belt. There are two Areas of Outstanding Natural Beauty one of which (Surrey Hills) is currently under review for expansion. Furthermore, there are major infrastructure constraints, notably but not exclusively, J6 of M25 and the A22 corridor, for which there is no identified and assured national or Surrey County Council infrastructure improvement funding.
10. In addition, the government's method for assessing housing need has issues as it is top down, because it is based on 2014 figures and has a "highly questionable" affordability element.
11. Another significant consideration is the duty to co-operate that the NPPF currently imposes on authorities to co-operate on matters such as meeting housing need. This was planned to be scrapped when the Levelling Up Bill becomes law.
12. There are already significant uncertainties about Government expectations of local authorities in preparing Local Plans and the Secretary of State's letter adds a further, and potentially unacceptable, layer of uncertainty for a currently indeterminate period of time.
13. In the meantime, the Council's development management function must continue to operate. Counsel's advice has been taken which confirms that even though the Council cannot currently demonstrate a five-year housing land supply, that does not mean that the whole of the adopted development plan policies are "out of date". This means that the policies in the adopted development plan can continue to be relied upon and given significant weight in the determination of planning applications as is already happening.
14. As set out in the preceding report to this Committee, the opportunity provided by the requirement to prepare a Housing Delivery Test Action Plan (HDTAP) has been taken to put in place an Interim Policy Statement for Housing Delivery (IPSHD) for formal adoption by this Committee. The IPSHD if adopted will be a material consideration in determining planning applications for new housing development going forward but only during the currency of the HDTAP which is up to July 2023.

15. As the uncertainty introduced by the former Secretary of State's letter of 28 July, 2022 may last for an indeterminate period of time, it would be prudent for the Council to consider adopting an up to date housing policy or policies which would not be so time limited as the HDTAP and which would have the weight of a significant material consideration. This is already envisaged in the Core Strategy if the Council found itself in similar circumstances to what exist at present. The policy can be delivered through the adoption of a Site Allocations DPD. The Site Allocations DPD would need to be subject to formal adoption by the Council and would also be subject to prior consultation.
16. A lot of the evidence gathering and planning evaluation work required for the Site Allocations DPD has been carried out for Our Local Plan 2033. There should not be a need for significant expenditure (estimated at less than £100k) and this could be met from within the existing Local Plan budget. It would be hoped that the Site Allocations DPD could be prepared and consulted upon with the next 6 months. The timescale for formal adoption following Examination would be dependent on the availability of an Inspector provided by the Planning Inspectorate.

Key implications

Comments of the Chief Finance Officer

The Planning Policy committee paper of 23 June 2022 "*Local Plan Update*" set out the financial envelope available for the Local Plan, as follows. Note that the 2021/22 column represents the money held in the Local Plan reserve, with the remaining columns being the annual budget:

		2021/22 £'000s	2022/23 £'000s	2023/24 £'000s	Total £'000s
A	Existing funding available for Local Plan	617	481	481	1,579
B	21/22 Local Plan Underspend	177			177
A+B	Total funding available for the Local Plan	794	481	481	1,756

These available funds encapsulate the full budget for the Planning Policy service, including that which may also be needed for other key workstreams.

When the Council has clarity on future Government policy, the financial envelope and funding arrangements for Planning Policy will need to be reviewed in some detail, to establish whether they remain commensurate with expected costs. This review may have ramifications for the Council's wider budget process.

The amount expended to date on the current Local Plan is significant, however the Council must take decisions based on what represents best value for money at this point and based on a clear understanding of future planning requirements. Without that clarity, avoiding any further financial commitment on activities that may no longer align with Government policy appears to be the most financially prudent course of action.

Comments of the Head of Legal Services

There are no legal implications arising directly from this report. However, if recommendation C as set out in the report is accepted, the statutory consultation will allow the public and other stakeholders to have an opportunity to input into the process. It is the role of the consultation process to allow for views to be submitted by all stakeholders, and for the Council to consider them. The preparation of consultation documentation and their delivery may require some additional expenditure.

Equality

Duty under the Equalities Act 2010

In assessing this proposal, the following impacts have been identified upon those people with the following protected characteristics (age, disability, gender re-assignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex or sexual orientation).

The proposal would have a neutral impact on the protected characteristics.

Climate change

There are no significant environmental / sustainability implications associated with this report.

Appendices

Appendix 1: Draft letter from David Ford to Chief Planner at DLUHC.

Appendix 2: Draft letter from David Ford to Examining Inspector

Appendix 3: Former Secretary of State's letter to PINS.

Background papers

None.

APPENDIX 1

APPENDIX 1

[Ms Joanna Averley,
Chief Planner
DLUHC
2 Marsham Street
London
SW1P 4DF

] please ask for David Ford
On 01883 7327999

E-mail: dford@tandridge.gov.uk

Our ref: CEO1

Your ref:

] Date: 23rd September 2022

Dear Ms Averley,

GOVERNMENT ADVICE TO PINS ON LOCAL PLANS UNDER EXAMINATION

I am writing to ask for clarification about the implications of the Secretary of State, Greg Clark's, letter to Sarah Richards, the Chief Executive at the Planning Inspectorate (PINS) of 28th July, 2022. The letter requested that inspectors do not conclude that local plans under examination are unsound or recommend their withdrawal before a new prime minister is appointed, or "until the department advises you otherwise". This letter is quite unprecedented in the opinion of the Council's principal planning officers and has introduced a significant amount of uncertainty into this Council's local plan making process.

The pause in decision making on local plans currently at examination could last well into the autumn, taking into account the party-political conferences in October; and a newly appointed prime minister and cabinet needing time to assimilate their briefs and make their own decisions on the future direction of planning policy. There has to be a reason for the Secretary of State to take such unprecedented action. Both elected members and officers of this Council are concerned that the letter presages significant alterations in Government planning policy, particularly with respect to matters such as assessment of housing requirements, affordable housing and release of land from green belts.

Tandridge District Council has spent to date some £3.1M of council tax-payers money on preparing its emerging local plan. An additional £1.3M is estimated to be required for the further work the examining inspector has identified is required to move the local plan forward for consideration for adoption by December 2023.

Tandridge District Council like all local authorities is facing real challenges financially. Adding to these existing challenges are levels of inflation and rising energy costs not previously anticipated. The Council has to act in a financially prudent way and ensure value for money in all expenditure. The uncertainty raised by the Secretary of State's 28th July letter to PINS causes the Council real concern that if major central government planning policy changes are afoot there could be wasted expenditure. This could arise either because not all the work identified to complete the local plan may be needed or the work that is needed will have to be approached in different ways to before.

The Council would be extremely grateful if you could provide clarity about the implications of the Secretary of State's 28th July letter and whether the Council is right to anticipate changes in central government planning policy that could have financial consequences for this Council in terms of incurring further significant expenditure in moving the local plan forward.

Yours sincerely,

David Ford
Chief Executive

c/o Chris Banks,
Programme Officer
Sent by email:
bankssolutionsuk@gmail.com

please ask for David Ford
On 01883 7327999

E-mail: dford@tandridge.gov.uk

Our ref: CEO1

Your ref:

Date: 23rd September 2022

Dear Inspector,

GOVERNMENT ADVICE TO PINS ON LOCAL PLANS UNDER EXAMINATION

We write in respect of the letter dated 28th July 2022 from the Secretary of State, Greg Clark, to Sarah Richards, the Chief Executive at the Planning Inspectorate (PINS) giving Government advice to PINS regarding Local Plans under Examination.

As a result, we have sent the attached letter to the Chief Planner. As you will see, we are concerned that there may be significant alterations to Government planning policy and we are anxious to avoid spending money on work that may not be necessary or become outdated. There are growing pressures on the Council's limited financial resources and it is imperative for us to secure best value in all our expenditure.

We will therefore not be sending any further monthly updates for the time being but will resume as soon as there is further clarification of future Government policy.

Yours sincerely,

David Ford
Chief Executive

This page is intentionally left blank



Department for Levelling Up,
Housing & Communities

Sarah Richards
Chief Executive
The Planning Inspectorate
Temple Quay House
2 The Square
Temple Quay
Bristol
BS1 6PN

Rt Hon Greg Clark MP
*Secretary of State for Levelling up, Housing and
Communities*

***Department for Levelling Up,
Housing and Communities***
4th Floor, Fry Building
2 Marsham Street
London
SW1P 4DF

www.gov.uk/dluhc

Tel: 0303 444 0000
Email: greg.clarke@levellingup.gov.uk

28th July 2022

Dear Sarah,

Local Planmaking during the Summer

The Government accords great importance to councils getting up-to-date Local Plans in place and supporting authorities to achieve this is a policy priority. Recent years have seen significant plan progress with 95% of councils now having a Local Plan in place under the 2004 Act. This compares with just 16% five years after the 2004 Act came into force, and 78% at the end of 2016, illustrating significant progress towards the Government's objective of full plan coverage.

The Planning Inspectorate has played a critical and decisive role in getting us to this position, via the public examination of plans to ensure that they are legally compliant and sound.

In 2015 during my previous tenure as Secretary of State I wrote to the Planning Inspectorate asking them to be pragmatic when dealing with Local Plan examinations. Following my letter, I was pleased to see Inspectors working with councils during examination to fix deficiencies on plans that might otherwise have been found unsound or be recommended for withdrawal from examination.

You will appreciate that at present we are considering changes to the planning system. In addition to the Levelling Up and Regeneration Bill, which has partly passed the Commons Committee stage in Parliament, it is also our intention to update and consult upon the NPPF and of course the Autumn will see a new Prime Minister and Cabinet take office.

It is critical during this time to advance Local Plans through to adoption. PINS should continue to show the pragmatism and flexibility at examination that it has to date to enable councils to get plans in place. Councils engage with their local communities and invest significant resources into submitting plans that they consider sound with the aim of delivering the housing, employment and infrastructure that are needed.

Where Inspectors identify possible shortcomings in a local plan, I would urge Inspectors to continue to address these in correspondence with councils in a constructive and positive way.

However, during this short period of transition before a new Prime Minister takes Office, and until the Department advises you otherwise, Inspectors should not send letters or reports which conclude that local plans are unsound and incapable of being made so and/or which advise councils that local plans should be withdrawn.

It is, of course, important that examinations continue, and plans are put in place and adopted so that councils and the communities they serve can benefit from having an up-to-date plan; ensuring development is plan-led rather than speculative and unplanned. Therefore, I expect to see Examinations and Hearings continue.

Please can you ensure your Inspectors are aware of the above and that they and the wider organisation act accordingly.

Yours sincerely,

A handwritten signature in black ink that reads "Greg Clark". The signature is written in a cursive style with a large, sweeping initial "G".

Rt Hon Greg Clark MP
Secretary of State for Levelling up, Housing and Communities

Development Management Staffing

Planning Policy Committee – 22 September 2022

Report of: Interim Chief Planning Officer

Purpose: For decision.

Publication status: Unrestricted.

Wards affected: All

Executive summary:

- The staffing of the Development Management function in the Planning Department has occupied a significant amount of Committee and Officer time for more than 12 months being key to the delivery of improvements in the function.
- There has, in the interim, been a reliance on temporary staff to keep Development Management functioning but as the following Budget Report in these Committee papers shows this is not a financially sustainable option going forward.
- The Committee accepted a permanent officer Development Management staffing structure with the report to the 25th November 2021 meeting as part of the Planning Transformation process.
- Since then, Officers in Planning Department, Human Resources (HR) and Finance have worked together to put a staffing structure in place but have, in the process, identified amended opportunities to recruit permanent staff who will have a commitment to delivering a quality Development Management service going forward and have capabilities and competencies the Council can draw upon.

This report supports the Council's priority of: Building a better Council and creating the homes, infrastructure and environment we need, supporting economic recovery in Tandridge and becoming a greener, more sustainable District.

Contact officer Cliff Thurlow: cthurlow@tandridge.gov.uk

Recommendation to Committee:

The revised Development Management structure for the Planning Department in Appendix 2 below be approved and implemented to deliver ongoing resilience and improvement to the service.

Reason for recommendation:

Introduction and background:

1. The opportunity has arisen to move the Development Management team to being all full-time Council employees.
2. The Planning Transformation staff structure included 3 Senior Planning Officers and 3 Planning Officers (see Appendix 1).
3. The opportunity that has arisen is to move the staff structure to 4 full-time Senior Planning Officers and 2 full-time Planning Officers (see Appendix 2) which it is considered will deliver ongoing resilience and improvement to this Council service.
4. The cost of an additional Senior Planning Officer will be offset by reducing the number of Planning Officers from 3 to 2 and from not filling the apprentice post in the previously approved Planning Transformation staff structure.
5. The apprentice post was advertised and attracted limited interest and the job offer was not accepted and subsequently withdrawn.
6. There is currently a vacancy for 1 Planning Officer post which has been advertised and an interview held and HR are following through a potential job offer.

Other options considered

None available that offer proven financial savings and deliver ongoing resilience in the Development Management function.

Consultation

Internal consultation within Council service areas.

Key implications

Comments of the Chief Finance Officer

The Q1 2022/23 Planning Policy Committee Financial Monitoring Report presented separately on this agenda shows a £124k overspend. The part year effect of proposals in this Committee Report will reduce the 2022/23 overspend by £24k, so this is a positive step forward to add to the general position. An update on the overall position for Planning Policy committee will be provided on a quarterly basis.

Preparations for the 2023/24 budget are in progress and will need to draw in the medium-term impact of this structure. The move towards sustainable, permanent staffing is positive and will reduce the reliance on more expensive temporary or interim staff.

Comments of the Head of Legal Services

There are no specific legal implications arising from this report. However, as a statutory service the proposals, if accepted, would assist the Council in meeting its obligations as local planning authority under the Town and Country Planning Act (as amended) and defending any planning appeals related to decisions made.

Comments of the Head of Human Resources

Human Resources will partner with the service to ensure restructure timescales are followed in line with employment legislation.

Any relevant documentation in terms of equality impact will be provided to the service to ensure a full analysis of impact on any groups with protected characteristics.

Equality

The matters dealt with in this report have provided for equality of opportunity in the process of identifying suitable full-time Council employees.

Climate change

The recruitment of new staff with competencies in terms of climate change issues will enhance the Council's ability to address these important issues going forward.

Appendices

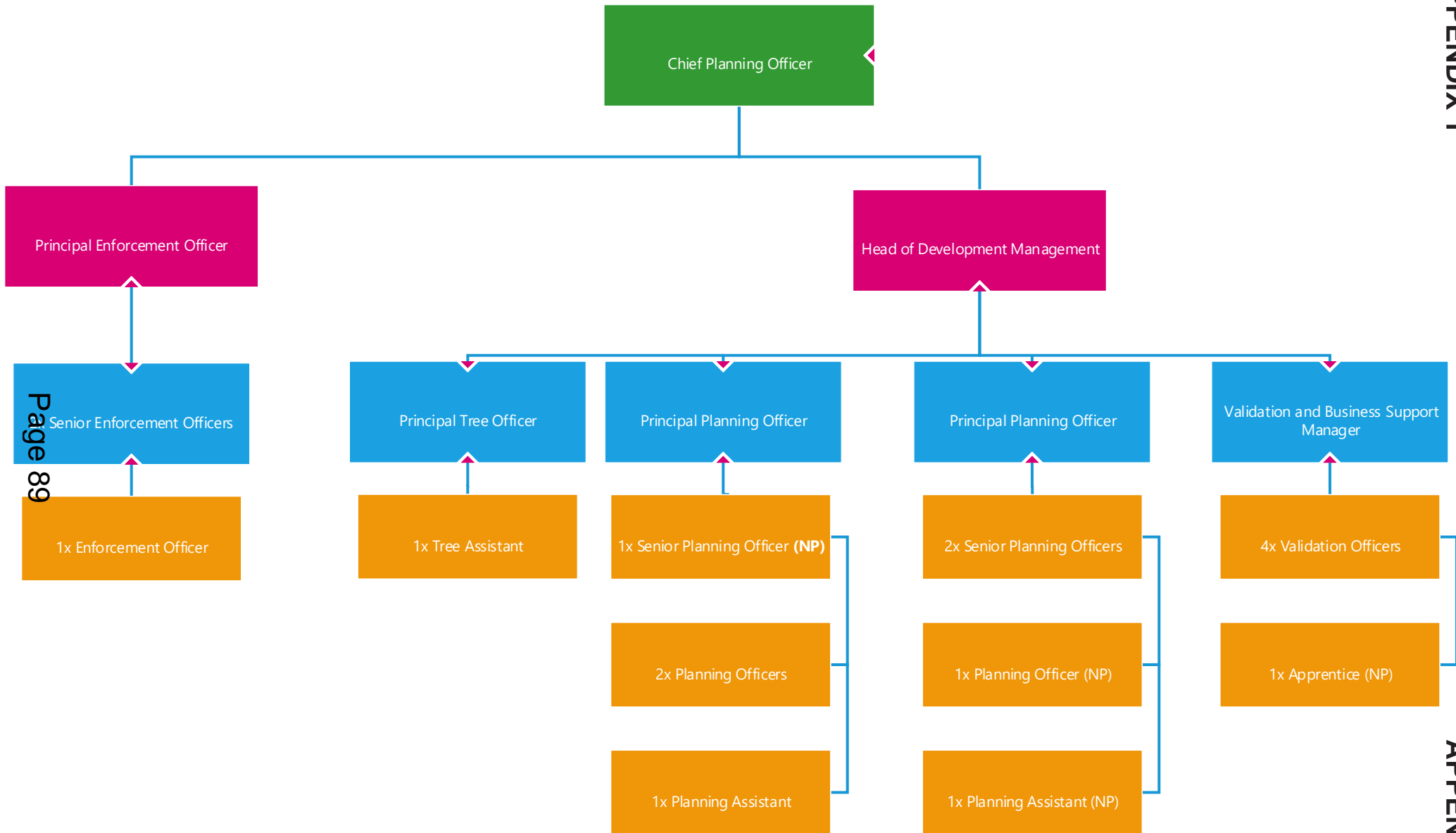
Appendix 1: Planning Transformation staff structure as at November 2021

Appendix 2: Alternative and now proposed staff structure

Background papers

None.

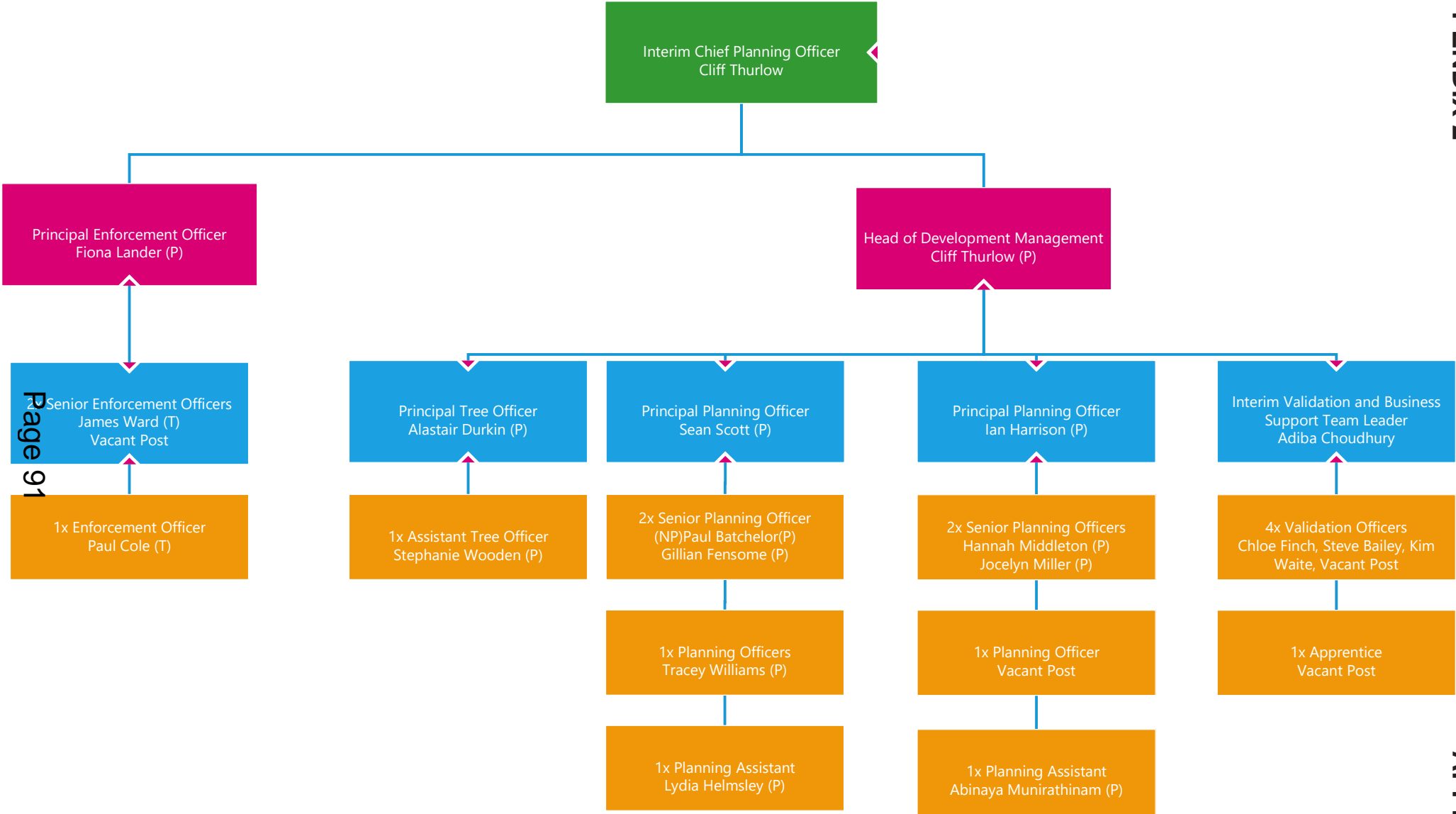
Development Management Staff Structure as at November 2021



(NP) = New Post

This page is intentionally left blank

Alternative Proposed Development Management Staff Structure



Page 91

(NP) = New Post
(P) = Permanent
(T) = Temporary

This page is intentionally left blank

Quarter 1 2022/23 Budget Monitoring - Planning Policy Committee

Planning Policy Committee Thursday, 22 September 2022

Report of: Mark Hak-Sanders - Chief Finance Officer (Section 151)

Purpose: To note the 2022/23 Quarter 1 / Month 3 (June) financial position of the Committee.

Publication status: Unrestricted

Wards affected: All

Executive summary:

This report presents the 2022/23 Quarter 1 / Month 3 (June) financial position of both Revenue and Capital for the Committee.

This report supports the Council's priorities of:

Building a better Council/ Creating the homes, infrastructure and environment we need / supporting economic recovery in Tandridge/ Becoming a greener, more sustainable District.

Contact officer Mark Hak-Sanders Chief Finance Officer (S151)
mhaksanders@tandridge.gov.uk

Recommendation to Committee:

That the Committee's forecast Revenue and Capital budgets positions as at Quarter 1 / M3 (June) 2022 be noted.

Reason for recommendation:

The Council has a duty to ensure that its expenditure does not exceed resources available. The medium-term financial outlook remains uncertain and so the Council must continue to take steps towards growing its financial resilience, including building reserves to a sustainable level.

It is essential, as a matter of prudence that the financial position continues to be closely monitored. In particular, Members must satisfy themselves that sufficient mechanisms are in place to ensure both that the revenue budget is delivered, and that any new expenditure is contained within the available resources.

Finance have committed to bringing quarterly financial monitoring updates to each committee to ensure that all members are aware of the financial position of the services within their remit, as context for decisions needed to mitigate any variance to budget and as background to the emerging budget for 2023/24.

The consolidated position will be reported to Strategy & Resources Committee on the 29th September 2022.

Introduction and background

- 1 The 2022/23 Planning Policy Committee Revenue budget was approved at £1,204k on 10th March 2022, including the distribution of budget for staffing increments (known as the Tranche 2 budget).
- 2 The 2022/23 Planning Policy (Community Infrastructure Levy) Capital Budget was approved at £1.6m by Council on 10th February 2022 having been considered by Planning Policy Committee on the 20th January 2022.
- 3 This was increased to £2.1m by carry-forwards from 2021/22 approved by S&R committee on 30th June 2022.

Summary

- 4 The key headline at M3 is a forecast revenue overspend of £124k in the Planning Applications and Advice budget. Further details are included in Appendix A. The overspend relates to:
 - Greater than expected spend on counsel on resulting from the decision to serve injunctions rather than enforcement notices
 - Salaries, due to a continuing heavy dependence on contract staff in the first quarter of the financial year
 - Greater than anticipated on external consultant advice and late invoice from SCC historic build for fees due in 2021/22
 - Offset by planning application fee income being better than expected income in the first 3 months
- 5 The service is endeavouring to take mitigating action by transitioning from contract to permanent staff; greater dependence on injunctions to deter planning breaches and reduce cost of appeals.

- 6 The Planning Policy position will continue to be monitored, including the impact of an increase in the use of permanent staff rather than interims, and consolidated with the overall Council position. A report to S&R committee on 29th September will set out the total Council position along with potential corporate mitigations.
- 7 The capital position is under review and will be updated as part of the Quarter 2 report. At Quarter 1 it is assumed to be on-budget.

Key implications

Comments of the Chief Finance Officer

The Section 151 Officer confirms the financial information presented in this report has been based on reasonable working assumptions taking into account all material, financial and business issues and risks. The key financial implications at this stage are captured in the body of the report.

Comments of the Head of Legal Services

It is essential, as a matter of prudence, that the financial position of services continues to be closely monitored. In particular, Members must satisfy themselves that sufficient mechanisms are in place to ensure both that savings are delivered and that new expenditure is contained within the available resources. Accordingly, any proposals put forward must identify the realistic measures and mechanisms to produce those savings.

Under S28 of the Local Government Act 2003, a local authority must review its budget calculations from time to time during the financial year and take appropriate action if there is any deterioration in its budget. This report satisfies this statutory requirement.

Equality

There are no equality implications associated with this report.

Climate change

There are no significant environmental / sustainability implications associated with this report.

Appendices

Appendix A – Committee’s M3 (June) 2022 Financial Report and supporting data.

Background papers

- Planning Policy Committee 22/23 draft budget and Medium-Term Financial Strategy – 20th January 2022
- 2022/23 final budget and 2023/24 MTFS - Strategy and Resources Committee 1st February 2022
- Planning Policy Committee - 2022/23 Budget – Tranche 2 Pressure and Savings Distribution – 10th March 2022
- 2021/22 Budget – Outturn Report – Strategy and Resources Committee 30th June 2022

----- end of report -----

Appendix A

Quarter 1 / Month 3 (June 22) Financial Report – Planning Policy Committee

Page 97

Mark Hak-Sanders
Chief Finance Officer (S151)

22nd September 2022

Revenue Budget – Planning Policy

2021/22 Outturn £k	Forecast at M03 £k	Annual Budget £k	Outturn Variance £k	One-off events £k	Ongoing Pressures £k
816 Planning Applications & Advice	457	335	122	0	122
294 Planning Strategy & Policy Guidance	315	316	(0)	(0)	0
50 Enforcement	272	276	(4)	(4)	0
(2) Tree Preservation & Advice	95	95	(0)	(0)	0
0 Community Infrastructure Levy (CIL)	0	0	0	0	0
174 Local Development Plan - Evidence	182	182	0	0	0
Gatwick Airport DCO	2	0	2	2	0
9 Transfer to/from Neighbourhood Plan Reserve	8	8	(0)	(0)	0
(10) Land Charges and Street Naming	(4)	(8)	4	4	0
1,332 Planning	1,328	1,204	124	2	122

Page 98

Planning Policy Committee overspend £124k due to:

The variance is comprised of:

- Greater than expected spend on counsel on resulting from the decision to serve injunctions rather than enforcement notices
- Salaries due to a continuing heavy dependence on contract staff in the first quarter of the financial year
- Greater than anticipated on external consultant advice and late invoice from SCC historic build for fees due in 2021/22
- Offset by planning application fee income being better than expected income in the first 3 months

The service is endeavouring to take mitigating action by transitioning from contract to permanent staff; greater dependence on injunctions to deter planning breaches and reduce cost of appeals

Capital Budget – Planning Policy

Scheme Name	Original Budget	Carry Forward	Budget including Carry Forwards	Forecast at M3	Forecast Variance M3
	2022/23	from 2021/22	2022/23	2022/23	2022/23
	£	£	£	£	£
Capital contributions to third parties from CIL	1,667,400	478,900	2,146,300	2,146,300	0
Total Capital Programme	1,667,400	478,900	2,146,300	2,146,300	0

Page 68

- The Capital Budget for Planning Policy consists of the Capital Contributions for Community Infrastructure Levy. When the budget was set, this consisted of £1.7m, with a further £950k as part of the Croydon Road scheme in S&R.
- Carry forwards agreed as part of the 30th June S&R committee have increased this to £2.1m, as set out above.
- The forecast against this is currently under review with the Budget Holder

Revenue Risks – Planning Policy Committee

Committee	Outline of Risk	Mitigation	Range Max - Min £k	Likely Financial Risk £k
Planning	Local Plan business case roadmap unforeseen costs and alternatives required	Additional costs would be offset within the Local Plan reserve in the first instance		
Planning	Escalating external legal costs related to the need to employ specialist Planning related solicitors are a possible cost pressure within Planning service.	Monitor and report, taking commensurate actions where opportunities arise		
Planning	Unexpected fall of in planning application fee income, driven by the national economic situation	Monitor and report, taking commensurate actions where opportunities arise		
Planning	Although the Council's decision to serve injunctions, rather than enforcement notices, drives the need for external specialist Counsel costs, it does have a long term benefit for the Council.	Use of injunctions, results in a long term saving through deterrent effect on other individuals wanting to breach planning control and overall reduction in cost of planning appeals		
Planning	Gatwick Airport Development Consent Order. Gatwick Airport has set out its proposal to bring its existing northern runway into regular use, alongside its main runway, as set out in its masterplan. The Council will incur specialist consultant advice to respond to each stage of the consultation process.	Value for money will be achieved by working with other Councils to secure the most effective, efficient and economical services to deliver the Councils responses to the consultation.	£68k - £48k	£58k