

## **Planning Policy Committee** **Thursday, 21st September, 2023 at 7.30 pm** **Council Chamber, Council Offices, Station Road East, Oxted**

### **Agenda**

The agenda for this meeting is set out below.

### **Members of the Planning Policy Committee**

Councillor Catherine Sayer (Chair)	Councillor Chris Farr (Vice-Chair)
Councillor Claire Blackwell	Councillor Ian Booth
Councillor Christopher Botten	Councillor Sue Farr
Councillor Alun Jones	Councillor Judy Moore
Councillor Keith Prew	Councillor Vicky Robinson
Councillor Lesley Steeds	

### **Substitute Members**

Councillor Robin Bloore	Councillor Mike Crane
Councillor Jeffrey Gray	Councillor Jeremy Pursehouse

If a member of the Committee is unable to attend the meeting, they should notify Democratic Services. If a Member of the Council, who is not a member of the Committee, would like to attend the meeting, please let Democratic Services know by no later than noon on the day of the meeting.

If any clarification about any item of business is needed, contact should be made with officers before the meeting. Reports contain authors' names and contact details.

David Ford

**Chief Executive**

### **Information for the public**



This meeting will be held in the Council Chamber, Council Offices, Oxted and the public are welcome to attend. Doors for the Council Offices will open 15 minutes before the start of the meeting.



The meeting will also be broadcast online at [tinyurl.com/webcastTDC](https://tinyurl.com/webcastTDC). In attending this meeting, you are accepting that you may be filmed and consent to the live stream being broadcast online and available for others to view.



Information about the terms of reference and membership of this Committee are available in the Council's Constitution available from [tinyurl.com/howTDCisrun](https://tinyurl.com/howTDCisrun). The website also provides copies of agendas, reports and minutes.



Details of reports that will be considered at upcoming Committee meetings are published on the Council's Committee Forward Plan. You can view the latest plan at [tinyurl.com/TDCforwardplan](https://tinyurl.com/TDCforwardplan).

## **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 18th July 2023 (Pages 5 - 6)**

To confirm as a correct record

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

**5. Local Plan Options (Pages 7 - 16)**

**6. Planning Performance Agreement Framework (Pages 17 - 38)**

**7. Quarter 1 2023/24 Key Performance Indicators - Planning Policy Committee (Pages 39 - 46)**

**8. Quarter 1 2023/24 Budget Monitoring - Planning Policy Committee (Pages 47 - 54)**

**9. Bio-Diversity Net Gain (Pages 55 - 70)**

**10. Gatwick Airport Update (Pages 71 - 78)**

**11. 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).

**12. To consider passing the following resolution:**

**RESOLVED** – that members of the press and public be excluded from the meeting for the following items of business under Section 100A (4) of the Local Government Act 1972 (as amended) on the grounds that:

- (i) they involve the likely disclosure of exempt information as defined in Part 1 of Schedule 12A of the Act; and
- (ii) for the items, the public interest in maintaining the exemption outweighs the public interest in disclosing the information.

<b>Item No.</b>	<b>Nature of Exempt Information</b>
13	Paragraph 3 of Part 1 of Schedule 12A of the Local Government Act 1972

**13. Gatwick Airport Development Consent Order (DCO) application process - financial implications (Pages 79 - 86)**

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## 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 18<sup>th</sup> July 2023 at 7.30pm.

**PRESENT:** Councillors Sayer (Chair), Chris Farr (Vice-Chair), Blackwell, Booth, Botten, Sue Farr, Gray (substitute in place of Robinson), Alun Jones, Moore, Prew and Steeds

**ALSO PRESENT:** Councillors Allen, Black, Crane, Damesick, Gillman, Pursehouse and Nicholas White

**ALSO PRESENT (Virtually):** Councillors Cooper, Evans, Gaffney and Windsor

**APOLOGIES FOR ABSENCE:** Councillor Robinson

#### 90. MINUTES OF THE MEETING HELD ON THE 22ND JUNE 2023

These minutes were confirmed and signed as a correct record.

#### 91. LOCAL PLAN PROGRESS REPORT TO INSPECTOR

The Committee resolved to move into 'Part 2' for this item in accordance with Paragraph 3 (information relating to financial or business affairs) of Part 1 of Schedule 12A of the Local Government Act 1972.

A procedural meeting with the Local Plan Inspector had been arranged for the 27<sup>th</sup> July 2023. The Inspector had asked the Council to provide documentation in advance of that meeting (ID24) stating that:

*'It would be helpful to me in preparing for the procedural meeting if the Council could provide a document which details your suggestions for progressing the examination. In the document, please indicate how you wish to amend the Plan and why. This should include why your suggested changes are necessary for soundness.'*

A draft document was presented.

It was agreed that authority for preparing the final version of the document should be delegated to officers, with a view to it being sent to the Inspector's Programme Officer the following day.

**RESOLVED** – that:

- A. authority be delegated to the Head of Legal Services & Monitoring Officer, in consultation with the Chair and Vice Chair of the Committee, to:
  - (i) amend the proposed response to the Inspector at Appendix A to the report (by incorporating typographical corrections announced at the meeting and making further revisions);

- (ii) submit the document, as amended, to the Local Plan Inspector via his Programme Officer; and
- B. a copy of the document referred to in A(ii) above be shared with the team from the Department for Levelling Up, Housing and Communities ahead of a meeting scheduled for 20th July 2023.

Rising 9.18 pm

## Local Plan Options

### Planning Policy Committee Thursday, 21 September 2023

Report of: Planning Policy Specialist

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Purpose: For decision

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Publication status: Open

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Wards affected: All

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#### Executive summary:

Following the Local Plan procedural meeting on the 27th July 2023, the Inspector has written to the Council to say that it is his view that it would not be possible to make the plan sound and that he would recommend non-adoption of the Plan. Two options were presented: (1) The Inspector writes a report concluding the Plan is unsound and that it is not adopted; (2) The Council withdraws the Local Plan. This report sets out the implications of each option in order that the Council can make a decision as to the appropriate course of action.

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**This report supports the Council's priority of:** Building a better Council/  
Creating the homes, infrastructure and environment we are need/  
Supporting economic recovery in Tandridge/  
Becoming a greener, more sustainable District

**Contact officer** Katya Fox Planning Policy Specialist  
kfox@tandridge.gov.uk

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#### Recommendation to Committee:

- A. That the Committee consider the pros, cons and risks of each of the two options for the emerging Local Plan, i.e. to request an Inspector's Report (option 1) or withdraw the emerging Local Plan (option 2); and
  - B. The Committee make a recommendation to Full Council on which option should be pursued by the Council.
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## **Reason for recommendation:**

The Inspector has requested that a decision be made regarding the future way forward on the Local Plan by the end of September. As a significant decision for the future of the District, the Committee is being asked to take the decision to Full Council.

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### **Introduction and background**

- 1 The Council submitted its emerging Local Plan 2033 for examination by PINS in January 2019. Following examination hearings, the Planning Inspector wrote to the council in December 2020 (ID16), expressing concerns about his ability to find the Local Plan sound, based on several issues:
  - a. Capacity and safety at Junction 6 of the M25 and the implications this could have on the spatial strategy
  - b. Objectively Assessed Housing Needs
  - c. Housing Land Supply
  - d. School Places Forecasting
  - e. Gypsy, Travelling and Showpeople Accommodation Need
  - f. Site Allocations
  - g. Development Management Policies
- 2 The Council sought to resolve these issues and engaged with the Inspector throughout the process.
- 3 In June 2023, the Inspector wrote to the Council, asking for a procedural meeting to be held. The meeting's aim was to cover a way forward for resolving the soundness issues and adopting the Local Plan.
- 4 The procedural meeting was held on the 27<sup>th</sup> July 2023. Following the procedural meeting, the Inspector wrote to the Council (ID26) concluding that the Council's suggested way forward (TED-61) would only serve to protract the examination further and raise further procedural concerns. On that basis, the Inspector stated that it would not be possible to make the plan sound and that he would recommend non-adoption of the Plan. The letter set out two options:
  - a. Inspector writes a report of the examination concluding the Plan is unsound and that it is not adopted.
  - b. The Council withdraws the Plan prior to the Inspector making any such recommendations.
- 5 The Inspector requested that the Council should advise how it wishes to proceed by the end of September 2023, or if it is unable to respond by this date, advise when it will be in a position to respond.
- 6 This report sets out the implications of each option for consideration.



## Option 1: Inspectors Report

- 7 Under this option, the Inspector will prepare a full report on the emerging Local Plan. In his letter, the Inspector stated that the report will focus on the reasons why it is unsound following the format set out in the Procedure Guide for Local Plan Examinations.

<https://www.gov.uk/government/publications/examining-local-plans-procedural-practice/procedure-guide-for-local-plan-examinations#section-7-the-inspectors-report>

- 8 The Procedure Guide states that the report will present conclusions, backed by reasoned judgements on soundness and legal compliance of the plan. The Guide further states that:

'The focus on soundness and legal compliance means that, as far as possible, the Inspector's report will avoid summarising the cases of individual parties, referring to specific representations and representors, or describing what was said at hearing sessions. The report will not respond to every point or issue raised by those objecting to the plan, or refer to every policy and site allocation. Instead, it will explain concisely why the Inspector has arrived at his or her conclusions and recommendations.'

- 9 **Inspector's Report:** Since the conclusion of the initial hearings in 2019, a substantial amount of correspondence has been exchanged with the Inspector regarding the soundness of the Local Plan. If the report was prepared it will provide a consolidated summary of all of the soundness issues raised. This should provide a useful single reference resource to identify key lessons learnt and issues for a new Local Plan.
- 10 Without the report, decisionmakers and the development industry will be forced to rely on a series of historic documents on the examination website where the information may be buried and direction is not especially clear.
- 11 A fuller understanding of the reasons why the plan will be found unsound may assist with future plan making and decision-taking for a few years. However, it should be noted that the weight accorded to the Inspector's report will be challenged by various parties according to whether or not it supports their position. As such, it is likely to be a matter that is initially contested through the appeal process.
- 12 It will also be an easier document for the local community to access and will help them to clearly understand why the plan was unable to proceed.
- 13 However, it is important to remember that the contents of the Inspector's report will be final. In the event the Council does not agree with them or with how the Inspector has summarised the situation, there will be no opportunity for the Council to either respond or to engage further with the Inspector.

- 14 **Costs:** It will be necessary to pay the Inspector for the preparation of his report. The current fees for the Inspector are £933 per day. It is estimated that the report is likely to take at least two weeks to prepare, which will result in a minimum cost of £9,330 for the council. Additional costs for the programme officer's time will also be incurred for that time period. A total cost of £12,000 is estimated to be associated with this option. This will be in addition to the outstanding costs of the Inspector's and Programme Officer's time. No other costs are associated with this option.
- 15 **Evidence Base:** The emerging Local Plan examination will not technically be concluded until the Inspector sends his final report to the council. Any documents published on the examination website will remain public and could be of use for other matters than the Local Plan until such time as the emerging Local Plan is formally withdrawn.
- 16 Once the report is received, should the council wish to retain and publish any of the existing evidence base for a new Local Plan on its website, it will need to be approved for publication individually through the standard corporate processes. This process will create the opportunity to review and update evidence base studies to align with best practice in terms of approach and reflect recent changes, for example, relating to local circumstances with respect to infrastructure requirements.
- 17 Given the likely minimal weight afforded to the Inspector's report in decision making, it will therefore be necessary to undertake further work and produce new evidence base studies in relation to identified issues to inform future planning decisions and appeals. As the Inspector's report will clearly identify soundness issues, there will be a clear steer for the scope of works for these new studies.
- 18 **Work planning:** It is unknown how long the Inspector will take to issue the report, but an initial estimate suggests that it would be no earlier than December 2023. This option offers space for reflection and work planning leading up to, and following, the receipt of the report.
- 19 Timing-wise, when the Inspector's report is received there may be more certainty about political direction at national level and more clarity regarding proposed changes to the planning system (including transition arrangements). In reality it is unlikely that Local Plan preparation could commence until 2024 at the earliest.

## **Option 2: Council Withdraws the Local Plan**

- 20 Under this option, the Council would make a decision to withdraw the emerging Local Plan and no further work on the Examination would be undertaken by the Inspector. The Council would not receive an Inspector's Report. Most councils withdraw their plans when the Inspector has indicated that the plan cannot be made sound. Withdrawal may also leave more options open to the Council regarding future direction for a Local Plan because there is no definitive Inspector's report.

- 21 **Inspector's Report:** Although the Council will not receive an Inspector's report, it will still be possible to identify key lessons learnt and issues to address for a new local plan. However, these will need to be compiled / inferred by officers from the correspondence exchanged with the Inspector. There will not be a single consolidated document for stakeholders to reference. There will also be less clarity for the community as to why the Local Plan cannot proceed.
- 22 **Costs:** No costs will be incurred from the Inspector writing his report and associated Programme Officer work. This could be a saving of £12,000.
- 23 **Evidence base:** If the emerging Local Plan is withdrawn, the examination will have effectively ended. Therefore, the examination website, including the emerging Local Plan and supporting evidence base, will need to be immediately removed in line with regulations. Should the council wish to retain and publish any of the existing evidence base for a new Local Plan on its website, it will need to be approved for publication individually through the standard corporate processes.
- 24 This process will create the opportunity to review and update evidence base studies to align with best practice in terms of approach and reflect recent changes, for example, relating to local circumstances with respect to infrastructure requirements.
- 25 As for option 1, it will be necessary to undertake further work and produce new evidence base studies in relation to identified soundness issues to inform future planning decisions and appeals. Without an Inspector's report, it will be for officers to infer the key issues to be addressed in the scope of works for these new evidence base studies.
- 26 **Work planning:** A formal decision to withdraw the emerging Local Plan will provide a level of certainty and clarity for the local community, developers and other stakeholders regarding the planning policy framework for development and growth in Tandridge. For decision taking and plan making purposes, including neighbourhood planning, it will be clear that at the local level reference should be to the adopted Local Plan.
- 27 However, without an Inspector's report there will be less clarity regarding key issues identified through the Examination and their future consideration with respect to future growth in Tandridge in general or in relation to specific sites.
- 28 Work could immediately begin on a new Local Plan although in reality this is likely to be unable to commence until there is more certainty about political direction at national level and the proposed changes to the planning system (including transition arrangements). It is unlikely that Local Plan preparation could commence until 2024 at the earliest.

## Summary

29 The table below summarises the pros and cons of the two options.

### Option 1 – Inspector’s Report

Theme	Pros	Cons
Inspector’s report	Consolidated summary of issues – single reference source	Weight accorded to report likely to be challenged at appeal
	Fuller understanding of soundness issues to inform future plan making and decision taking	
	Community will be able to better understand why the plan cannot progress	
Costs		Estimated cost of £12,000 for Inspector’s and Programme Officer’s time
Evidence base	Report will provide clear steer for scope of works for additional evidence base studies to address soundness issues	Existing evidence base will be extant until report is issued, short-term delay to opportunity to review and update evidence base studies
Work planning	Convenience of Inspector’s report - will be helpful to decision takers and plan makers in the long-term	
	Report will provide clear steer on the issues that will need to be address through a new Local Plan – useful for future work planning	

<b>Theme</b>	<b>Pros</b>	<b>Cons</b>
	Time / space for reflection and work planning for new Local Plan while awaiting the Inspector's report	
	May be greater clarity at proposed changes to the planning system (including transition arrangements) later this year. If this aligns with receipt of report, it will allow for more efficient work planning	

### **Option 2 – Council Withdraws the Local Plan**

<b>Theme</b>	<b>Pros</b>	<b>Cons</b>
Inspector's report	Lack of consolidated summary – single reference source	Officers will have to spend additional time compiling / inferring soundness issues
		Lesser understanding of soundness issues to inform future plan making
		Community will be less able to understand why the plan cannot progress
Costs	No costs will be incurred from the Inspector, representing a saving of £12,000	
Evidence base	Immediate opportunity to review and update evidence base studies	Less clarity re scope of works for additional evidence base studies to address soundness issues

<b>Theme</b>	<b>Pros</b>	<b>Cons</b>
Work planning	Immediate clarity for developers, neighbouring authorities and stakeholders regarding the local policy framework	Less clarity for plan makers and decision takers regarding key issues for future growth and potential sites
	Work on a new Local Plan could begin immediately (albeit that potential reform may delay the start in practice)	Less clarity on previous soundness issues to inform future work planning on a new Local Plan
		Less clarity on the proposed changes to the planning system (including transition arrangements) at the outset of the work planning period

## **Key implications**

### **Comments of the Chief Finance Officer**

The financial implications of each option are set out in the body of the report. In the event that the Inspector's Report option is chosen, the costs would be met from the existing budget for the Local Plan. Future spending on Planning Policy matters will need to be reviewed alongside the emerging budget for 2024/25 and the Council's Medium Term Financial Strategy.

### **Comments of the Head of Legal Services**

In reaching a decision in this matter, it is important that Members are content that they have identified and evaluated the full range of likely impacts of each available option, associated cost implications and identified and carefully considered all of the relevant factors. In arriving at a decision Members must believe that it is in the best interests for the District.

### **Equality**

There are no equality impacts associated with this report.

**Climate change**

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

**Appendices**

None

**Background papers**

None

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## **Planning Performance Agreement (PPA) pro-forma**

### **Planning Policy Committee – 21<sup>st</sup> September 2023**

Report of: Chief Planning Officer

Purpose: For decision

Publication status: Open

Wards affected: All

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#### **Executive summary:**

Many councils and applicants use a project management tool known as Planning Performance Agreements (PPA).

PPAs are useful in helping to establish efficient and transparent process for determining applications. Overall they aim to help improve the quality of applications and the speed of determination.

The Council wants to be able to offer the benefits of PPAs to potential developers and ensure the process is adequately resourced. A PPA pro-forma has been prepared to guide negotiations with developers and agents in setting up PPAs.

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#### **This report supports the Council's priority of:**

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

**Contact officer** Helen Murch Email: [hmurch@tandridge.gov.uk](mailto:hmurch@tandridge.gov.uk)

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#### **Recommendation to Committee:**

That:

- A. the Planning Performance Agreement (PPAs) pro-forma, as attached in Appendix A, be agreed in principle as the basis for negotiating performance agreements with developers on major and largescale applications; and
- B. subject to A above, authority be delegated to the Chief Planning Officer, in consultation with the Chairs of the Planning Committee and Planning Policy Committee, to set the appropriate scale of charges.

## **Reason for recommendations:**

Planning Performance Agreements ('PPAs') are made pursuant to Section 111 of the Local Government Act 1972, Section 2 of the Local Government Act 2000 and Section 93 of the Local Government Act 2003. A standard pro-forma to help guide the preparation of a PPA is set out in Appendix 1.

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## **Introduction, background and issues**

### **Planning Performance Agreements (PPAs)**

1. Pre-application engagement offers significant potential to improve the efficiency and effectiveness of the planning application system and improve the quality of planning applications.
2. A PPA is a project management tool which the local planning authorities and applicants can use to agree timescales, actions and resources for handling particular applications. It should cover the pre-application and application stages but may also extend through to the post-application stage.
3. PPAs can be particularly useful in setting out an efficient and transparent process for determining large and/or complex planning applications. They encourage joint working between the applicant and local planning authority, and can also help to bring together other parties such as statutory consultees.
4. A PPA is agreed voluntarily between the applicant and the local planning authority prior to the application being submitted, and can be a useful focus of pre-application discussions about the issues that will need to be addressed.
5. In principle PPA can be used for any application but they are more likely to be used on large or complex applications.
6. There is no one model for a PPA and agreements will vary depending on the focus of the applicant and needs of the site and application. It is for the local planning authority and the applicant to discuss and agree a suitable process, format and content which is proportionate to the scale of the project and the complexity of the issues to be addressed.
7. To help guide the process of agreeing a PPA the Council has prepared a PPA proforma (Appendix 1). A simple and straightforward approach based on programme, required skills and tasks, costs and performance standards has been used. This base PPA proforma can be adapted to the bespoke requirements of a particular applicant and scheme.

8. A PPA is not a means of obtaining a planning consent or circumventing the normal planning process. Notwithstanding any agreement on the use of a PPA for any particular planning application, it is a requirement under planning law for each planning application to be considered on its merit, taking into account all material considerations including national and local land use policy.
9. A PPA would be a means of contributing to the fixed costs of the Development Management Service whilst ensuring that the standard of service is maintained and enhanced at less cost to the Council. As noted above, this would normally cover the pre-application and planning application phase of a development proposal and can extend to matters beyond the formal application process for example to allow programming of the negotiation of any section 106 agreement as well as related non planning consents (which could perhaps include consents such as highway agreements under section 278 of the Highways Act 1980). They might also provide a basis for voluntary contributions offered by a developer to assist with abnormal costs of processing the application (so long as such payments do not exceed the cost of the additional work, do not have implications for the decision on the application and do not deflect resources from other cases).
10. The draft PPA pro-forma for Tandridge PPAs (attached at Appendix 1) does not include any fee proposal as these will be bespoke for each agreement. However, the fees will largely be based on external charge out rates for officers. If the PPA principle is agreed, the Chief Planning Officer will work with the Council's Director of Finance to ensure that the charges are proportionate and will enable full cost recovery. A benchmarking exercise on charge out rates will also be undertaken amongst relevant Local authorities. It is proposed that in consultation with the Chairs of the Planning Committee and Planning Policy Committee, they will agree the appropriate scale of charges.
11. The introduction of the PPA for services falls outside of Officers' delegation.

## **Principles**

12. In setting a proposed charge, several key principles will need to be applied to ensure that the costs of service provision to the Council are recovered, that the fees and charges are reasonable and comply with the applicable legislation and regulation.
13. Determining the appropriate charging level is critical to minimising the use of costly resources later in the planning process. In setting the chargeable rates to support the planning application process, it needs to be recognised that whilst there are considerable benefits to a developer in seeking pre application advice, it is not compulsory. Where a developer chooses not to use the service, then poorer quality development proposals may follow. This leads to greater resource being spent at the formal planning application stages or at costly planning appeals and brings potential delays to development.

14. Equally important in the current financial climate is to ensure that income is maximised and that the public purse is not subsidising development promoted by the private sector.
15. The proposed charging scheme will accord with the following key principles:
  - It is incumbent on the Planning Service Team to charge for activities that are discretionary, or where permitted by regulation, given the pressures on the Council finances;
  - Charges will be costed, reasonable and comply with all applicable legislation, regulation and guidance;
  - Charges will be reviewed annually and on the enactment of any amending legislation, regulation or the issuing of guidance;
  - Charges will reflect the direct and indirect cost of service provision. The calculation of indirect costs will include Service overheads. This will reflect corporate best practice in relation to overhead recovery which is currently being developed;
  - Where the Council is required to source external support, i.e. highway modelling advice to respond to pre-application advice, then the costs incurred by the Council will be recharged;
  - Charges will be transparent and provide a consistent rate that represents good value; Officer charge out rates will be non-negotiable.
  - Charges will be bench marked against other local authorities across the country.
  - Charges will be easy to administer and simple to understand.
  - Charges will be kept under regular review and confirmed/updated at the end of each financial year

## **Key implications**

### **Comments of the Chief Finance Officer**

As with all new income areas, there are no guarantees of the amount of income we will actually receive. The income that will be generated will be used in the first instance to contribute to challenging income budgets in the Committee, subject to review as PPAs bed in and activity levels become clear. The financial pressures on Development Management are such that it is appropriate to introduce charges to contribute to the fixed costs of the service and ensure that the costs of development are fully recovered from the developer.

## **Comments of the Head of Legal Services**

The Local Government Act 2003 allows local authorities to recover the costs of providing services or improvements to services that they might not otherwise have been able to justify providing or been in a position to provide. Given the financial climate, it is essential that where a service may recover its costs it does so.

## **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.

## **Background papers**

Localism Act 2011

## **Appendices**

**Appendix 1** – Planning Performance Agreement (i.e. the Pro-forma).

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**Proforma**

**PLANNING PERFORMANCE AGREEMENT**

**Between**

**TANDRIDGE DISTRICT COUNCIL**

**And**

**XXXXXXX**

**In respect of [SITE ADDRESS]**

**DATED : XX XXXX 20XX**

## 1. Introduction

- 1.1 This Planning Performance Agreement (PPA) is made on XX XXXX 20XX between:
- (1) Tandridge District Council (TDC) of 8 Station Rd E, Oxted RH8 0BT (“TDC”), and
  - (2) XXX of xxxxx (“The Applicant”)
- 1.2 The PPA covers the process from [stage of planning process] through to [stage of planning process] for [proposal] of [address] shown on site plan in Appendix A
- 1.3 The PPA provides a project management framework within which to progress the proposal and identifies the project team and their responsibilities, the key tasks and target timescales.
- 1.4 The applicant and TDC are entering into this Planning Performance Agreement (PPA) for the following purposes:
- XXXXX
- 1.5 The PPA applies from [date] and shall remain in force until [date], or such time that an extension of time is agreed. The PPA shall cease upon the expiry of such period.
- 1.6 In the event that circumstances change or timetabled dates (the ‘Work Plan’) require alteration, a review and agreed amendment to the project programme will be sought.

## 2. Status

- 2.1 This PPA is made pursuant to Section 111 of the Local Government Act 1972, Section 2 of the Local Government Act 2000 and Section 93 of the Local Government Act 2003
- 2.2 This PPA does not constitute a legally binding contract, nor is it intended to prejudice or influence the determination of the planning application in any way. Rather, it is a memorandum of understanding between TDC and the Applicant.
- 2.3 Nothing in this agreement shall restrict or inhibit TDC from properly exercising its role as the Local Planning Authority or the Applicant from exercising their right of appeal under Section 78 of the Town and Country Planning Act 1990.

## 3. Joint Working

- 3.1 All parties shall act reasonably and with the utmost fairness towards each other in respect of all matters in respect of the handling of the pre-app process and any subsequent Planning application and to work jointly with each other in complying with their respective obligations under this Agreement.



3.2 TDC and the Applicant agree to be governed at all times by the following principles:

<b>Principle 1:</b>	To work together as a team and in good faith, and to respect each other's interests and confidentiality.
<b>Principle 2:</b>	To commit and provide promptly information to support and manage the Development Management process.
<b>Principle 3:</b>	To be transparent and consistent at all times between all parties so that outcomes are anticipated, defined and understood.
<b>Principle 4:</b>	To provide effective involvement and consultation with the surrounding community, statutory and other stakeholders, and any individual or group with a legitimate interest.
<b>Principle 5:</b>	To reach agreement on milestones which will remain fixed unless agreed otherwise.
<b>Principle 6:</b>	To identify and involve specialist consultees and advisors where appropriate.

#### 4. Applicant Obligations

4.1 The Applicant agrees to:

- 4.1.1 Use its reasonable endeavors to achieve the performance standards set out in Schedule 3.
- 4.1.2 Comply with and facilitate the compliance by TDC with the indicative timescales set out in Schedule X

#### 5 TDC obligations

5.1 Without prejudice to its other obligations as the Local Planning Authority, TDC agrees to:

- 5.1.1 Use its reasonable endeavors to achieve the performance standards set out in Schedule X.
- 5.1.2 Comply with and facilitate the compliance by the applicant with the indicative timescales set out in Schedule X

## 6 Breach and Termination

- 6.1 The parties entering into the PPA agreement may, by written notice, terminate a PPA with immediate effect in the event that:
- (i) the other commits a material breach of any of the terms of this Agreement and in the event of a breach which is capable of remedy, fails to make good any such breach within 7 days of being required so to do by written notice identifying the breach and steps which must be taken to remedy it; or
  - (ii) (ii) The applicant or Council wishes to terminate the agreement for any other reason.
- 6.2 The parties' rights, duties and responsibilities shall continue in full force during any termination notice period.

## 7 Planning Policy Context

- 7.1 The relevant policies and guidance documents applicable to this development are:

### National Policy and Guidance

- 7.2 The following national policy and guidance are of particular relevance to the proposals:
- National Planning Policy Framework; and,
  - National Planning Policy Guidance.

### Strategic and Local Policy

- 7.3 The adopted policy framework comprises:
- Tandridge District Core Strategy 2008;
  - Tandridge Local Plan: Part 2 – Detailed Policies 2014;

The following neighbourhood plans apply:

[Add as appropriate]

- 7.4 The following strategic and local guidance documents are of particular relevance to the proposals:

[Add as appropriate]

## 8 Programme

- 8.1 The PPA Project Programme (Schedule 4) is devised to provide a realistic timeframe for providing pre-application advice / determining the planning application and includes an indication of the overall timeframe and an indicative timetable of meetings which may be subject to change as agreed.
- 8.2 Meetings shall be carried out in accordance with the Performance Standards set out Schedules 2 and 3 and shall, at the reasonable request of the Applicant (and subject to the agreement by the case officer) be attended by the TDC case officer and relevant consultees.
- 8.3 The Applicant and TDC acknowledge that the timeframe may be subject to change which will be kept under review moving forward.
- 8.4 In agreeing to this timeframe, the Applicant and TDC agree to extend the statutory period for determination of the planning application under Article 29 of the Town and Country Planning (Development Management Procedure) (England) Order 2010.

## 9 Confidentiality

- 9.1 Confidentiality protocols will be agreed and applied to specific issues and/or information as they emerge.

## 10 Charges

- 10.1 The Applicant agrees to pay the Council providing the pre-application services to the Applicant pursuant to this PPA in accordance with the rates detailed in Schedule 6. The LPA's fees do not include:

- Planning Application fee
- Design Review Panel fees [insert amount]
- All legal fees associated with the preparation and completion of a S106 agreement  
If required, details of the Applicant's Solicitor shall be provided on the signing of this agreement to enable completion of the S106 within the project programme (as may be amended by this agreement);
- [insert other (if relevant)]

- 10.2 Where specialist advice is agreed to be required, and is not available from internal TDC departments, the Council will seek to procure that advice from external parties. The council will obtain quotes from external parties for any external services and share these with the Applicant. Fees for external consultants or specialist fees will be agreed at the relevant time, such agreement to be in writing. Costs of the additional agree consultants shall be payable within 30 working days of the date of receipt of a written demand for TDC, accompanied by evidence of incurred costs as the applicant may reasonable require (including but not limited to any relevant invoices). The Applicant shall not be responsible for any costs of specialists or consultants unless it has given its prior written approval to TDC incurring such cost;

10.3 In the event of failure to pay the agreed fees in full accordance with the agreed payment schedule at Schedule 6 no further work will be undertaken and TDC shall be entitled to apply interest at a rate of 2% above the base rate applied by [insert Council's bank].

10.4 The Applicant will pay any reasonable costs incurred by the Council to attend meetings other than at the TDC offices. (Travelling time at the rate of £xx per hour (exc. VAT) per officer and travelling expenses). This must be agreed in advance with the applicant.

10.5 The total cost of the PPA is £[Insert] (including VAT).

10.6 The Council, if necessary, shall inform the Applicant as soon as it becomes aware that the costs to the Council of providing the pre-application services pursuant to this PPA may exceed that amount and inform the Applicant of a further estimate of costs for services to be provided pursuant to this PPA.

10.7 No refund will be made on any payment once payment is made.

## 11 Amendment / Review of Agreement

11.1 Amendments to the agreement, charges, meeting schedule and revision of timescales (as set out in the Project Programme) shall be subject to review as may be agreed in writing between the parties.

## 12 Agreement

12.1 The above Planning Performance Agreement (PPA) has been agreed between Tandridge District Council and XX.

12.2 This agreement will be effective for the period up to the determination of the pre-application / application scheme. The Term will be subject to review as may be agreed between the Applicant and the Council

Signed by..... for and on behalf of  
**The Applicant**

in the presence of:

Authorised signatory

Signed by.....for and on behalf of  
**Tandridge District Council**

in the presence of:

Authorised signatory

## Schedule 1

### The Development

#### Site Plan

[Insert site plan]

#### Address of the application site:

XX

#### Description of the Development:

The project relates to a planning proposal for the development of the above site by [Insert applicant name] to deliver the scheme outlined below.

The applicant's current proposal which is subject to the PPA process is described a [Insert description as appropriate]

## Schedule 2

### The Applicant's Performance Standards

The applicant agrees to achieve the following performance standards at all times:

1. To comply with the Project Programme so far as it places obligations on the Developer.
2. [Insert specific standards for PPA]

### **Schedule 3**

#### **TDC's Performance Standards**

In addition to its statutory obligations, TDC agrees to achieve the following performance standards at all times:

1. To designate a qualified and experienced planning officer ("the Project Manager") who alone or as part of a team shall be responsible for overseeing or carrying out the Planning Functions in accordance with this Agreement.
2. [Insert specific standards for PPA]



## Schedule 4

### Project Programme

**Insert specific agreed programme**

**Will cover overall timeframe with key milestones and meeting schedule**

## Schedule 5

### Project Team

For both parties to work constructively and productively it is vital that key project team members are identified along with direct contact details

#### The Applicants Project Team

Role	Organisation	Contact Details
Applicant		
Planning		
Architect		
Highways		
Environmental		
Legal		

#### TDC's Project Team

Name/Position	Contact Details
Chief Planning Officer	
Development Management Manager	
Project Manager	
Insert specific internal leads as required (Trees, ecology, design, heritage, CIL/S106, SUDS, climate action/sustainability etc)	

## Schedule 6

### Fee schedule

Add in agreed fees and payment schedule

Broken down by time and costs for:

- DM officers
- Other internal specialists
- Fees for procuring agreed external advice/skills (including specialist consultants and County and other statutory consultees who charge pre-app fees)

The total amount is invoiced on a [monthly, quarterly or on milestone] basis.

The first installment will be invoiced on signing of the PPA. No work will commence on the PPA until the initial payment is received. Subsequent installments will be invoiced on [insert schedule].

The payment of any sum will be due within 30 days of the date of such invoice by TDC

TDC will issue invoices to:

[Insert Applicants full name and address where invoice will be sent to ]

## Schedule 7

### **The Pre-application / Application Documents**

Based on the emerging proposal the applicant will agree with TDC the application content. The content of the application shall be consistent with the Council's adopted validation checklist.

The Parties to this Agreement agree that the Planning Application shall be accompanied by the following documents (delete or add as appropriate):

- Application fee
- Application form
- Ownership and Agricultural Holdings certificates
- Community Infrastructure Levy form
- Site location plan
- Existing and Proposed Plans
- Computer Generated Images (CGIs)
- Planning Statement, including Community Engagement Report, Residential Standards Statement, Open Space Assessment (demonstrating impact on/justification for loss of open space / community space)
- Affordable Housing Statement including evidence of discussion with Registered Providers
- Design & Access Statement
- Viability Statement to make reference to affordable housing and zero carbon standards
- Transport Statement, Parking Layouts and Tracking (including sustainable transport and cumulative impacts of proposals on key transport infrastructure (especially M23 and M25 junctions)
- Framework Construction Management Statement
- Energy Report
- Sustainability Statement, including Sustainable Construction Checklist
- Tree Report, Arboricultural Impact Assessment and Arboricultural Method Statement
- Ecology Report (including Biodiversity Net Gain)
- Heritage Statement
- Schedule of Works
- Health Impact Assessment
- Daylight/Sunlight Assessment
- Flood Risk Assessment and Surface Water Drainage Strategy
- Foul Water Drainage and Utilities Assessment
- Desk Study and Preliminary Site Assessment Report (contamination)
- Desk Based Archaeological Statement
- Draft Heads of Terms (HoTs) for the Section 106 Agreement
- Environmental Statement
- Landscape and Visual Impact Assessment

TDC will notify the applicant (through pre-application meetings) if any additional documents will be required in support of the application.

The Applicant will submit the application via the Planning Portal. The Council may request a hard copy of all documents which shall be agreed before submission. If the application is accompanied by an ES the number of hard copies submitted shall be agreed in advance of the submission or a minimum of 3. The applicant commits to sending 1 hard copy to the Secretary of State.

**END**

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## Planning performance report

### Planning Policy Committee Thursday 21 September 2023

Report of: Interim DM Manager

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Purpose: For information

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Publication status: Open

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Wards affected: All

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#### **Executive summary:**

This report includes information about the key planning performance indicators for quarter 1 2023/24 (1<sup>st</sup> April–30<sup>th</sup> June 2023). The Council is required to submit this data quarterly to the Department of Levelling Up Housing and Communities (DLUHC). It also contains information about the committee risk register and current planning applications.

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#### **This report supports the Council's priority of:**

Creating the homes, infrastructure and environment we need

**Contact officer** Mark Berry, Interim Head of Planning  
mberry@tandridge.gov.uk

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#### **Recommendation to Committee:**

To review and note the Quarter 1 2023-2024 performance indicators and risks for the Planning Policy Committee.

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#### **Reason for recommendation:**

To support the committee in monitoring and managing performance.

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#### **Introduction and background**

1. Performance reports are presented to each policy committee at the end of each quarter. This report is divided into two sections: the first is a summary of the position with regard to the statistics collected by DLUHC, and the second contains a broader performance update on the work of the planning service.

## Statistics collected by DLUHC

2. The following performance information has been submitted to DLUHC. With reference to the indicator descriptions, an "agreed extension of time" relates to when the applicant has given their consent to the Local Planning Authority exceeding the Government's statutory target date for the determination of their application.
3. The performance statistics only cover applications for planning permission but exclude a whole range of other application types including Prior approvals, Lawful Development Certificates, Pre-application advice, discharge of conditions and tree applications. They are the official statistics that the government monitors and on which our performance is judged.

Indicator	National Target	Last Quarter	Actual Q1
Percentage of decisions on major applications made within 13 weeks or within agreed extension of time	60%	83%	100%
Percentage of decisions on minor applications made within 8 weeks or within agreed extension of time	70%	90%	85%
Percentage of decisions on other applications made within 8 weeks or within agreed extension of time	70%	93%	94%

4. During quarter 1 there were 290 decisions (compared to 254 in the previous quarter), made on the following categories of applications:

Type of application	Total	Granted	Refused
Major applications	6	5	1
Minor applications	74	42	32
Other applications (incl. 180 householder)	210	188	22
<b>Total decisions</b>	<b>290</b>	<b>235</b>	<b>55</b>

5. All 6 major applications detailed in the table above were decided within the agreed time.



6. Of the 290 decisions detailed above 267 were made within the statutory deadlines or with an agreed Extension of time.
7. For the 74 minor applications, the percentage decided within the agreed extension of time was 85% (63).
8. Of the 267 decisions, which still met the statutory deadlines with an agreed extension of time, around 72% (191) were householder applications.
9. These results are in line with DLUHC's required performance levels for planning applications and demonstrate the continued improved performance of the planning service.
10. Councils which decide fewer than 60% of major applications within the statutory deadline of 13 weeks or 70% of minor and other applications within the 8 week deadline may be liable to government intervention.

### **Planning service performance – reducing the backlog (including non-DLUHC statistics)**

11. Work continued during Q1 to further reduce the backlog of planning applications.
12. A backlog occurs when the number of planning applications being determined is less than the number of new applications received. If this occurs over a succession of quarters then the backlog position gradually worsens. The total number of regular applications for planning permission received in Tandridge in the year 2022-2023 was 907.
13. The worst quarter for decision-making was Q3 in 2022 when 217 planning applications were received but only 107 decisions were made.
14. The improvements seen in the previous quarter have continued in Q1 when 290 planning applications were determined.
15. Work on reducing the backlog continues and further progress is being made though Q2. We are applying for funds from the government's newly announced Planning Skills Delivery Fund which will assist further to this end.
16. The following table shows the comparison between the figures reported to the 22 June meeting and those prevailing at the time of writing (30 August 2023) there were:

<b>Measure</b>	<b>June 2023</b>	<b>30 August 2023</b>
Undetermined planning applications	375	354
Undetermined Lawful Development Certificates	81	54
Undetermined Prior Notifications	13	14
Other outstanding submissions *	180	176
Cases waiting to be validated	148	41
Invalid applications	67	35
Cases more than one year old	32	40
Cases past their target date with no EOT	196 (52%)	186 (53%)

\* including pre-application advice cases, notifications, consultations, discharge of conditions and non-material amendments.

17. The validation timescales have substantially reduced since last year and that position is being maintained.
18. In terms of outstanding cases, of the 354 undetermined planning applications, 40 applications are more than one year old and 186 (i.e. 53%) were past their target determination date with no agreed extension of time. In most cases an extension of time will be requested and granted before a decision is made.
19. Officers aim to deal with applications in chronological order and within the statutory time limit but this is not always possible due to the reasons set out below:-
  - Further information requested from the applicant.
  - Amendments being made to the application.
  - Specialist advice being sought.
  - Waiting for responses from key consultees
  - The need to consult again once revised information is received.

20. On Enforcement, the caseload is as follows:

- Enforcement cases opened in Q1 – 94
- Enforcement cases closed in Q1 – 93
- Total live enforcement cases at beginning of quarter – 202
- Total live enforcement cases at end of quarter – 203

21. On Appeals, the performance has been as follows:

- Planning appeals - 23 decision issued. (11 allowed & 12 dismissed)
- Enforcement appeals - 2 decisions issued. (2 allowed & 0 dismissed)
- New Planning appeals received in Q1 – 26
- New Enforcement appeals received Q1 – 3
- Live Planning appeals at beginning of Q1 – 53 in total, comprising 3 Inquiries, 2 Hearings & 48 Written Reps
- Live Enforcement appeals at beginning of Q1 – 14 in total, comprising 5 Inquiries, 0 Hearings & 9 Written Reps
- Live Planning appeals at end of Q1 – 41 in total, comprising 3 Inquiries, 1 Hearings & 37 Written Reps
- Live Enforcement appeals at end of Q1 – 14 in total, comprising 4 Inquiries, 0 Hearings & 10 Written Reps.

### **Risk register**

22. There is one red risk on the committee register, which is P1 Local Plan is found unsound by the inspector. The Council cannot mitigate against this risk, as the Local Plan will be found unsound, despite the Council's efforts to put forward a modified plan for consideration by the inspector. This risk must be tolerated. Please see Appendix A which has details of all risks with actions taken and being taken to mitigate against them.

## **Key implications**

### **Comments of the Chief Finance Officer**

There are no direct financial implications from this report as it is presented for noting. Performance against specific KPIs may have a financial impact. Financial implications will be drawn out where relevant in the quarterly financial update report.

## **Comments of the Head of Legal Services**

Key Performance Indicators (KPIs) and performance reporting must be fit for purpose, monitored and managed to ensure effective Council governance. KPIs enable evidence based quantitative management reporting and where necessary allow for remedial actions and decisions to be taken.

## **Equality**

This is a factual report with no implications for equalities.

## **Climate change**

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

## **Appendices**

Appendix A: Planning Risk Register

## **Background papers**

None

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

## Planning Risk Register

Ref:	Risk cause and event	Risk consequences	Risk Owner	L	I	RAG	Mitigating actions and responsibility	Status update	On corporate risk register
P1	Local plan is found unsound by the Inspector	Financial cost to the Council in potentially having to defend inappropriate planning applications at appeal.  Potential to lose control of where development takes place with risk to amount of affordable housing and minimum infrastructure.  Unable to lobby and deliver infrastructure that meets the needs of local residents, public sector partners and businesses for the whole district.  Unable to review Community Infrastructure Levy.  Additional costs associated with developing a new plan.  Reputational damage.	Chief Planning Officer	4	4	16	The Council cannot mitigate against this risk, as the Local Plan will be found unsound, despite the Council's efforts to put forward a modified plan for consideration by the Inspector.  <b>Future actions</b> Prepare strategy and work-programmes to mitigate impacts of Plan being found unsound.  Continue to work with partners and statutory bodies where appropriate.  Undertake additional evidence preparation.  Continue to assess CIL bids to help support infrastructure delivery where possible	This risk must be tolerated as following the procedural meeting in July 2023, ID/26 has been issued which states the Inspector will be finding the Plan unsound.  Waiting for full Council to decide what action to take to bring the Local Plan preparation to a close.  Existing adopted policies will continue to be used to protect against speculative applications in the Green Belt and defend against poor development in the Green Belt and other locations.  Planning applications will continue to be assessed against the adopted development plan.	Yes
P2	Lack of five year housing land supply, including gypsy and traveller land	Financial cost to the Council in potentially having to defend inappropriate planning applications at appeal.  Increase in pressure to identify and support sites to accommodate traveller and show people sites outside of plan making.  Ability to demonstrate compliance with Equalities Act regarding provision for travellers and show people  Increased risk from the NPPF presumption in favour of sustainable development.	Chief Planning Officer	2	4	8	<b>Action already taken</b> Update Brownfield Register.  Prepare updated Housing Position Statement.  Consultants commissioned to advise on approach to strategic planning in light of the consultation on changes to the National Planning Policy Framework (NPPF).  Housing Delivery Test Action Plan (HDTAP) updated and issued in September 2022.  Authority Monitoring Report (AMR) updated and issued November 2022.  <b>Future actions</b> Prepare/adopt a robust housing trajectory,  Undertake additional Call for sites and prepare new Housing and Economic Land Availability Assessment  Update Gypsy and Travellers Accommodation Assessment  Assess planning applications against the adopted development plan.  Defend appeals.	Work beginning to prepare material to defend council against speculative Green Belt applications	No
P3	Lack of capacity in planning team and issues with IT systems negatively impacts performance and delivery of service, such as determining applications in statutory timeframes.	Inability to provide statutory services to a sufficient standard / quality / timeframe and reporting of poor performance.  Inability to provide non-statutory services which are valued because of prioritisation of providing statutory services.  Negative impact on staff health and wellbeing.  Potential risks of costs claims, complaints and legal challenges.  Reputational damage.  Increase in complaints and FOIs adding further pressure to officer time required to respond/investigate.	Chief Planning Officer	3	3	9	<b>Action already taken</b> Retain, develop and nurture talent of current staff.  Reduce reliance on temporary staff to develop a more stable team.  <b>Future actions</b> Review recruitment practices and approaches, including recruiting and training apprentices and graduates.  Recruit staff were specialist skills gap  Seek additional funding from government to address gaps in staff and expertise  Continue to reduce reliance on temporary staff to develop a more stable team.	There is a national shortage of planning staff and recruitment of permanent planning staff remains a challenge for all councils.  This is a risk the Council has to tolerate, but developing more innovative ways to recruit and retain staff should lead to a more stable team and less reliance on temporary staff.  There are several vacancies in the current team structure which are being recruited to.	No
P4	Risk of the building control partnership dissolving	Increased costs to the Council due to lack of economies of scale.  Service disruption while new arrangement is sought.  New building control database required.  Staff may choose to work for another authority.	Chief Executive David Ford	1	4	4	Quarterly partnership board meetings.  Planning leadership team meetings.  Regular communications in place with relevant heads of service at partner authorities.  Allocated Finance business partner.  Performance monitoring in place (for Board and TDC).  Partnership authorities committed to reviewing the current inter-authority agreement.	The risk of the partnership dissolving is mitigated by engaging with member authorities through a cycle of effective meetings where all parties understand the benefits of partnership working.  Detailed KPIs, Risk Register, Business Plan and future direction of travel are all reported and debated through the partnership Board.	No

**Risk matrix**

Likelihood	Very Likely	4	4	8	12	16
	Likely	3	3	6	9	12
	Possible	2	2	4	6	8
	Unlikely	1	1	2	3	4
			1	2	3	4
		Low	Medium	High	Very High	
		Impact				

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## Quarter 1 2023/24 Budget Monitoring - Planning Policy Committee

### Planning Policy Committee Thursday, 21 September 2023

Report of: Chief Finance Officer (Section 151)

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Purpose: To note the 2023/24 Quarter 1 / Month 3 (June) financial position of the Committee and take associated decisions.

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Publication status: Unrestricted

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Wards affected: All

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#### **Executive summary:**

This report presents the 2023/24 Quarter 1 / Month 3 (June) financial position of both revenue and capital for the Committee.

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**This report supports the Council's priority 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

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#### **Recommendation to Committee:**

That the Committee's forecast Revenue and Capital budget positions as at Quarter 1 / M3 (June) 2023/24 be noted.

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#### **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 in terms of the effect on the developing budget for 2024/25.

The consolidated position for quarter 1 will be reported to Strategy & Resources Committee on the 28 September 2023.

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## Introduction and background

1. The 2023/24 Planning Policy Committee Revenue budget was approved at £1,297k by Full Council on 9<sup>th</sup> February 2023. This budget excluded the 2023/24 approved pay award of which £41k is allocated for Planning Policy Committee, bringing the Committee's total budget to £1,338k.

2. The 2023/24 Planning Policy (Community Infrastructure Levy) Capital Budget was approved at £0.5m by Council on 9<sup>th</sup> February 2023.

3. Carry forwards of £2.1m approved by S&R committee on the 29<sup>th</sup> June 2023 brought the available budget to £2.6m, subject to review for the September Committee cycle.

## Revenue Headlines

Planning Policy Committee is forecasting a £197k full-year overspend. The overall overspend is mainly due to:

**£132k forecast appeals pressure** due to a change in the forecast appeals provision, based on doubling the amount set aside at 2022/23 outturn. The potential for appeals costs is a key risk to the Council's finances and so the provision is being increased where possible and based on the best intelligence available at the time.

**£11k Enforcement overspend** predicted. £21k salary overspend due to reliance on contract staff offset by one off lower running costs (£10k) and a small amount of income.

**£27k Gatwick DCO expenditure** associated with consultant commission for bespoke assessment of air quality and noise impacts on Tandridge arising from Gatwick Airport Northern Runway project. Up to £30k approved by Planning Policy Committee on 23 March 23. However, it is likely that this will increase as further assistance from external advisors is required. Note that this forecast precedes the additional approvals set out in the Gatwick DCO paper to this Committee and will therefore need to be updated for Quarter 2.



**£31k Land Charges and Street Naming & Numbering.** Reduction in Land Charges income caused by transient external pressures of rising inflation and high interest rates. Officers will closely monitor search numbers/income and initiate a promotion of the service through Communications in order to maintain and increase our market share.

Offset by:

**(4k) Planning Application and Advice** Positive variance at year end predicted based upon the following:

£86k overspend on salaries due to reliance on contract staff for longer than originally anticipated.

£47k Overspend on running costs related mainly to third party external consultant advice including retail impact assessments and highways matters.

(£136k) It is expected that fee income will be supported by income from some major sites where planning applications are anticipated.

## **Capital Programme Update**

At M3, the Planning Policy (CIL) capital allocation is forecasting spend of £0.5m, effectively re-profiling the £2.1m carry-forwards from 2022/23 into 2024/25. Further details are set out in Appendix A. As this is CIL funded it has no General Fund impact. Further work is underway to refine the process of CIL forecasting.

## **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) 2023 Financial Report and supporting data

## **Background papers**

- Planning Policy Committee 23/24 draft budget and Medium-Term Financial Strategy – 19th January 2023
- 2023/24 Final budget and MTFS - Strategy and Resources Committee 31st January 2023
- 2022/23 Budget – Outturn Report – Strategy and Resources Committee 29th June 2023

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

# **Quarter 1 - 2023/24 Financial Report - Planning Policy Committee**

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**Mark Hak-Sanders**  
Chief Finance Officer (S151)

**September 2023**

# Revenue Commentary – Planning Policy

2022/23 Outturn £k		Forecast Qtr 1 £k	Annual Budget £k	Outturn Variance £k	One-off events £k	Ongoing Pressures £k
409	Planning Applications & Advice	387	391	(4)	(4)	
316	Planning Strategy & Policy Guidance	324	324	0		
259	Enforcement	250	239	11	11	
0	Appeals	212	80	132	132	
95	Tree Preservation & Advice	100	100	0		
0	Community Infrastructure Levy (CIL)	2	2	0		
182	Local Development Plan - Evidence	178	178	0		
2	Gatwick Airport DCO	27	0	27	27	
8	Transfer to/from Neighbourhood Plan Reserve	8	8	0		
(11)	Land Charges and Street Naming	47	16	31		31
<b>1,259</b>	<b>Planning</b>	<b>1,535</b>	<b>1,338</b>	<b>197</b>	<b>166</b>	<b>31</b>

**Note** – the forecast currently assumes that the budgets for the local plan and other planning policy matters are spent in full in 2023/24 or remain ringfenced to the local plan if not.

This ensures that funding approved for such matters is retained to meet uncertain future costs and not used to offset overspends elsewhere in the budget.

**Planning Policy overspend £197k** The variance mainly comprises of:

- **(4k) Planning Application and Advice** positive variance at year end predicted based upon the following:
  - £86k overspend on salaries due to reliance on contract staff for longer than originally anticipated. £47k Overspend on running costs related mainly to third party external consultant advice including retail impact assessments and highways matters.
  - £136k surplus on planning application fee income. It is expected that fee income will be supported by income from some major sites where planning applications are anticipated.
- **£11k Enforcement overspend** predicted. £21k salary overspend due to reliance on contract staff offset by one off lower running costs (£10k) and a small amount of income.
- **£132k Appeals overspend** due to a change in the forecast Appeals provision, based on doubling the 2022/23 provision.
- **£27k Gatwick DCO overspend** associated with consultant commission for bespoke assessment of air quality and noise impacts on Tandridge arising from Gatwick Airport Northern Runway project. Up to £30k approved by Planning Policy Committee on 23 March 2023. Note that this forecast precedes the additional approvals set out in the Gatwick DCO paper to this Committee and will therefore need to be updated for Quarter 2.
- **£31k Land Charges and Street Naming & Numbering overspend.** Reduction in Land Charges income caused by transient external pressures of rising inflation and high interest rates. Officers will closely monitor search numbers/income and initiate a promotion of the service through Communications in order to maintain and increase our market share.

# Revenue Risks

These risks have not been included in the budget monitoring position unless otherwise stated

Committee	Outline of Risk	Mitigation	Range Max - Min £k	Likely Financial Risk £k
Planning	The need for externalising legal work could increase as more complex planning matters arise and thereby causing a possible cost pressure within planning services. Costs are unpredictable.	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	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.	Further spend subject to committee approval or urgency decisions.	

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# Capital Budget – Planning Policy

Service	Original Budget 2023/24 £k	Carry Forward from 2022/23 £k	Approved Additions £k	Original Budget incl. Carry Forwards & Additions £k	Forecast M3 2023/24 £k	Variance M3 2023/24 £k	Variance Overspend/ (Underspend) £k	Variance Acceleration /(Slippage) £k
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## Planning Policy

Capital contributions to third parties from CIL	500	2,108		2,608	500	(2,108)	0	(2,108)
<b>Total Planning Policy</b>	<b>500</b>	<b>2,108</b>	<b>0</b>	<b>2,608</b>	<b>500</b>	<b>(2,108)</b>	<b>0</b>	<b>(2,108)</b>

- Page 54
- Capital Budget was approved by Full Council on 9<sup>th</sup> February 2023 at £500k.
  - The request for Capital carry forwards of £2,108k from 2022/23 was approved in the S&R Committee on 29<sup>th</sup> June 2023, with a revised phasing to be reported during the September 2023 committee cycle.
  - The total available budget for 2023/24 is therefore £2,608k.
  - Due to match funding and project delivery delays, we expect £2,108k slippage in the projected scheme expenditure. This is normal practice with grant allocations.

## Biodiversity Net Gain

### Planning Policy Committee, Thursday, 21 September 2023

Report of: Planning Policy Specialist & Development Management

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Purpose: For decision

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Publication status: Open

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Wards affected: All

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#### Executive summary:

The Government has introduced a requirement for certain types of development to deliver through the planning system a minimum 10% Biodiversity Net Gain (BNG) from November 2023. A high-level summary of the concept and the associated technical, training and staffing requirements in the planning department is presented in this report.

It also updates Members on the implications for the Council and immediate / longer term expectations in terms of service delivery and future work programmes. It considers this from the perspectives of planning development management, infrastructure, monitoring and planning policy teams.

The introduction of BNG provides potential for the Council to use corporate assets to enter into the commercial marketplace for securing biodiversity credits but this aspect of BNG is not addressed in this report. This potential will be explored by Council officers and subject to future reporting.

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#### This report supports the Council's priority of:

- Building a better Council
- Creating the homes, infrastructure and environment we need
- Becoming a greener, more sustainable District

#### Contact officers

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## **Recommendations to Committee:**

- A. Members note the report and the Chief Planning Officer be authorised to undertake the further work necessary to embed BNG within the Local Planning Authority and associated support services;
- B. the basic 10% BNG requirement from November 2023 onwards be adopted until further work can be undertaken to develop a robust evidence base on biodiversity;
- C. Members note the requirement for monitoring of BNG statistics, BNG legal agreements and BNG planning conditions and the resourcing implications; and
- D. Members note the need to consider staff cost charging schedules for all aspects of BNG related work, particularly administration and monitoring and the intention of the Chief Planning Officer to bring a report back to this Committee on the matter in November 2023.

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## **Reason for recommendations:**

The implications of introducing BNG are significant across services within the Local Planning Authority and associated supporting services. As a statutory requirement for the Council and as a responsible body, it is important that the Council is fully prepared to process planning applications on its introduction in November 2023 and that the relevant policy, monitoring and legal frameworks are in place to support this function.

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### **1 Biodiversity Net Gain – An Introduction**

- 1.1 Biodiversity is the variety of plant and animal life in a particular habitat or place, and a high level of biodiversity is usually considered to be important and desirable.
- 1.2 Biodiversity Net Gain (BNG) is an approach to development that leaves biodiversity in a measurably better state than before the development took place. Currently, although certain sites are protected, there are limited mechanisms to value, maintain, enhance or create wider habitats. As a result, habitats continue to be lost to development, reducing nature's ability to connect and thrive. In the future, most developments will need to deliver a minimum 10% BNG. BNG is additional to existing habitat and species protection, BNG aims to create new habitat as well as enhance existing habitats, ensuring the ecological connectivity they provide for wildlife is retained and improved.



- 1.3 The Government's 25 Year Environment Plan set the aspiration to mainstream BNG in the planning system. This has been delivered under the Environment Act 2021, whereby all planning permission granted in England (with a few exceptions, including small sites) will have to deliver at least 10% BNG from November 2023. The precise date in November is yet to be confirmed. BNG will be required for small sites from April 2024.
- 1.4 BNG will be measured using DEFRA's biodiversity metric and enhanced or compensatory habitats providing BNG policy compliance for individual planning applications will need to be secured for at least 30 years. The BNG requirement will only apply on a mandatory basis to those applications submitted after BNG takes effect in November 2023 (major applications) or April 2024 (minor applications). However, individual applicants for planning permission can choose to make their applications BNG compliant before the requirement becomes mandatory.
- 1.5 The Environment Act 2021 amended the Town and Country Planning Act (TCPA) and set out the key components to mandatory BNG referred to in this report.
- 1.6 A fundamental concept within BNG is the mitigation hierarchy. This provides that environmental harm resulting from a development should be avoided, adequately mitigated, or, as a last resort, compensated for. BNG mitigation and compensation should preferably be achieved on the development site. Off site mitigation is a last resort and, where used, should be in close proximity to the development site. Overall mitigation and compensation can be achieved through a combination of on- and off-site measures.
- 1.7 The use of the term biodiversity credits is exclusively used to refer to the Government's statutory credit scheme (scheme of last resort).
- 1.8 A well-illustrated summary of BNG principles prepared by Natural England can be found at:

[https://naturalengland.blog.gov.uk/wp-content/uploads/sites/183/2022/04/BNG-Brochure\\_Final\\_Compressed-002.pdf](https://naturalengland.blog.gov.uk/wp-content/uploads/sites/183/2022/04/BNG-Brochure_Final_Compressed-002.pdf)

while the mechanisms for BNG delivery are summarised in the Natural England graphic below (taken from that summary document):



### Biodiversity Metric

1.9 The Biodiversity Metric provides the means to assess changes in biodiversity value (losses or gains) brought about by development or changes in land management. DEFRA have produced this tool based on a habitat-based approach to assess biodiversity loss and gain which is summarised in the graphic below. They have also produced a calculator to help with the assessment process. The latest version of the Metric is Biodiversity Metric 4.0, which is likely to form the basis of statutory metric. A Small Sites Metric for use on smaller development sites is also available.

## Calculating the value of habitats

BNG is measured using the Biodiversity Metric. This tool should be used by a competent person, normally an ecologist. It uses changes in the extent and quality of habitats as a proxy for nature and compares the habitat found on a site before and after development. Four key factors underpin this comparison: habitat size; condition; distinctiveness; and location.



### HABITAT SIZE

How large or small is the habitat?



### HABITAT CONDITION

How well is the habitat functioning, compared to one in full working order?



### HABITAT DISTINCTIVENESS

Is the habitat of particular ecological importance?



### STRATEGIC SIGNIFICANCE

Is the habitat a local priority or located in a priority area for habitat creation/enhancement?

## BNG Site Register

- 1.10 DEFRA and Natural England are developing a BNG site register. The register will be administered by Natural England, but the registration process does not involve any checks of the ecological suitability of the site. That role will need to be performed by the local planning authority.
- 1.11 So far as is known at present, all application sites where there is biodiversity enhancement and all off-site biodiversity compensation schemes will be part of the register.

## 2 Implications for the Council

### Local Authority Requirements

- 2.1 The Planning Advisory Service (PAS) provides the following summary of requirements for local authorities as a result of the introduction of BNG:
  - Process and determine planning applications to ensure they meet the legislative requirements, including an accompanying BNG statement;
  - Assess and approve biodiversity gain plans BNG submissions with planning applications to ensure they meet legislative requirements;
  - Secure on-site BNG enhancement or off-site compensation measures through planning conditions, or through Section 106 planning obligations (s106) through legal agreements linked to the grant of planning permission for offsite BNG delivery;

- Monitor compliance with planning conditions and s106 agreements in relation to BNG over the 30-year statutory monitoring period and enforce when necessary; and
  - Report on BNG delivery and plans in their authority area’.
- 2.2 These requirements will impact on the workloads of the Development Management, CIL/S106, Policy and Legal teams within the Council.

### **Key Work Areas for Embedding BNG within the Local Authority**

- 2.3 The Planning Advisory Service (PAS) suggest there are seven key areas of activity for local authorities, namely:
- Embed BNG as corporate priority
  - Develop place-making principles around BNG
  - Develop local strategy and evidence
  - Embed in Local Plans
  - Establish Development Management arrangements
  - Deliver schemes
  - Monitor and report progress.
- 2.4 TDC officers across the services are working together to develop a full action plan to embed BNG requirements within the Council’s strategies, policies and functions. It is important that the Council fully understands its new responsibilities and ensures that appropriate mechanisms are in place. Members will be kept up-to-date on progress with embedding BNG and the any resourcing and financial impacts of this new requirement.

## **3 BNG and Planning Policy**

### **BNG Policy Framework**

- 3.1 The concept of BNG is not totally new to the planning service given the existing policy requirements in the National Planning Policy Framework (NPPF, 2023, paragraphs 174(d), 179(b) and 180(d)). The National Planning Practice Guidance (NPPG) provides further explanation of how biodiversity gains should be delivered. However, the Environment Act 2021 has elevated the requirement to a statutory footing, with the mandatory 10% minimum BNG requirement being gradually introduced from November 2023.
- 3.2 The adopted 2008 Tandridge Local Plan requires the ‘maintenance, enhancement, restoration and if possible, expansion of biodiversity’ from development proposals (Policy CSP17). Similar to the NPPF, the latter element has been elevated to a mandatory requirement for the majority of development applications.

## **Implications for policy**

- 3.3 In the short term, the following tasks are considered essential preparation for the introduction of BNG in November:
- Review Local Plan and SPDs to check the fit with the legislative BNG requirements. As part of this exercise, establish policy and legal requirements.
  - Set out and formalise the Council's overall local BNG approach. This should include consideration of the BNG spatial hierarchy (i.e. on site, off-site including potential locations and then credits) and how 'strategic significance' and 'spatial risk' will be applied under the Biodiversity Metric.
  - Update the Council's web pages to provide information on BNG within the District.
- 3.4 Over the medium to long term, a biodiversity evidence base will need to be established, which provides a reasonably up-to-date understanding of the quality and quantity of habitats in the district. This will provide the baseline against which biodiversity gain can be measured. This exercise will be able to draw on the work being done for the Local Nature Recovery Strategy (LNRS), which is currently under preparation by Surrey County Council.
- 3.5 It will be necessary to consider how BNG will be woven into planning policy, as well as wider corporate strategies and policies. BNG should be incorporated into work on topics, such as:
- Addressing the climate emergency declared in the District
  - Place making and infrastructure planning, considering how the District's natural environment should look, what the natural environment can deliver for local people and how integrating nature positive solutions in development can deliver multiple benefits
  - Integrating with work being undertaken on the Nature Recovery Network (NRN) and LNRS.
- 3.6 Any new Local Plan will need to detail the local policy requirements for BNG. There may also be the option to prepare supplementary guidance, which can provide supporting detail for developers and landowners needing to comply with BNG. Topics to be addressed within the Local Plan or supplementary guidance will be set out in subsequent reports to this Committee. This will include consideration of whether to request more than the mandatory minimum 10% BNG which will need to be underpinned by robust evidence base.

3.7 There is also an option for BNG to be addressed within neighbourhood plans, although no guidance has been published to date as to form this might take.

#### **4. BNG and Development Management**

4.1 As set out above, BNG will not apply to all applications. Exemptions from BNG requirements are:

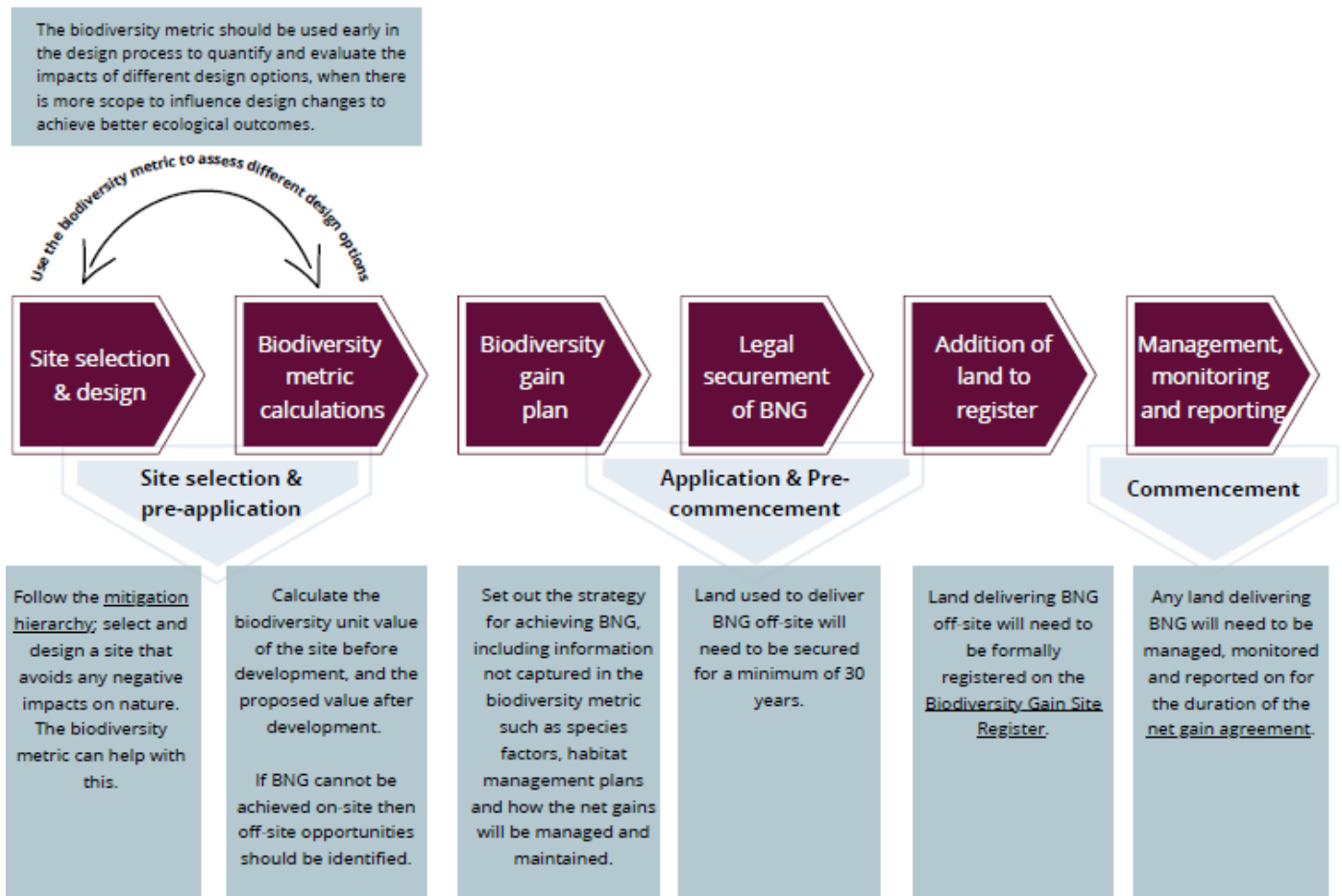
- householder applications
- small scale self-build and custom housebuilding
- development impacting habitat of an area below a 'de minimis' threshold of 25 metres squared, or 5m for linear habitats such as hedgerows and watercourses [NOTE Defra have confirmed (9 August 2023) that this is 25 square metres (5m x 5m = 25 sqm)]
- biodiversity gain sites (where habitats are being enhanced for wildlife).

4.2 When BNG becomes mandatory for major application from November 2023 (actual date still to be specified) and for minor applications from April 2024 there are significant implications for Development Management workloads. The estimate for this District Council is that some 50 major applications per year, and some 250 minor applications per year, will need to be assessed for BNG compliance. This has implications right across the Development Management Service and elsewhere within the Local Planning Authority's services, including CIL/Section 106 Monitoring. Other council services that support the LPA (Legal and finance) will also be impacted.

4.3 The Government's previous BNG consultation has recognised that it is important for planning authorities to know what is being proposed for BNG early in the planning process. This is particularly relevant to Development Management staff. It is expected that the secondary legislation will require developers to provide certain biodiversity gain information as a BNG Statement alongside the application for planning permission. The information will be sought through pre-app processes wherever possible. This information will likely include:

- the pre-development biodiversity value,
- steps taken to minimise adverse biodiversity impacts
- the proposed approach to enhancing biodiversity on-site, and
- any proposed off-site biodiversity enhancements (including the use of credits) that have been planned or arranged for the development.

- 4.4 The full biodiversity gain plan will be submitted either with the planning application or after the permission is granted, but before development has commenced.
- 4.5 The following BNG Process Diagram prepared by Natural England identifies key stages in the BNG process including interaction with local planning authorities not only at pre-application and application determination stages but also in the Monitoring stages referred to at Section 5 below:



4.6 The following are key implications for the Development Management Service:

4.6.1 **Validation of planning applications:** central government will be making changes to validation requirements to take account of the introduction of mandatory BNG. With the majority of applications now being submitted electronically via the Planning Portal, it will be for applicants to ensure their application submissions are BNG compliant in the first instance. Validation officers will though still need to make the initial assessment whether planning applications are BNG compliant in terms of the BNG information they contain, whether those applications come through the Planning Portal or as hard copies. This will require additional training between now and 1<sup>st</sup> November.

4.6.2 **Development Management Officers:** officer will need to understand the objectives of BNG and the procedural steps to achieving those objectives. Key considerations will be understanding the concept of the BNG metric and its application in a 'real' application context and how to evaluate the BNG information provided with an application (see paragraph 4.3 above). That information will then need to be translated into the requirements of planning conditions and S106 Agreement obligations.

4.6.3 The Planning Advisory Service has also published a 'process map' for delivery of BNG which is attached as Appendix A and can be accessed at:

<https://futurehomes.org.uk/biodiversity-net-gain-mapping-out-the-process>

This will be the process during the pre-application consultation stage, consideration and determination of an application stage, and post-decision stage that Development Management officers will now need to be familiar with. Officers and elected members will also need to become familiar with the whole new BNG terminology.

4.6.4 The assessment of BNG information and how applicants are proposing to meet their BNG obligations will have to be critically evaluated as part of the determination of planning applications. This will mean Development Management officers acquiring new skill sets. There will also be a requirement for changes to Development Management pro-formas, new planning condition templates specifically for BNG and new ground of refusal templates when applicants fail to meet either District Council or national BNG policy requirements.

4.6.5 The nationally set BNG Metric (which will be subject to change from time to time) is complicated to use in BNG assessment of individual application sites. Planning authorities are recognising that the complexities of evaluating BNG planning applications requires input from experienced ecologists to assist Development Management officers in evaluating planning applications for BNG compliance when submitted. A key part of this process will be to evaluate the potential suitability of on-site and off-site habitats to achieve the national policy requirement of 110% BNG. Following on from here, there will be a need to ensure that the minimum 110% biodiversity net gain set by national government policy can be achieved by implementing the biodiversity enhancement measures which a developer will propose be carried out on an application site or by compensatory measures offsite (receptor sites). The on-site enhancement measures will be submitted for the District Council's approval through the requirements of planning conditions. The off-site compensation measures will, if the receptor site is not owned and controlled by the developer, be submitted for the District Council's approval through obligations in a Section 106 agreement.



- 4.6.6 Once the enhancement and/or compensation measures are approved, the developer will need to ensure they are implemented within satisfactory timescales allowing for seasonality. The District Council will have the responsibility for ensuring satisfactory implementation of enhancement and compensation measures through site surveys and assessments over the 30-year BNG monitoring period from implementation of those measures. This too is seen as a role for ecologists.
- 4.6.7 The District Council will also have the responsibility for enforcing non-compliance with BNG planning conditions and Section 106 obligations. Enforcing compliance of planning conditions can be done through the breach of condition notice procedure. However, enforcement of non-compliance with Section 106 obligations requires legal action for breach of contract. This is potentially more onerous in terms of Legal staff time and more expensive than serving a breach of condition notice.
- 4.6.8 The Chief Planning Officer having determined the certain need for specialist ecological advice for the policy, development management and monitoring aspects of BNG has recruited a temporary Ecology Officer. This officer will be on a 12 month contract and will commence work for the District Council in early October. The options for then having in post a permanent Ecology Officer, including a shared service with other nearby district councils, will continue to be evaluated so there is continuity of specialist ecological advice. The initial costs of the temporary post will be defrayed from the £26k DEFRA grant for preparing for BNG that the Council has already received.
- 4.6.9 **Planning Enforcement:** there is a lack of clarity around the implications for the Council's planning enforcement function following the implementation of BNG. Any retrospective planning application made to regularise unauthorised development will need to be compliant with national policy if it falls within a category of development to which BNG applies had the application been made as a prospective application before unauthorised development occurred. The problem that arises is that the pre-development biodiversity value of a site will not have been established using the Biodiversity Metric such that a policy compliant 110% BNG could be demonstrated as being achievable. This is a matter on which there needs to be a nationally consistent approach and that requires guidance from DLUHC.

## **5. BNG and monitoring and charging schedules**

- 5.1 BNG will impose significant additional workstreams for the Council's Planning Service Monitoring function over the 30 year monitoring period for each separate scheme, including:
- Monitoring to ensure compliance with national BNG policy of all on-site biodiversity enhancement measures on planning application sites or on other land in the same developer's ownership and control, including biannual site assessments by the Council's Ecology Officer

- Monitoring to ensure compliance with national BNG policy over a 30 -year period of all off-site biodiversity compensation measures on other land, including biannual site assessments by the Council's Ecology Officer
- Recording all areas where BNG enhancement or compensation measures are being carried out on District Council's digitised mapping system (or GIS) so that the relevant parts of these sites for achieving BNG can be safeguarded from development in perpetuity
- Recording all areas where BNG enhancement or compensation measures are being carried out for the purposes of demonstrating the Council's compliance with national BNG policy
- Recording all areas where BNG enhancement or compensation measures are being carried out for the purposes of inputting to the national BNG Site Register data base to be administered by Natural England
- Ensuring compliance with S106 obligations relating to on-site and off-site BNG enhancement or compensation measures, including:
  - On-site enhancement scheme approvals
  - Off-site compensation scheme approvals
  - Administering approval of developer nominees/management companies to implement and maintain on-site and off-site BNG measures
  - Administering approval of expert ecologist to be employed by developers/nominees/management companies
  - Administering approval of Biodiversity on-site and off-site certificates of completion of BNG measures
  - Administering payments from the Biodiversity Offsetting Contribution made by a developer to nominees or management companies (currently £25,000 to £35,000 per Biodiversity Unit according to information from Surrey Wildlife Trust)
  - Administering any underspend of Biodiversity Offsetting Contribution by way of clawback by a developer.

5.2 The administration of all aspects of BNG arising from Section 106 obligations will also involve the Council's Legal Services team in issuing any necessary approvals.

- 5.3 There will be additional workstreams for the Council's Finance Team. The Council's costs for 30 years of monitoring S106 obligations relation to BNG will be significant sums (for major planning applications six figure sums might be expected). These monitoring fees will have to be ring-fenced and the Council will need to be able to demonstrate how the fees have been applied in the interest of transparency.
- 5.4 The budgetary implications of becoming a BNG compliant planning authority for the District Council will be significant. The Council can recover its reasonable staffing and other costs from developers arising from monitoring and administering individual BNG schemes. All the financial implications for the Council of monitoring BNG compliance need to be considered in more detail before mandatory BNG provisions come into force. There is scope given the significant additional costs for developers of complying with national BNG policy for challenges to be made to any costs recovery the Council may seek. To counter this, the Council needs to have adopted standard charging schedules for monitoring costs of compliance which are transparent with respect to how the charges have been set. It is proposed that a further report be brought to the November Planning Policy Committee seeking approval to standard charging schedules.

## **Key implications**

### **Comments of the Chief Finance Officer**

In respect of managing, monitoring and reporting on BNG, the assumption is that costs will ultimately be met from developers. As set out in paragraph 5.4, above, further work is necessary to ensure that robust financial and management arrangements are in place, and that charging schedules are set out to recover the cost from developers. This work will be undertaken by a working group of officers including Planning and Finance and the intention is to report back to the November Committee cycle.

In addition, the Council is likely to incur BNG costs as a developer of Council Houses. The impact of this will vary significantly on a site-by-site basis and it is therefore not possible to quantify in general terms. The cost of BNG to proposed developments will be reported to Housing Committee.

Officers will work to assess the opportunity for using Council land to secure biodiversity offsetting credits.

### **Comments of the Head of Legal Services**

Noting the recommendations put forward in this report will ensure the Council complies with its statutory and regulatory obligations arising from the Natural Environment and Rural Communities Act 2006 and the Town and country Planning Act 1990 as amended by the Environment Act 2021.

## **Equality**

There are no equalities implications as a result of this report.

## **Climate change**

There are no significant environmental / sustainability implications associated with this report. However, it should be noted that the delivery of BNG offers an opportunity to help address climate change and this should be considered in work going forward.

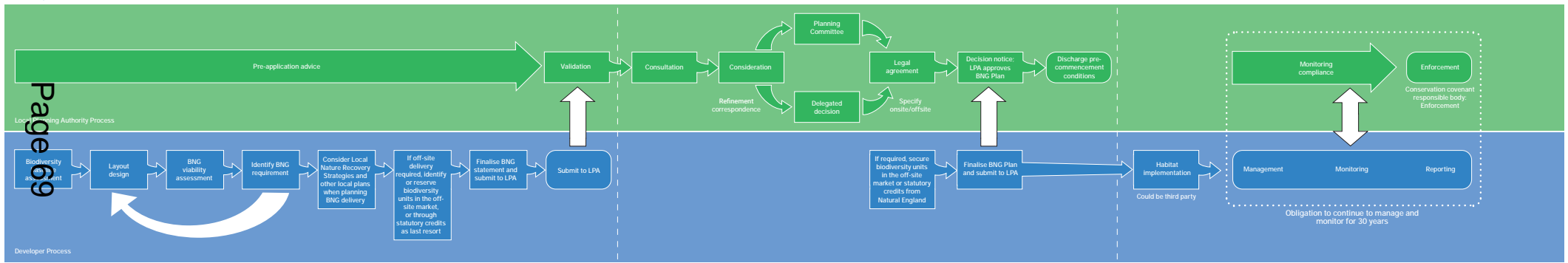
## **Appendices**

Appendix A - BNG Best Practice Process Flow

## **Background papers**

None

### BNG Best Practice Process Flow



PRE-APPLICATION STAGE

PLANNING STAGE

CONSTRUCTION AND OCCUPATION STAGE

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## Gatwick Airport Update

### Planning Policy Committee, Thursday, 21 September 2023

Report of: Planning Policy Specialist

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Purpose: For decision

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Publication status: Open

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Wards affected: All

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#### **Executive summary:**

Gatwick Airport Limited (GAL) submitted their application for Development Consent for the Northern Runway Project (NRP) to the Planning Inspectorate (PINS) on 6<sup>th</sup> July 2023. On 3<sup>rd</sup> August, after the 28-day period of consideration and having reviewed the Adequacy of Consultation (AoC) Representation from the consortium of ten affected local authorities (including Tandridge), PINS accepted the application, thereby triggering the pre-examination stage of the process. Examination is currently expected to commence towards the end of 2023.

This report is to update Members on the progress to date with the Development Consent Order (DCO) process, the current budgetary status, and the immediate future steps and requirements as best understood at this time. It outlines the expectations on the Council from the DCO and how these may best be delivered in the tight time frames set out for the pre-examination and examination schedules, and in the context of being able to deliver this within constrained physical and financial resources.

Concurrently with the DCO, work is ongoing on the Future Airspace Strategy Implementation-South (FASI-S). This report therefore also updates Members on the FASI-S consultation presently being undertaken by GAL.

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#### **This report supports the Council's priority of:**

- Building a better Council
- Becoming a greener, more sustainable District

**Contact officer** Rob Cotter  
RCotter@tandridge.gov.uk

## **Recommendations to Committee:**

That:

- A. the contents of this report regarding the progress made to date in the DCO process and the current position be noted; and
- B. the contents of this report regarding recent developments in relation to FASI-S be noted.

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## **Reason for recommendations:**

The implications of the construction and operation of the Northern Runway Project at Gatwick Airport could be significant for both the local community in proximity to the airport as well as the wider communities across Tandridge.

As a consultative body, the Council is required to engage and participate in the DCO process within the statutory timescales set.

The Council also has an obligation to its residents and business communities to understand the full extent of impacts of GAL's proposals, including how these may be exacerbated by the options being considered in the on-going FASI-S process, and through engagement in the DCO process seek to ensure these are limited and mitigated as fully as possible within the conditions of the application and in compliance with relevant standards and legislation.

Given constrained physical and financial resources within Tandridge, as well as at other authorities in the Gatwick Officer Group (GOG) consortium, the Council is also continuing to seek efficiencies through collaborative working, subject to approval for appropriate expedited sign-off mechanisms for collaborative documents to be submitted for Examination.

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### **1 Gatwick Northern Runway Project DCO**

- 1.1 Gatwick Airport Limited (GAL) submitted their application for Development Consent for the Northern Runway Project (NRP) to the Planning Inspectorate (PINS) on 6<sup>th</sup> July 2023. Following submission, there was a 28-day period for PINS to consider the application, within which there was an initial 14-day window for relevant local authorities to submit an Adequacy of Consultation (AoC) Representation. A joint AoC Representation was submitted to PINS by the consortium of ten affected local authorities (including Tandridge) on 20<sup>th</sup> July.
- 1.2 On 3<sup>rd</sup> August the Planning Inspectorate (PINS) announced that they had accepted to take to examination GAL's application for an Order to grant Development Consent for their Northern Runway Project. This acceptance started the formal pre-examination period, during which GAL must provide a Section 56 notification of acceptance of their application. Following this, interested parties are invited to submit Relevant Representations on the application to PINS, whereby they will have the right to be heard at later examination.



1.3 The scheduled sequence for this latest stage of the process can be seen in Table 1 below. However, the timetable was delayed for reasons set out in paras 1.4-1.7 and on 31<sup>st</sup> August officers were notified that it was GAL's intention for the Relevant Rep period to commence on 4<sup>th</sup> September and run until 29<sup>th</sup> October.

### Timescales for s56 process

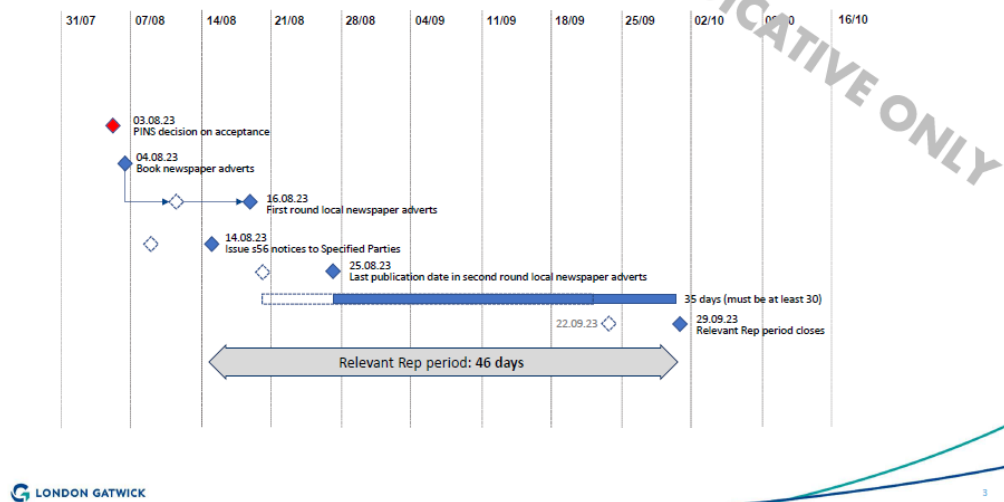


Table 1: Previous Section 56 timescales and Relevant Representations period (delayed) – Relevant Representations now scheduled to run until end-October.

- 1.4 Alongside the notification of acceptance of the application, PINS also issued to GAL some initial observations on the application under Section 51 of the Planning Act 2008. Of the ten observations issued, numbers 1 and 2 were of direct relevance to the consortium of local authorities working together to address the impacts of the NRP.
- 1.5 Observation 1 outlined concerns raised in the joint local authority AoC Representation on effective engagement and advised GAL to review the points made in the AoC Representation with a view to more constructive engagement moving forward.
- 1.6 Observation 2, again resulting from the AoC Representation, proposed that GAL should prepare an Issues Tracker *in advance* of giving Section 56 notification, should there still be support for this from the consortium of local authorities. Whilst GAL proposed that any issues identified could be addressed through the Statements of Common Ground (SoCG), the consortium requested the provision of an Issues Tracker, leading to the delay in Section 56 notification.

- 1.7 The Issues Tracker (four separate tracker spreadsheets circulated by GAL to capture the previous consultations carried out and comments made to them) was subsequently provided to the local authorities on 21<sup>st</sup> August and these are currently in the process of being reviewed, with the aim of providing feedback to GAL for these to be finalised and approved for use moving forward. They will then need to be managed between GAL and all the affected authorities as the application progresses towards examination, with further issues included as they become identified. On the 5<sup>th</sup> September GAL agreed to consolidate the four trackers to a single tracker to improve efficiency and confirmed these will be updated to include any issues raised through relevant reps.
- 1.8 The PINS notification of acceptance of the application also triggered the release of the full suite of Environmental Statement documents. This was the first opportunity that both affected authorities and the public have had to review the full scope and detail of impacts as identified and assessed by GAL and their respective consultants.
- 1.9 In total, there are 192 documents covering impacts across sixteen thematic areas, in extensive detail and across specialist fields. The affected authorities and their engaged consultants are continuing to review these documents in order to consider the assertions made and identify their own understanding and view of the impacts. They will engage with GAL to seek an appropriate basis of mitigation and/or compensation.
- 1.10 In respect of the above and the imminent requirements of the process, Tandridge officers have commenced drafting its Relevant Representation in anticipation of the 29<sup>th</sup> October due date. The representation will be informed by commissioned consultant work as it progresses (see paras 2.1–2.5 below) and with additional expert input on the areas of most concern to the district: air quality and noise (see paras 3.3-3.4 below).
- 1.11 Alongside this, work is also on-going on the SoCGs. Meetings on the thematic areas are currently proposed to be hosted by GAL over the course of a week in September and a further week in October (dates still to be confirmed at the time of drafting this report and subject to suitable progress being made with the Issues Tracker). The SOCGs are to be progressed towards finalisation where possible in the weeks following these meetings and continuing through the examination period.
- 1.12 The Council has agreed to have two bespoke SoCGs with GAL – ‘Air Quality’ and ‘Noise’. Tandridge SoCG responses to GAL on a further ten thematic areas will be deferred to those prepared with Surrey County Council (SCC) and/or other adjoining authorities as appropriate and/or where they have direct responsibility and where the specific topic expertise is available. For SCC these will be the thematic areas of the principle of development, transport, climate, greenhouse gases, ecology & nature conservation, archaeology, geology and ground water, water environment, socio-economics, health and well-being, and cumulative effects.

- 1.13 Lastly, the Council has agreed to engage with the affected Surrey authorities in the preparation of a joint Local Impact Report, led by Surrey County Council, to be submitted to PINS in advance of the commencement of examination. This document is currently at inception stage, but a shared channel for collaborative working on the report is being finalised, best practice examples are being explored and a meeting to establish the working framework and discuss next steps will have taken place on 6 September (after the drafting of this report).

## **2 Consultant Engagement on Gatwick NRP DCO**

- 2.1 The Council is party to the local authority consortium's engagement of AECOM, the consultancy that is undertaking work across all the Environmental Statement thematic areas specific to the discrete requirements of each respective authority. For Tandridge District Council, AECOM has been commissioned to focus on the thematic areas of Air Quality and Noise, the issues identified as having the most significant impact on the district.
- 2.2 In terms of the scope of the work that AECOM is covering, this has to date been targeted at Phase A (pre-submission) through participation at Topic Working Groups (TWGs) and support on SoCGs, which has only progressed to a very limited degree on account of GAL's unwillingness to agree content for these documents pre-submission. Phase B (post-submission) will now focus on continued support on SoCGs and the TWGs, input into Relevant Representations, Written Representations and the Local Impact Report, assistance with any questions put to Tandridge by the Examining Authority, Expert Witness at examination if required, and further support with Section 106 obligations.
- 2.3 Complementing the above consortium commission, Tandridge District Council has independently commissioned Ekosgen, a London-based econometric consultancy, to carry out a bespoke economic and socio-economic assessment of the air quality and noise impacts in the district from the northern runway proposal. The consultants have commenced work on this commission and at the time of this committee will have carried out four of their five initial consultation sessions (CAGNE, Tandridge District Council Members, Surrey County Council Transport Planners and AECOM's air quality and noise specialists). A further meeting is currently being scheduled with GAL's own air quality and noise experts to complete the initial factfinding sessions, before beginning the preparation of their written report.
- 2.4 Ekosgen are currently aiming to have a draft report on the economic and socio-economic consequences of the impacts completed by early November. This will then be returned to Members for further discussion and to agree the course for completion of the report.

- 2.5 The Council is also party to the consortium commission of York Aviation (YA) to challenge both the principle of development for the airport, as well as the operating assumptions supporting its case to meet its forecast future capacity set out over a number of target years to 2047. YA have most recently been instructed by the Project Manager of the local authority consortium to carry out additional work on the needs case presented for the airport as well as a review of the relevant Environmental Statement documents. The outputs of this will inform the Relevant Representations of each authority as well as the SoCGs.

### 3 Gatwick NRP DCO Budget

This is covered in a separate report elsewhere on this agenda.

### 4 Future Airspace Strategy Implementation - South (FASI-S)

- 4.1 GAL recently held a series of stakeholder presentations (on 28<sup>th</sup> July, 31<sup>st</sup> July and 2<sup>nd</sup> August) on the methodology and outcomes of the Initial Outcomes Appraisal (IOA) for the FASI-S Airspace Change Programme (ACP), part of the coordinated modernisation of airspace in the south of England.
- 4.2 The current Step 2B of Stage 2 and the overall timeline for the Airspace Change Programme can be seen in the tables below.

## 2. Overall ACP Timeline Update

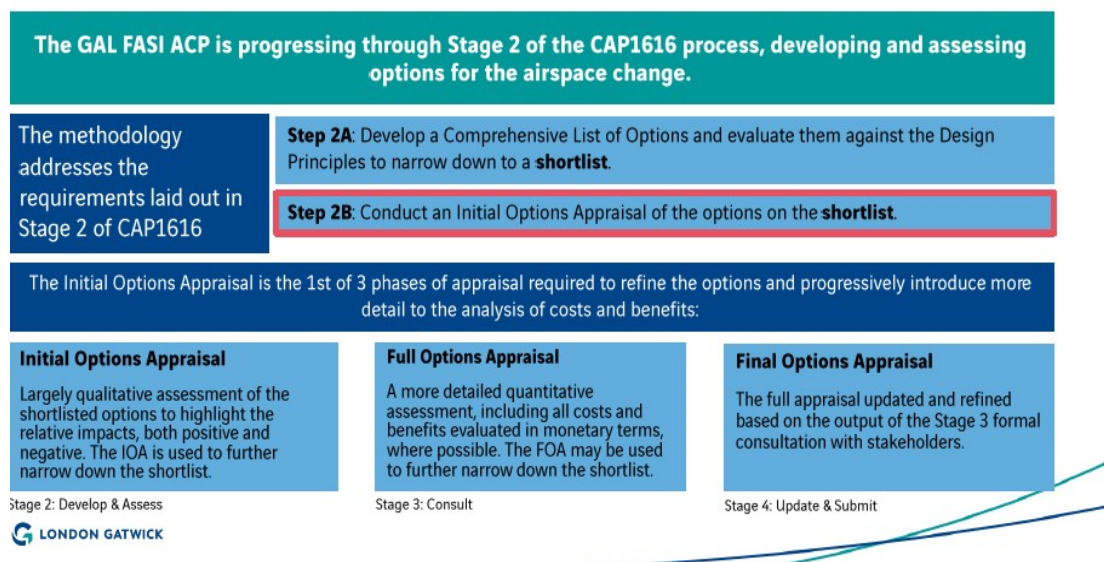


Table 2: Stage 2 (current) of the CAP1616 process.

## 2. Overall ACP Timeline Update

The following diagram shows the updated Stage 2A timeline within the overall ACP timeline:

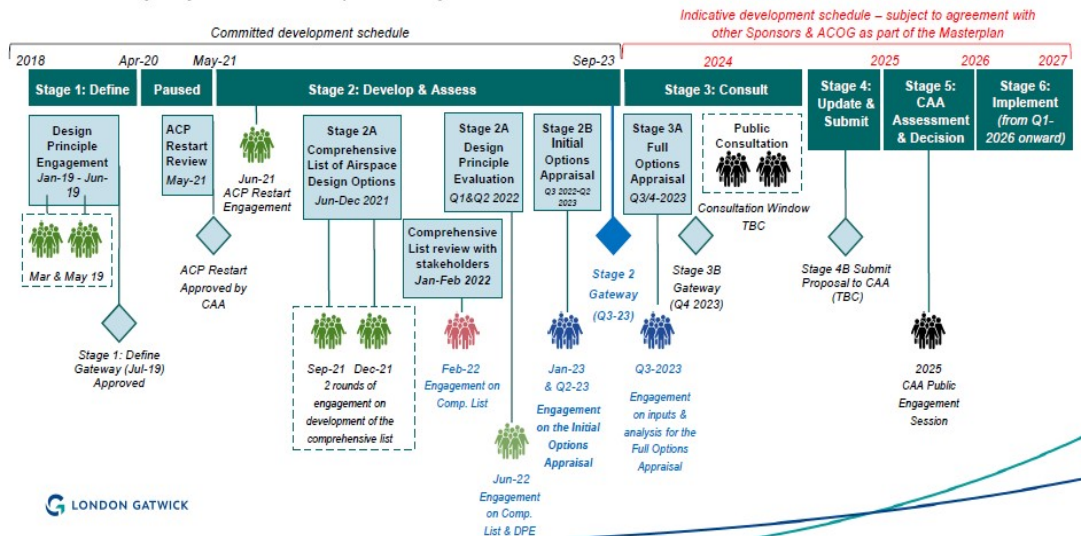


Table 3: Overall Airspace Change Programme timeline

- 4.3 Although GAL have been keen to stress that the information included in these options should not be considered final, it is important to note that it is currently a comprehensive list of options that is being appraised, of which a number will be taken forward to submission to the Civil Aviation Authority (CAA). At this stage, some of the proposed options have been based on earlier feedback on issues such as 'rural areas and ambient noise' and 'arrival respite' configurations with two routes, and other routes have been discontinued because of an identified increased population affected by noise impacts.
- 4.4 However, it would appear that many of the outcomes being brought forward at this early stage of the appraisal - both easterly and westerly departures and arrivals - introduce new paths that will overfly the District. In advance of further route appraisal being undertaken, it would at this stage be reasonable to assume these will create noise impacts over a wider area.
- 4.5 It is equally significant to recognise that the consultation on FASI-S is being undertaken in isolation from and separate to the DCO process. There has been no discernible attempt by GAL to factor the ACP potential into its DCO documentation and therefore the affected local authorities have at this stage no scope to understand flight routes most likely to come forward for the projected increase in air traffic to Gatwick with the NRP in place.
- 4.6 The consultants engaged by Tandridge District Council have been asked to consider this as far as is possible in undertaking their assessment and analysis of future air quality and noise impacts in the district. There are no cost implications of this request. The consortium of local authorities is also trying to reflect as much as is possible the impacts of FASI-S ACP as it progresses in the collective work being undertaken.

- 4.7 The next step in the FASI-S process is for GAL to submit to the Civil Aviation Authority the Stage 2 documentation on 1 September 2023 (documentation is available at [Airspace change proposal public view \(caa.co.uk\)](https://www.caa.co.uk/Airspace-change-proposal-public-view))

## **Key implications**

### **Comments of the Chief Finance Officer**

The Chief Finance Officer's main comments regarding the latest stage of the Gatwick DCO process are included within the additional report on this agenda regarding budgetary implications.

### **Comments of the Head of Legal Services**

The Monitoring Officer's main comments regarding the latest stage of the Gatwick DCO process are included within the additional report on this agenda regarding budgetary implications.

## **Equality**

There are no equality implications as a result of this report.

## **Climate change**

The implications of increased air traffic and new potential flight paths from Gatwick does have environmental implications. This is one of the main concerns for the Council and residents and will be an area where the Council will be vigilant in its responses. However, for this report, which is focused on providing elected Members with an update on the DCO process and associated workflows, there are no direct climate change implications.

## **Appendices**

None

## **Background papers**

None

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

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