

**To: The Deputy Leader and Members of the
Planning and Development Board**

**(Councillors Simpson, Reilly, Bell, L Dirveiks,
Hayfield, Henney, D Humphreys, Jarvis, Lewis,
Morson, Phillips, Smitten, Sweet, Symonds and
A Wright)**

For the information of other Members of the Council

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For enquiries about specific reports please contact the officer named in the reports

PLANNING AND DEVELOPMENT BOARD AGENDA

4 FEBRUARY 2019

The Planning and Development Board will meet in The Council Chamber, The Council House, South Street, Atherstone, Warwickshire CV9 1DE on Monday 4 February 2019 at 6.30 pm.

AGENDA

- 1 **Evacuation Procedure.**
- 2 **Apologies for Absence / Members away on official Council business.**
- 3 **Disclosable Pecuniary and Non-Pecuniary Interests**

ITEMS FOR DISCUSSION AND DECISION (WHITE PAPERS)

4 Corporate Plan 2019 – 20 - Report of the Chief Executive

Summary

The Corporate Plan is updated on an annual basis. The purpose of this report is to seek the Board's approval for the Corporate Plan Key Actions for which it is responsible and to agree the 2019-20 Service Plans for Development Control and Forward Planning.

The Contact Officer for this report is Jerry Hutchinson (719200).

5 General Fund Fees and Charges 2019/2020 - Report of the Director of Corporate Services and the Corporate Director - Environment

Summary

The report covers the fees and charges for 2018/19 and the proposed fees and charges for 2019/20.

The Contact Officer for this report is Nigel Lane (719371).

6 General Fund Revenue Estimates 2019/20 - Report of the Corporate Director - Resources

Summary

This report covers the revised budget for 2018/19 and an estimate of expenditure for 2019/20, together with forward commitments for 2020/21, 2021/22 and 2022/23.

The Contact Officer for this report is Nigel Lane (719371).

7 Planning Applications – Report of the Head of Development Control.

Summary

Town and Country Planning Act 1990 – applications presented for determination

The Contact Officer for this report is Jeff Brown (719310).

8 Confirmation of Tree Preservation Order – Applegarth, Austrey – Report of the Head of Development Control.

Summary

This report seeks confirmation of Tree Preservation Order made at this address.

The Contact Officer for this report is Jeff Brown (719310).

- 9 **Confirmation of Tree Preservation Order – Polesworth** – Report of the Head of Development Control.

Summary

This report seeks confirmation, with modification, of Tree Preservation Order made at this address.

The Contact Officer for this report is Jeff Brown (719310).

- 10 **Local List of Heritage Assets** – Report of the Corporate Director - Environment

Summary

The report seeks the Board's approval to establish a local list of heritage assets in North Warwickshire that are non-designated.

The Contact Officer for this report is Fiona Wallace (719475).

- 11 **Hinckley and Bosworth New Directions for Growth Consultation** – Report of the Corporate Director - Environment

Summary

Hinckley and Bosworth Borough Council (HBBC) have published for consultation a document setting out new directions for future growth as part of the review of their Local Plan.

The Contact Officer for this report is Dorothy Barratt (719250)

- 12 **Reforming Developer Contributions** – Report of the Head of Development Control.

Summary

The report describes a recent Government consultation paper proposing changes to the Community Infrastructure Levy and recommendations are made to the Board in response.

The Contact Officer for this report is Jeff Brown (719310).

13 **Progress Report on Achievement of Corporate Plan and Performance Indicator Targets April – December 2018** – Report of the Chief Executive

Summary

This report informs Members of the progress with the achievement of the Corporate Plan and Performance Indicator targets relevant to the Planning and Development Board for April to December 2018.

The Contact Officer for this report is Robert Beggs (719238).

JERRY HUTCHINSON
Chief Executive

Agenda Item No 4

Planning and Development Board

4 February 2019

Report of the Chief Executive

Corporate Plan 2019 - 20

1 Summary

- 1.1 The Corporate Plan is updated on an annual basis. The purpose of this report is to seek the Board's approval for the Corporate Plan Targets for which it is responsible and to agree the 2019-20 Service Plans for Development Control and Forward Planning.

Recommendation to the Executive Board

- a That those Corporate Plan Targets as set out in Appendix A to the report for which the Planning and Development Board is responsible be agreed; and**

Recommendation to the Board

- b That the Service Plans as set out in Appendix B to the report be agreed.**

2 Report

- 2.1 Corporate Plan Targets and Divisional Service Plans are normally agreed in the January/February cycle of meetings and adopted by Full Council in February at the same time as the Budget.

- 2.2 At its December 2018 meeting the Council considered a report setting out the key corporate issues facing the Council in the mid term future, with a view to assisting Members in addressing those issues during the formulation of the 2019-20 Budget and in the run up to the 2019 Council Elections. This report makes proposals for dealing with ongoing business in the 2019-20 Corporate Plan on the basis that the Corporate Plan is likely to be reviewed by the incoming administration post May 2019.

- ... 2.2 Appendix A sets out proposals for those Corporate Targets which fall within the remit of the Planning and Development Board. Members are requested to recommend to the Executive Board that the Corporate Targets set out in Appendix A are agreed.

2.3 A report will be presented to Boards/Sub-Committees after the end of the financial year to show the year end out-turn on the 2018-19 Key Actions. Proposals for 2019-20 will form part of the 2019-20 Corporate Plan which covers the Council's top level priorities.

2.4 It is also important, however, that Members are aware of and agree the significant amount of work carried out within the Divisions to provide services to local people. This information appears in a single document for each Division, the Divisional Service Plan, which is the key management tool for ensuring that services deliver their annual work programme.

2.5 The Service Plans for Development Control and Forward Planning comprise Appendix B to this report, as most of these programmes relate to work carried out for this Board.

2.6 Where there are any budget implications for another Board/Sub-Committee arising out of this work programme, those implications will be drawn to the attention of the relevant Board/Sub-Committee in the Budget report going to this cycle of meetings. Similarly, any budgetary implications for this Board from Divisional Plans being reported to other Boards/Sub-Committees are dealt with in the Budget Report also on this agenda.

2.7 Once the Corporate Plan Targets and Divisional Service Plans have been agreed, they will all be subject to the following reporting procedures for monitoring performance:-

- Monthly reports are considered by Management Team;
- A traffic light warning indicator is used:-
 - Red – target not likely to be achieved.
 - Amber – target currently behind schedule and requires remedial action in order to be achieved.
 - Green – target currently on schedule to be achieved;
- Progress reports to each Board/Sub-Committee meeting.

3 Report Implications

3.1 Finance and Value for Money Implications

3.1.1 Where possible, Targets and indicators for 2019-20 will be achieved from within existing Board/Sub-Committee resources. Details of any additional funding are included in the right hand column of the table in Appendix A and in the Budget report and will be in appropriate cases, the subject of reports to the Board.

3.2 Risk Management Implications

3.2.1 The main risk is ensuring that the Council prioritises its resources to enable it to deliver its priorities. The performance monitoring arrangements set out above provide the mechanism to ensure that remedial action can be taken to review progress and ensure that priority outcomes are delivered.

3.3 Other Report Implications

3.3.1 Any further implications resulting from the proposals in Appendix A will be the subject of further reports to the Board.

3.4 Links to Council's Priorities

3.4.1 These are set out in the Appendices.

The Contact Officer for this report is Jerry Hutchinson (719200).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date

<p>PRIORITY 3</p> <p>PROTECTING OUR COUNTRYSIDE & HERITAGE</p>	<p>Protecting and improving our countryside and heritage in times of significant growth challenges and opportunities.</p>
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Target	Board/Lead Officer	Additional Training/ Financial Implications
<p>To continue to:-</p> <p>(a) Manage development so as to deliver the priorities on the Council's Corporate Plan and in the Sustainable Community Strategy;</p> <p>(b) Use the Design Champions to ensure the best achievable designs are implemented and developed so as to reflect setting and local character;</p> <p>(c) To seek to secure the protection of the best of the Borough's built and rural heritage; and</p> <p>(d) To continue to work with North Warwickshire Heritage Forum to protect, promote and develop the heritage and tourism of North Warwickshire in accordance with the priorities of the Destination Management Plan.</p> <p>To report on Growth pressures on the Borough, how to protect the Green Belt as far as possible and sustain the rurality of the Borough by February 2020 and at least annually thereafter.</p>	<p>Planning & Development Board/ Design Champions/CDE/DL&CD</p>	<p>To be met within existing budgets.</p>

Target	Board/Lead Officer	Additional Training/ Financial Implications
<p>Whilst continuing to oppose the route of HS2 Phase 2b in principle, to press for maximum mitigation and benefits for the Borough, required as a consequence of the HS2 proposal, in partnership with other affected Councils and community action groups; and</p> <p>To continue to oppose the principle of Opencast Mining and Mineral Extraction.</p>	Executive Board/CDE	Should any additional funding be required, this will be subject to further report.
<p>To maintain a very high standard of street cleanliness (95%) throughout the Borough and to continue to raise awareness (both of the public and other agencies) of the problems of litter, fly-posting and dog fouling.</p>	Community & Environment Board/DS/DH	Any requirement for additional funding will be reported.
<p>To investigate and implement ways to improve the efficiency of the street cleaning service and target cleaning operations more effectively by October 2019.</p>	Community & Environment Board/DS	Any financial implications will be reported to Board
<p>To tackle fly-tipping in line with the Council's Action Plan through joint-working and cross-border co-operation with all relevant stakeholders and through increased promotion, monitoring, investigation and enforcement by October 2019.</p>	Safer Communities Sub-Committee/DS	Progress against the fly-tipping action plan will be regularly reported to the Safer Communities Sub-Committee.

Target	Board/Lead Officer	Additional Training/ Financial Implications
To work in partnership with the Highways Authority, Highways England and other partners to improve both the appearance and safety of the Borough's main roads. To work with partners so as to reduce the number of fatalities and injuries on roads in North Warwickshire (see also Safer Communities priorities).	Community & Environment Board/DS/ Safer Communities Sub-Committee/CE	Any financial implications will be reported as part of the decision-making process.
To progress the Local Plan through Inquiry towards adoption and commence further work as agreed by the Local Development framework Sub-Committee.	Executive Board/Planning & Development Board/LDF Sub-Committee/CDE	To be met within existing budgets.
To continue to take action to reduce the Council's carbon footprint and carbon emission in the Borough, in accordance with the Climate Change Strategy and Action Plan, and to report annually in March on progress. This will include acting on any Government led initiatives for domestic properties.	Community & Environment Board/CDE	To be met within existing budgets.

<p>PRIORITY 6</p> <p>SUPPORTING EMPLOYMENT & BUSINESS</p>	<p>Supporting employment and business to grow the local economy in terms of access to work, skills improvement and wider business development opportunities.</p>
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Target	Board/Lead Officer	Additional Training/ Financial Implications
<p>To continue to work with partner organisations in the Coventry, Warwickshire and Hinckley Joint Committee and West Midlands Combined Authority and to consider further options for joint work in the light of Central Government proposals for greater devolution, if this proves beneficial to the local economy.</p>	<p>Executive Board/CE/CDE</p>	<p>To be identified as part of the negotiating process.</p>

Target	Board/Lead Officer	Additional Training/ Financial Implications
<p>To:-</p> <p>(a) Work with the County Council, Job CentrePlus and other partners to provide and promote apprenticeships/ training opportunities; and</p> <p>(b) Administer funding provided by developers and through other funding sources to maximise opportunities for employment of local people including employment engagement activity, development of work clubs and bespoke training and to report annually.</p> <p>To work with the County Council, Town/Parish Councils and other partners to maximise section 106/CIL contributions for infrastructure, biodiversity offsetting and community improvements.</p>	<p>Planning & Development Board/CDE</p>	<p>Use of Section 106 funding and any financial implications identified in the report on employing apprentices.</p>
<p>In partnership with the Local Action Group and Hinckley & Bosworth Borough Council, to continue to ensure the successful delivery of the LEADER programme (2015 to 2020) in accordance with the priorities identified in the approved Local Development Strategy and Business Plan and to report on progress by March 2020.</p>	<p>Community & Environment Board/DL&CD</p>	<p>LEADER is a predominantly externally funded programme.</p>

Target	Board/Lead Officer	Additional Training/ Financial Implications
Progress the North Warwickshire Transport Strategy to improve strategic roads such as the A5 and A446, transport links, including cycle links, footpath links, public transport and HGV parking to local employment and report on progress by March 2020.	Planning & Development Board/CDE	Section 106 funding. Potential national funding through the HIF Programme, plus regional and sub-regional funding through CWLEP and WMCA.
To work to improve broadband access for the people and businesses of North Warwickshire through the work of the Council and specifically the Coventry, Solihull and Warwickshire BDUK Project and report on progress by December 2018.	Resources Board/DCS	BDUK funding and approved Council matched funding.

Development Control Service Plan 2019/20

Introduction – Summary of 18/19

The last year (18/19) has seen a continuation in the large number of applications received. Agency staff have filled vacant posts and caseloads have grown. However, performance remains very good compared with internal targets as well as when we benchmark with similar sized rural authorities. Delegated decisions remain in line with national figures. The nature of development proposals however is changing, with more major cases particularly with residential schemes. Planning fee income therefore remains high and this is likely to be sustained with the emerging growth agenda.

The main change in approach to the larger applications is focussing on how these developments can be managed and thus master planning and infrastructure delivery are becoming new focus points in the service. Section 106 contributions are increasing in significance, together with more joint working with other Agencies on agreeing that infrastructure. A Member Working Group has been established to overview this process.

The service has dealt with an increased number of appeals this year and more are anticipated. To date we have not had significant costs awards made against us.

Heritage issues are being dealt with in-house again.

Enforcement activity remains significant with cases at appeal and in the Courts. We have successfully provided cover as a consequence of a vacancy.

The Building Control Partnership has had to be reviewed and new arrangements with a new Partnership is likely to commence.

Review of Last Year

What has gone well?

- Overall performance remains strong
- Significant planning decisions being made.
- Variety of applications submitted remains very wide
- The number of residential applications submitted remains high
- Consequential fee income
- Agency cover is working well
- Restructure of the planning service has been agreed
- Joint working on infrastructure delivery beginning to have an impact
- Section 106 Agreements now bringing in significant contributions for infrastructure
- A Member Infrastructure and 106 Working Party has been set up
- Development Management Policies examined as part of the new draft Local Plan
- High profile enforcement work – still very active caseload
- Speaking at Planning Board remains positive and well received
- Member engagement with applications remains a strength
- Member involvement in design issues is effective
- Heritage issues are now covered in-house
- Discussions regarding a new Building Control Partnership continue
- No Ombudsman investigations have found failings

What has not gone well?

- Increased workload resulting in officer case-loads higher than seen in last few years
- Significant delays in receiving consultation responses from the County Council

Staffing

- Agency staff have remained with us and are effective
- An officer has now succeeded in attaining a heritage qualification
- Staff review has been agreed
- Sponsorship for one officer to gain a Planning Degree

1. Service Plan for Next Year

External Assessments

- Designation Regime widened and made more stringent
- New Housing Delivery Test introduces a different measure for new housing

New Legislation

- The Housing and Planning Act 2016 – more housing and re-definition of affordable homes
- A revised NPPF introduced - supporting growth and housing delivery
- Permissions in Principle introduced
- Five Neighbourhood Plans now part of the Development Plan
- Introduction of the GDPR Regulations
- Schedule 17 applications from HS2 will increase significantly

New Practice or Codes

- Nothing introduced in the year

Value for Money/Efficiency

- Fee income remains high and likely to be sustained
- Section 106 contributions becoming more significant and infrastructure focussed.
- Planning fees increased and that increase ring-fenced for planning services

Performance Indicators

- Targets remain
- Well established audit systems remain in place
- Quarterly reports to Planning Board
- Annual performance Report on a wide range of measures

Use of Technology

- Protocols for procedures with Statutory consultations
- Further digital plotting of constraints – e.g. HS2 safeguarding
- Electronic Submission still at 60%

- Looking to hand held technology for out of office working

Risk Management

- Annual Moderation of Service Risks
- Risks identified in Board reports
- Fraud Awareness training
- Data Protection issues being explored

Customer Surveys/Consultations

- Nothing formal undertaken but anecdotal feed-back is positive
- No Ombudsman cases
- Several complaints have gone to Stage Two but no need to change practices

Corporate Working

- Close links with other services in the delivery of Corporate services – affordable housing/open space/access to jobs/ refuse bins
- Regular Meetings held with these services to run through infrastructure requirements
- Corporate Plan objectives – links to Council priorities – protection of rural character; access to job opportunities and affordable housing to the forefront.
- Very close links to forward planning with progression of the new Local Plan
- Infrastructure Planning and Master planning beginning to take a more pronounced role

Sustainable Community Strategy 2009 – 2026

- Raising Aspirations – regular use of Section 106 for skills training and opportunities
- Developing Healthier Communities – Design of new developments/use of 106 contributions and master planning
- Improving Access to facilities – 106 contributions in particular.

Vision/Strategies

- Delivery of Corporate and Community Plan priorities
- Master Planning for new communities and Places
- Delivery of the Core Strategy
- New draft Local Plan
- Design issues with HS2 development

Climate Change

- Core Strategy policies replaced by the new Local Plan
- Renewable energy in developments
- Sustainable Drainage systems.

Workforce Planning Issues

- Overall sickness record is very good
- Exceptionally experienced staff
- New Agency staff have settled in very well
- Succession planning remains an issue
- Case-loads are very high – increased pressure
- Skills Gap – Climate change; Master Planning and Infrastructure Delivery

Process and Policy

- Continuing legislative reform and change
- Increased pressure to deliver the growth agenda

Health and Safety

- No significant issues

Equalities

- Issues covered where appropriate in Board reports

Data Quality

- Written procedures for all indicators with audit checks
- Section 106 process subject to an Internal Audit review
- Written procedures for use of software
- Digital constraints mapping
- New Data Protection legislation is leading to reviews of data management

Communications

- Weekly List of applications – a virtual list too
- Accessible Web site
- Press releases

- Public Speaking at Planning Board
- Special Board Meetings for specific high profile cases
- More pre-application consultation by prospective applicants

Previous Year 2018/19

- Action 1 – To continue to introduce Master Planning and Infrastructure Delivery into the service. Progress has been made – monthly meetings with other Divisions to monitor 106 spends; introduction of the Member Working Party, increased cooperation and joint working with delivery Agencies particularly with the County Council and neighbours and training on master planning.
- Action 2 – To review the impact of the 20% increase in planning fees. This has wholly been directed towards Agency staff. The review should enable this to be re-directed
- Action 3 – To review Enforcement Policy. Draft policy discussed internally
- Action 4 – To review personal data retention. Draft Privacy policy under discussion and regular discussion of practical issues with live examples at monthly section meetings.

Resources Implications

- Sustained fee income
- Significant contributions now coming forward for infrastructure delivery
- High Profile cases and particularly public inquiries are very resource hungry

2. Performance Indicators for 2019/20

Our current PI's reflect our past performance against the former National Indicators of the times taken to determine planning applications. These are 60% of all major applications in 13 weeks; 80% of all minors in 8 weeks and 90% of all others within 8 weeks.

These should be retained given the continuing high case-loads and existing staffing levels.

**PLANNING AND DEVELOPMENT DIVISION
SUMMARY SERVICE PLAN 2019/20**

Action	Corporate Priorities	Lead Officer	Start Date	End Date	Priority	Measurement of Success	Resource/Training Implications
1) To continue to introduce Master Planning and Infrastructure Delivery into the service	Promoting Sustainable Communities	Head of Development Control	Already underway	Summer 2019	1	<ul style="list-style-type: none"> • Involvement of Agencies as early as possible • Regular Section 106 meetings with providers • Section 106 Monitoring • Section 106 Member Group providing overview 	<ul style="list-style-type: none"> • No unusual implications
2) To review the heritage work covered by the service	Sustainable Communities Value for Money	Head of Development Control Forward Planning Manager	Spring 2018	Summer 2019	1	<ul style="list-style-type: none"> • Heritage Officer in place • Work commenced of Conservation Area reviews • Process for Local Listing 	<ul style="list-style-type: none"> • No unusual implications
3) To review Enforcement Policy	Countryside and Heritage	Head of Development Control	Autumn 2018	Spring 2019	1	<ul style="list-style-type: none"> • New Policy adopted and in action 	<ul style="list-style-type: none"> • No unusual implications

4) To review Personal Data retention	Resource and Financial Management	Head of Development Control	Spring 2018	Spring 2019	1	<ul style="list-style-type: none"> • New Privacy Policy 	<ul style="list-style-type: none"> • No unusual implications • Training and briefing
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Workforce Implications of the Corporate and Service Plan

Workforce Area	Long Term Objectives	Objectives 2019/20	Action By	Performance Measure	Milestone Dates
Skills	<ul style="list-style-type: none"> • All staff more knowledgeable • Better resilience • Widen range/base of knowledge/skills 	<ul style="list-style-type: none"> • Greater general planning knowledge in Central Support 	Within 2019/20	<ul style="list-style-type: none"> • Less avoidable contact 	
Jobs and Job Roles	<ul style="list-style-type: none"> • Greater variety of work 	<ul style="list-style-type: none"> • Involvement by different members of staff 	Within 2019/20	<ul style="list-style-type: none"> • Explore job satisfaction in staff appraisals 	
Equalities					
Recruitment & Retention	<ul style="list-style-type: none"> • Retain experienced staff • Challenge staff • Delegation of responsibilities • Widen skills base 	<ul style="list-style-type: none"> • Look at “management skills” for the service 	Within 2019/20	<ul style="list-style-type: none"> • Appraisals 	
Learning & Development	<ul style="list-style-type: none"> • Training integral to work • Training focused on known gaps 	<ul style="list-style-type: none"> • Focused Training Plan 	Within 2019/20	<ul style="list-style-type: none"> • Training completed • Evidence of knowledge in reports 	

Workforce Implications of the Corporate and Service Plan

Workforce Area	Long Term Objectives	Objectives 2019/20	Action By	Performance Measure	Milestone Dates
Succession & Career Planning	<ul style="list-style-type: none"> • Challenging work • Increase variety 	<ul style="list-style-type: none"> • Increase variety and challenge • Introduce “management skills” 	Within 2019/20		
Employee Relations					
Health Safety & Welfare	<ul style="list-style-type: none"> • Safe office environment • Safe out of office procedures • Annual risk assessments 	<ul style="list-style-type: none"> • Regular safety audits 	Within 2019/20	<ul style="list-style-type: none"> • Annual Risk Assessments 	
Pay & Rewards					
Flexible Working	<ul style="list-style-type: none"> • More flexible working (in office) • Electronic case files 	<ul style="list-style-type: none"> • Expand electronic case files • On-site hand held technology 	Within 2019/20		

Forward Planning & Economic Strategy Team Service Plan 2019

Summary

2018 has been a year primarily focussed on the progression of the Local Plan. The Local Plan was submitted for Examination and hearing sessions have been held. Work has been ongoing to improve the information for the Infrastructure Delivery Plan including assisting with the HIF bid for the A5.

It has been a slow year in terms of number of Neighbourhood Plans coming through but two new designations have taken place for Dordon and Polesworth. Fillongley NP is progressing having been through formal consultation.

1 A Review of Last Year (2018)

What went well?

1.1 The focus for 2018 was the progression of the Local Plan.

1.2 The list of work for 2018 has included:

- Submission of Local Plan
- Progression to and then preparation for Examination of the Local Plan
- Attending and preparing for hearings for other Local Plans
- Meeting with various infrastructure providers to inform the ongoing work to update and refine the Infrastructure Delivery Plan
- The Commissioning and delivery of, historic environment work.
- Continued meetings with stakeholders, landowners and agents
- Working with Homes England to take forward the growth agenda
- Meetings to ensure the delivery of the larger housing proposed allocations.
- Assisting the progression of a number of Neighbourhood Plans
- Formal consultations Fillongley Neighbourhood Plans
- Continuing to seek ways of achieving economies of scale to reduce pressure on the budget
- Continued input into regional and sub-regional working with particular reference to the Duty to Co-operate and the Joint Committee
- Work on HS2 at national, sub-regional and local levels
- Negotiating of issues with HS2
- Working with the LEP through the Growth Hub and the Planning & Business Group
- Timely responses to planning applications
- Input into and being main witness on Planning Appeals
- Monitoring completed on time
- National and regional figures completed on time
- Five year housing supply updated for housing
- Updating of background information to support the work of the team and Planning Control
- Assistance in the negotiation of S106 especially for affordable housing and open space provision

**Forward Planning & Economic Strategy Team
Service Plan 2019**

What has not gone quite so well?

- 1.3 Although there have been many success in the past year there have been some issues. These are:
- Staff capacity to keep on top of all the current work as well as changes in legislation and aspirational work
 - Information relating to infrastructure is not always easily to arrive at
 - No progress on Conservation Area Appraisals

Work for the coming year

- 1.4 With the reorganisation of the Planning sections the Heritage Officer post will be refilled. Although the primarily purpose will be to respond to planning applications it will provide an opportunity to progress work on conservation areas and local listings that have not been progressed as quickly as envisaged. The list below gives an indication of the work expected to be delivered by the team during 2018:
- Progression of the examination, including further hearing sessions, for the Local Plan
 - Consultation on main modifications of the Local Plan
 - Continued refinement and development of the Infrastructure Delivery Plan
 - Updating of the Brownfield Register
 - Delivery of Concept and Master Plans for Strategic Housing allocations
 - Monitoring developments throughout the Borough to ensure delivery
 - Continuing work on HS2
 - Continued work on HS2 phase 1
 - Work on Phase 2b, including submission of comments on Phase 2b of HS2 Environmental Statement
 - Assisting with the submission of the A5 HIF bid
 - Securing funding for infrastructure to accompany the allocations
 - Start to consider the work to consider whether a new settlement is feasible for the next plan period and the infrastructure required
 - Prepare a timetable for the progression of work relating to heritage
- 1.5 If capacity allows then:
- Work proactively with Economic Development partners to consider the economic development role of the Borough and to develop a strategy to achieve the desired outcomes
 - Continue to develop projects that can be put forward for a range of funding sources
 - Publication and, if required, an examination into the CIL charging schedule. Will then work with finance, development control and central services to ensure a smooth introduction.

Staffing

- 1.6 As there continues to be a high work load it is important to keep under review the capacity of staff to keep the momentum going and ensuring the timely

**Forward Planning & Economic Strategy Team
Service Plan 2019**

delivery of projects. A member of the Planning Control team has provided an added resource on adhoc basis and it is envisaged that this will continue into 2019.

2 Service Plan for the coming Year

External Influence

- The development of the West Midlands Combined Authority will have an impact either directly or indirectly in how we work with partners within the sub-regional and wider area.
- Other influences are the West Midlands Mayor and Midlands Connect. Gradually their influence is taking shape.

External Assessment

- None expected

New legislation

- Continuing to understand National Planning Policy Framework 2018
- Understanding the implications of the new housing methodology
- Neighbourhood Planning
- Community Infrastructure Levy
- Changing funding opportunities for a range of projects including infrastructure and economic projects.

New Practice or Codes

- The RTPI / Planning Advisory Service continually updating their Best Practice Guidance which will need to be reviewed on a continual basis.

Resource implications

- A lot of changes expected over a relatively short time
- Infrastructure Delivery Plan will need to be kept under review and updated on a regular basis
- Neighbourhood Planning is staff resource intensive
- Training required to maintain and ensure understanding of legislative changes

Value for Money/Efficiency

- Continuing to seek partnership working to reduce costs wherever possible.

Resource Implications

- Implications on the need to maintain in-house monitoring resources

Performance Indicators

Table 1: National Indicators that apply to the Service

Number of additional homes provided (net)	2017-18	203*
Number of affordable homes delivered (gross)	2017-18	56

**Forward Planning & Economic Strategy Team
Service Plan 2019**

Supply of ready to develop housing sites	As at 31 March 2018	5.5** years
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* Figure amended to take account of corrections from previous year relating to extra care and care homes – net figure = 186 + 20 - 3

** Figure based on 5% buffer and 264 dwellings per annum

Table 2: NWBC will be monitored on but reported elsewhere

Flood and coastal erosion risk management	Environment Agency
Improved local biodiversity – active management of local sites	Local Sites Partnership

Table 3: Local Targets

Has the local planning authority met the milestones which the current Local Development Scheme (LDS) sets out?	Yes
Percentage of new homes built on previously developed land.	22%

Use of Technology

- The Local Plan 2006 is interactive on-line but could be improved and hosted on Council's own servers. For the emerging Local Plan the issue is that GIS is no longer updated and cost of bringing back Local Plan in a printable version.
- New web pages have been finalised and web links extended
- On-line consultation response form is used where possible
- Events and consultations are advertised on twitter and Facebook
- Critix is being used by the whole team to allow working from home on a regular basis.

Risk Management

- Annual Moderation of Risks

Customer Surveys/Consultation

- Consultations will be carried out in relation to the development of the various Planning Policy documents but not directly about the service that Forward Planning provides. These will be both formal consultation periods as well informal meetings with key stakeholders.
- There are resource implications in terms of staff time that it takes to organise and then run events. The Local Plan budget covers the financial costs.

Corporate Working

- Close links with other teams and departments in delivery of Corporate priorities – affordable housing, open space, other planning policy documents as well as development and delivery of projects
- Member training
- Future corporate work will be around the introduction of the Community Infrastructure Levy

Community Plan

- The three key themes are interlinked to the work of the team

Forward Planning & Economic Strategy Team Service Plan 2019

Vision

- The teams work is cross cutting
- Forward Planning cuts across practically all of the Council's current seven priorities if objectives are to be delivered.

Strategies

- The service is grounded in long term strategic planning most of which shapes Council activity
- It heeds and takes up internal Corporate Strategies
- Its focus is external strategic working and linkages
- The service links with all Corporate Priorities

Workforce Planning

- Sickness levels have improved. However, as the team is getting older there are issues that may arise which will need consideration to ensure the ability to stay at work.
- The amount and pressure of the momentum of work needs to be assessed on a regular basis to ensure that team morale is not adversely affected.

Process and Policy

- LDS (Local Development Scheme) updated programme needs to be agreed on a regular basis
- Electronic service delivery programme in place but could be improved
- Identified gap in respect of climate change issues being addressed

Health and Safety

- Risk Assessments undertaken
- Audits need to be undertaken

Communication

The Forward Planning Team have the Statement of Community Involvement (adopted January 2007), which it uses when consulting the public, stakeholders and other organisations. As a result of comments made during the consultation of the Core Strategy and Site Allocations Plan improvements have been made to the processes undertaken.

Climate Change

The relevant evidence base takes into account issues that climate change may bring.

Previous Years

As the work of the team is long ranging most actions from the previous year need to be carried forward

**Forward Planning & Economic Strategy Team
Service Plan 2019**

Resources

The team is busy. Work is escalating in all areas and in particular with the Draft Local Plan and Neighbourhood Plans as well as HS2 work. Realistic timescales therefore need to be ensured to maintain a good delivery rate that means work is accurate and delivered on time. The timetable for the team needs to have an element of flexibility within it.

**Forward Planning & Economic Strategy Team
Service Plan 2019**

SUMMARY ACTION PLAN

Action	Community Plan / Corporate Priorities	Lead Officer	Start Date	End Date	Priority	Measurement of Success	Resource/Training Implications
1 To take Draft Local Plan through Examination process	<ul style="list-style-type: none"> • Community Plan: All priorities • Corporate Plan 	Forward Planning & Economic Strategy Manager	2016	2019	1	<ul style="list-style-type: none"> • Approval of the Local Plan by an Inspector • Delivery of sites for development 	<ul style="list-style-type: none"> • This will take up a lot of staff time
2 To bring forward Neighbourhood Plans in a timely manner	<ul style="list-style-type: none"> • Community Plan: All priorities • Corporate Plan 	Forward Planning & Economic Strategy Manager	2012	Ongoing as Plans progress	1	<ul style="list-style-type: none"> • Success referendums and approved Plans 	<ul style="list-style-type: none"> • This will take up a lot of staff time from both the team and Democratic Services
3 To review and keep the Infrastructure Plan up to date	<ul style="list-style-type: none"> • Community Plan: All priorities • Corporate Plan 	Forward Planning & Economic Strategy Manager	Underway	Ongoing	1	<ul style="list-style-type: none"> • Regular updates be presented to Board 	<ul style="list-style-type: none"> • Staff time initially
4 To bring forward CIL	<ul style="list-style-type: none"> • Community Plan: All priorities • Corporate Plan 	Forward Planning & Economic Strategy Manager	October 2013	2019	1	<ul style="list-style-type: none"> • Implementation of scheme 	<ul style="list-style-type: none"> • Staff time initially but will require consultancy assistance

**Forward Planning & Economic Strategy Team
Service Plan 2019**

5	Monitoring, including keep under review the five year housing supply	Community Plan: <ul style="list-style-type: none"> Improving access to services Corporate Plan	Forward Planning & Economic Strategy Manager		Ongoing basis	1	<ul style="list-style-type: none"> Maintaining a robust evidence base Maintaining information on our five year supply 	<ul style="list-style-type: none"> Keeping up to date with changing monitoring requirements both nationally and regionally Staff time
6	Cross-Border Partnership	Community Plan: <ul style="list-style-type: none"> Raising aspirations, educational attainment and skills Improving access to services Corporate Plan	Forward Planning & Economic Strategy Manager		ongoing	2	<ul style="list-style-type: none"> Delivery of projects that deliver results hitting the SCS targets 	<ul style="list-style-type: none"> Staff resource and possible future budget issues
7	Maintain advice on planning control matters including policy advice	<ul style="list-style-type: none"> Community Plan: All priorities Corporate Plan 	Forward Planning & Economic Strategy Manager		ongoing	1	<ul style="list-style-type: none"> 	<ul style="list-style-type: none">
8	Involvement in specialist projects such as HS2, Tame Valley Partnership.	<ul style="list-style-type: none"> Community Plan: All priorities Corporate Plan 	Forward Planning & Economic Strategy Manager		ongoing	1/2	<ul style="list-style-type: none"> 	<ul style="list-style-type: none">

**Forward Planning & Economic Strategy Team
Service Plan 2019**

Workforce Implications of the Corporate and Service Plan

Workforce Area	Long Term Objectives	Objectives 2013/14	Action By	Performance Measure	Milestone Dates
Skills	<ul style="list-style-type: none"> • All staff more knowledgeable • Better resilience • Widen range of knowledge / skill 	<ul style="list-style-type: none"> • Continued understanding of policy changes 	All	Training undertaken	Within 2019
Recruitment & Retention	<ul style="list-style-type: none"> • Retention of experienced staff • Challenge staff • Delegation of projects • Widen skills base 	<ul style="list-style-type: none"> • Look at work and opportunities within it 	D Barratt	Appraisals	Within 2019
Learning & Development	<ul style="list-style-type: none"> • Training integral to work • Training focused on known gaps 	<ul style="list-style-type: none"> • Focused training plan 	All	Training completed Evidence of knowledge in reports	Within 2019
Health & Welfare	<ul style="list-style-type: none"> • Safe office environment • Annual risk assessments 	<ul style="list-style-type: none"> • Regular safety audits 	All	Annual Risk Assessments	Within 2019
Flexible Working	<ul style="list-style-type: none"> • To ensure the health & wellbeing of the team 	<ul style="list-style-type: none"> • To continue to allow working from home 	All	To improve the sickness records even further	Within 2019

Agenda Item No 5

Planning and Development Board

4 February 2019

Report of the Director of Corporate Services and the Corporate Director - Environment

General Fund Fees and Charges 2019/2020

1 Summary

- 1.1 The report covers the fees and charges for 2018/19 and the proposed fees and charges for 2019/20.

Recommendation to the Board

That the schedule of fees and charges for 2019/20, set out in the report be accepted.

2 Introduction

- ... 2.1 Attached for the Board's consideration at Appendix A are details of present and proposed fees and charges for the financial year 2019/20. Prices for Street Naming and Numbering and Local Land Charges have generally been increased by 2% in line with the budget strategy for 2019/23 agreed by the Executive Board in September. Some of the prices will have been rounded to either the nearest £0.10 or £1.00.

- 2.2 Although Planning Control is under the control of this Board, the fees and charges have not been included in this report as they are set nationally by Government.

3 Report Implications

3.1 Financial Implications

- 3.1.1 The pricing structure contained in this report is expected to generate an additional £1,240 of income above the 2018/19 revised budget for 2019/20.

- 3.1.2 This will contribute to the achievement of income targets, which are contained within the Corporate Director – Resources report on General Fund estimates 2019/20, presented elsewhere within the agenda for this meeting. A 1% change in income generated by Street Naming and

Numbering and Local Land Charges would result in an increase or decrease in income of £620.

3.2 Risk Management Implications

3.2.1 Changes to fees and charges may impact on the level of demand. However, this has been considered in proposing the revised charges.

The Contact Officer for this report is Nigel Lane (719371).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date

NORTH WARWICKSHIRE BOROUGH COUNCIL
PLANNING AND DEVELOPMENT BOARD
FEES AND CHARGES FROM 1 APRIL 2019

	2018/2019 TOTAL CHARGE	2019/2020 TOTAL CHARGE	VAT RATING
LAND CHARGES			
Official Land Charges Register search (LLC1)	34.00	35.00	Outside Scope
Each additional parcel of land	3.00	3.00	"
Con29 R Search	107.00	109.00	Standard
Each additional parcel of land	10.00	10.00	"
Additional Question (CON290 / CON29 R) - first question	22.00	22.00	Standard
Each additional question	1.20	1.20	"
Common Land Enquiry (if submitted as part of search)	15.00	15.00	Standard
Personal searches by appointment	Free	Free	N/A

Registered Common Land and Town or Village Green (question 22) submitted in isolation should be sent to Warwickshire County Council

STREET NAMING & NUMBERING

Add a new property name	62.00	63.00	Outside Scope
Correct an address anomaly	31.00	32.00	"
New development (per plot up to 10 plots)	124.00	126.00	"
New development (per plot above 10 plots)	15.00	15.00	"
Rename/renumber	62.00	63.00	"
Name a new street	124.00	126.00	"
Amend development layout (per plot)	31.00	32.00	"
Commercial property (per unit)	31.00	32.00	"
Rename a street	Price upon request	Price upon request	
Building conversions per unit (minimum charge 2 units)	62.00	63.00	Outside Scope
Confirmation letters to solicitors/others	26.00	27.00	"

PLANNING AND ADVERTISEMENT APPLICATIONS

These charges are set by central government and are contained within the Town and Country Planning Regulations.

Details of current charges can be obtained from the Council's Development Control section :

Telephone	01827 715341
Fax	01827 719363
e-mail	planningcontrol@northwarks.gov.uk
Web site	www.northwarks.gov.uk

Agenda Item No 6

Planning and Development Board

4 February 2019

Report of the Corporate Director - Resources

General Fund Revenue Estimates 2019/20

1 Summary

- 1.1 This report covers the revised budget for 2018/19 and an estimate of expenditure for 2019/20, together with forward commitments for 2020/21, 2021/22 and 2022/23.

Recommendation to the Board

- a To accept the revised budget for 2018/19; and**
- b To accept or otherwise vary the Estimates of Expenditure for 2019/20, as submitted, for them to be included in the budget to be brought before the meeting of the Executive Board on 11 February 2019.**

2 Introduction

- 2.1 In consultation with other Directors, the Corporate Director – Resources has prepared an estimate of net expenditure for 2019/20 and this, together with a revised budget for 2018/19, appears in Appendices A and B. To provide a more complete picture of the spending pattern of the service, the actual figures for 2017/18 are shown.
- 2.2 At its meeting in September, the Executive Board agreed the budget strategy for 2019-2023 which required savings of £1.25 million over a four year period. This required budget savings of £200,000 in 2019/20 with additional savings of £450,000 in 2020/21 and £300,000 in 2021/22 and 2022/23 respectively. Some limited growth was built into the strategy in specific areas.
- 2.3 Directors were asked to identify areas where savings could be made, either by a reduction in expenditure or through the generation of additional income.

2.4 A subjective analysis of the Board's requirement is shown below:

	Approved Budget 2018/19 £	Revised Budget 2018/19 £	Original Budget 2019/20 £
Employee Costs	486,170	572,280	518,340
Supplies and Services	151,290	142,170	147,970
Earmarked Reserves	-	(3,360)	-
Gross Expenditure	637,460	711,090	666,310
Income	(814,920)	(811,880)	(713,120)
Net Controllable Expenditure	(177,460)	(100,790)	(46,810)
Departmental Support	102,570	93,590	106,670
Central Support	173,310	172,710	182,610
Capital Charges	16,390	16,390	16,390
Net Expenditure	114,810	181,900	258,860

2.5 The Council values all of its assets using a five year rolling programme, and this can affect the level of capital charges that are made to services and can therefore significantly affect the net service cost. Although few assets are used for the services within this Board, changes in net service expenditure that are as a result of increases or decreases in capital charges are shown below net operating expenditure in the following pages.

3 **Comments on the 2018/19 Revised Budget**

3.1 The revised budget for 2018/19 is estimated to be £181,900; an increase of £67,090 on the approved provision. The main reasons for variations are set out below:

3.2 **Planning Control £113,010**

3.2.1 Employee costs have increased by £113,010; this is due to the increased agency costs to cover vacant posts.

3.3 **Building Control (£10,000)**

3.3.1 A one off reduction of £10,000 has been applied to professional fees, due to the lower than anticipated charges from the Nuneaton and Bedworth Borough Council Building Control Partnership.

3.4 **Conservation and Built Heritage (£27,010)**

3.4.1 Salaries have reduced by £27,010 as the Heritage and Conservation Officer Post has been covered in house, with support from an external consultant. These costs are included within the Planning Control budget. Following the recent restructure, this post has now been filled.

3.5 Departmental and Central Support (£9,580)

3.5.1 **Departmental** support recharges have decreased by £8,980 as a result of the Heritage and Conservation Officer vacancy savings.

4 Comments on the 2019/20 Estimates

4.1 The 2019/20 estimate has been prepared, taking into account the following assumptions:

- A 2% pay award from 1 April 2019 and the revised pay structure.
- An increase in income to reflect the increases included in the fees and charges report elsewhere on this agenda

4.2 The total estimated net expenditure for 2019/20 is £258,860; an increase of £144,050 on the 2018/19 approved budget and an increase of £76,960 on the revised 2018/19 budget. The main variations from the revised estimate are given below.

4.3 Planning Control (£12,320)

4.3.1 Employee costs have reduced by £95,420 due to the reduction in agency staffing costs and the reinstatement of vacant posts. Additionally professional fees have been reduced by £20,000 due to the removal of one-off growth approved in the 2018/19 budget for appeals. This has been partially offset by reduced planning fee income of £100,000 to reflect the removal of some large applications and the expectation of lower income due to economic uncertainties.

.4 Building Control £25,200

4.4.1 The one-off saving of £10,000 on professional fees in the 2018/19 revised budget has been reversed, and growth of £15,200 has been included to reflect the costs of the new Central Building Control Partnership.

4.5 Conservation and Built Heritage £41,100

4.5.1 The Heritage and Conservation Officer post has been fully re-instated.

4.6 Departmental and Central Support £22,980

4.6.1 **Departmental support** recharges have increased by £13,080 as a result of the reinstatement of vacant posts within Development Control and the Heritage and Conservation, the full year effect of the Planning Control restructure and the pay award.

4.6.2 **Central support** recharges have increased by £9,900 due to the pay award and the Environmental Health restructure and reinstatement of vacant posts partially recharged to Development Control.

5 Risks to Services

5.1 The key risks to the budgetary position of the Council from services under the control of this Board are:

- The need to hold Public Inquiries into Planning Developments. Inquiries can cost the Council around £50,000 each.
- A change in the level of planning applications received. A fall in applications would lead to a reduction in planning income, whilst an increase in applications would increase the pressure on staff to deal with applications in the required timescales
- The Government require all planning applications to be dealt with within 26 weeks. If this is not achieved, the costs of the application must be borne by the authority. Whilst the Planning team deal with almost 100% of current applications within this time, there is always the potential for this to slip, leading to a decline in the Planning income level.
- There are potential additional costs for the Council in carrying out its planning function. If the Council loses a planning appeal, an award of costs can be made against the Council (the appellant's costs for the appeal). If the Council consistently loses appeals it will become a designated authority, which means that prospective applicants can submit their applications directly to the planning directorate. This would mean the Council would lose the accompanying planning fee.

5.2 A risk analysis of the likelihood and impact of the risks identified above are included in Appendix C.

6 Future Year Forecasts

6.1 In order to assist with medium-term financial planning, Members are provided with budget forecasts for the three years following 2019/20. The following table provides a subjective summary for those services reporting to this Board:

	Forecast Budget 2020/21 £	Forecast Budget 2021/22 £	Forecast Budget 2022/23 £
Employee Costs	531,960	545,920	560,210
Supplies and Services	148,350	151,310	151,710
Gross Expenditure	680,310	697,230	711,920
Income	(714,380)	(715,660)	(716,980)
Net Controllable Expenditure	(34,070)	(18,430)	(5,060)

Departmental Support	105,660	107,390	108,870
Central Support	186,750	191,160	195,470
Capital Charges	16,390	16,390	16,390
Net Expenditure	274,730	296,510	315,670

6.2 The forecasts given above have used a number of assumptions, which include pay awards of 2% in 2020/21 to 2022/23, increases in contracts and general increases in supplies and services of 2% in 2021/22. In total, net expenditure is expected to increase by 6.13% in 2020/2021, 7.93% in 2021/22 and by 6.46% in 2022/2023. This is due to the assumption that planning income will not increase.

6.3 These forecasts are built up using current corporate and service plans. Where additional resources have already been approved, these are also included. However, these forecasts will be amended to reflect any amendments to the estimates, including decisions taken on any further corporate or service targets.

7 Report Implications

7.1 Financial Implications

7.1.1 As detailed in the body of the report.

7.2 Environment and Sustainability Implications

7.2.1 Continuing the budget strategy will allow the Council to manage its expected shortfall in resources without disruption of essential services.

7.3 Risk Management Implications

7.3.1 There are a number of risks associated with setting a budget, as assumptions are made on levels of inflation and demand for services. To minimise the risks, decisions on these have been taken using past experience and knowledge, informed by current forecasts and trends. However, the risk will be managed through the production of regular budgetary control reports, assessing the impact of any variances and the need for any further action.

The Contact Officer for this report is Nigel Lane (719371).

NORTH WARWICKSHIRE BOROUGH COUNCIL

PLANNING AND DEVELOPMENT BOARD

SUMMARY OF GENERAL FUND REVENUE ESTIMATES

Code	Description	Actual 2017/2018 £	Approved Budget 2018/2019 £	Revised Budget 2018/2019 £	Original Budget 2019/2020 £
4009	Planning Control	(490,078)	(207,680)	(94,670)	(106,990)
4010	Building Control	(3,571)	20,000	10,000	35,200
4012	Conservation and Built Heritage	2,866	34,410	7,400	48,500
4014	Local Land Charges	(26,007)	(24,900)	(24,230)	(24,430)
4018	Street Naming and Numbering	(1,940)	710	710	910
	Net Controllable Expenditure	(518,730)	(177,460)	(100,790)	(46,810)
	Departmental Support	158,034	102,570	93,590	106,670
	Central Support	163,644	173,310	172,710	182,610
	Capital Charges	2,780	16,390	16,390	16,390
	Planning and Development Board Total	(194,272)	114,810	181,900	258,860

4009 - PLANNING CONTROL

A statutory service which determines planning and listed building applications submitted to the Council and the enforcement of contraventions of the Planning Acts.

DESCRIPTION	ACTUALS	APPROVED	REVISED	ORIGINAL
	2017/2018	BUDGET 2018/2019	BUDGET 2018/2019	BUDGET 2019/2020
Employee Expenditure	479,281	439,240	552,250	456,830
Supplies and Services	128,651	103,080	103,080	86,180
Earmarked Reserves	140,516	-	-	-
GROSS EXPENDITURE	752,508	542,320	655,330	543,010
GROSS INCOME	(1,242,586)	(750,000)	(750,000)	(650,000)
NET CONTROLLABLE EXPENDITURE	(490,078)	(207,680)	(94,670)	(106,990)
Departmental Support	132,500	76,720	73,710	76,110
Central Support	133,978	140,120	142,420	150,160
Capital Charge	2,780	13,090	13,090	13,090
NET EXPENDITURE	(220,820)	22,250	134,550	132,370

Contributes to corporate priorities :

- Protecting our countryside and heritage
- Supporting employment and business

KEY PERFORMANCE INDICATORS

Number of Planning Applications	1169	1000	1201	1000
Gross cost per application	£871.67	£759.16	£725.41	£769.28
Net (surplus)/cost per application	-£188.90	£22.25	£112.00	£132.37
Caseload per officer	216	185	222	185

4010 - BUILDING CONTROL

A statutory service which ensures the health and safety of the occupants of buildings by achieving acceptable standards of building work through the enforcement of the Building Regulations. The Building Control service has been provided in Partnership with Nuneaton and Bedworth Borough Council since November 2007, but will be provided by the South Staffordshire Building Control Partnership from 2019/20.

DESCRIPTION	ACTUALS	APPROVED	REVISED	ORIGINAL
	2017/2018	BUDGET 2018/2019	BUDGET 2018/2019	BUDGET 2019/2020
Employee Expenses	1,977	-	-	-
Supplies and Services	(5,467)	20,000	10,000	35,200
GROSS EXPENDITURE	(3,490)	20,000	10,000	35,200
GROSS INCOME	(81)	-	-	-
NET CONTROLLABLE EXPENDITURE	(3,571)	20,000	10,000	35,200
Departmental Support	1,880	1,630	1,560	1,650
Central Support Services	12,661	13,810	14,670	14,930
NET EXPENDITURE	10,970	35,440	26,230	51,780

Contributes to corporate priorities :

- Protecting our countryside and heritage

4012 - CONSERVATION AND BUILT HERITAGE

This service looks to maintain the historical built heritage within the Borough

DESCRIPTION	ACTUALS	APPROVED	REVISED	ORIGINAL
	2017/2018	BUDGET 2018/2019	BUDGET 2018/2019	BUDGET 2019/2020
Employee Expenditure	2,866	34,360	7,350	48,450
Supplies and Services	-	50	50	50
NET CONTROLLABLE EXPENDITURE	2,866	34,410	7,400	48,500
Departmental Support	7,936	7,640	1,790	11,420
Central Support	4,063	5,090	4,380	5,440
NET EXPENDITURE	14,865	47,140	13,570	65,360

Contributes to corporate priorities :
- Protecting our countryside and heritage

4014 - LOCAL LAND CHARGES

The Council is obliged to maintain a register relating to its area which includes any details of developments, road proposals, closing orders etc., which may affect properties and details of any charge (financial or otherwise) that is registered against each property. In addition the Council provides details on enquiries made by solicitors acting on behalf of prospective purchasers. The income received from search fees is based upon charges that the Council is free to set itself.

DESCRIPTION	ACTUALS	APPROVED	REVISED	ORIGINAL
	2017/2018	BUDGET 2018/2019	BUDGET 2018/2019	BUDGET 2019/2020
Employee Expenditure	15,542	12,570	12,680	13,060
Supplies and Services	16,482	19,090	16,610	17,100
GROSS EXPENDITURE	32,024	31,660	29,290	30,160
GROSS INCOME	(58,031)	(56,560)	(53,520)	(54,590)
NET CONTROLLABLE EXPENDITURE	(26,007)	(24,900)	(24,230)	(24,430)
Departmental Support	8,800	8,660	9,040	9,560
Central Support	12,024	13,300	10,140	10,950
Capital Expenditure	-	3,300	3,300	3,300
NET EXPENDITURE	(5,183)	360	(1,750)	(620)

Contributes to corporate priority :

KEY PERFORMANCE INDICATORS

Number of Local Land Charge Searches	475	550	433	450
Gross cost per search	£111.26	£97.49	£111.94	£112.60
Net cost per search	-£10.91	£0.65	-£4.04	-£1.38

4018 - STREET NAMING & NUMBERING

This function covers naming and numbering of new and existing properties and streets, to ensure consistency and reliability of addressing, which then feeds into the Council's Land and Property Gazetteer.

DESCRIPTION	ACTUALS	APPROVED	REVISED	ORIGINAL
	2017/2018	BUDGET 2018/2019	BUDGET 2018/2019	BUDGET 2019/2020
Employee Expenditure	1,818	-	-	-
Supplies & Services	6,420	9,070	12,430	9,440
Earmarked Reserves	-	-	(3,360)	-
GROSS EXPENDITURE	8,238	9,070	9,070	9,440
GROSS INCOME	(10,178)	(8,360)	(8,360)	(8,530)
NET CONTROLLABLE EXPENDITURE	(1,940)	710	710	910
Departmental Support	6,918	7,920	7,490	7,930
Central Support	918	990	1,100	1,130
NET EXPENDITURE	5,896	9,620	9,300	9,970

Contributes to corporate priority :
- Creating safer communities

Appendix C

Risk Analysis

	Likelihood	Potential impact on Budget
Need for public enquiries into planning developments	Medium	Medium
Decline in planning applications leading to a reduction in Planning Income.	Low	Medium
Applications not dealt with within 26 weeks, resulting in full refund to applicant.	Low	Medium
Implications of losing planning appeals, resulting in appellant costs awarded against the Council or loss of Planning Income	Medium	Medium

Agenda Item No 8

Planning and Development Board

4 February 2019

**Report of the Head of
Development Control**

**Confirmation of Tree Preservation
Order – Applegarth, Austrey**

1 Summary

- 1.1 This report seeks confirmation of Tree Preservation Order made at this address.

Recommendation to the Board

That the Order be confirmed

2 Consultation

- 2.1 Consultation has taken place with the relevant Members and any comments received will be reported at the meeting.

3 Background

- 3.1 The Board made an Order in respect of a Copper Beech tree and a Spruce tree at the property known as “Applegarth”, located in Norton Hill at Austrey during its August meeting. The report relating to this is attached at Appendix A.

4 Observations

- 4.1 No representations have been made during the consultation period following the making of this Order. The Board is now invited to confirm the Order. Given the Tree Officer’s report and the significant amenity value of the new trees it is recommended that this be the case.

5 Report Implications

5.1 Finance and Value for Money Implications

- 5.1.1 Members are aware that in certain circumstances, compensation may be payable following confirmation and any subsequent refusal of consent to undertake works to the trees.

5.2 Environment, Sustainability and Health Implications

5.2.1 The trees have high public amenity value and their protection would contribute to the quality of the surrounding built development.

The Contact Officer for this report is Jeff Brown (719310)

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date

APPENDIX A

Agenda Item No 8

Planning and Development Board

6 August 2018

Report of the
Head of Development Control

Tree Preservation Order - Land at
Applegarth and The Croft, Norton
Hill, Austrey

1 Summary

- 1.1 The land on which the trees are situated is the subject of a current planning application proposing the development of the land with 14 dwellings (PAP/2018/0138). The associated planning application has been reported earlier in the agenda. The site contains two trees which stand out as more prominent, a copper beech tree and a spruce tree.
- 1.2 The trees have been inspected and identified as worthy of a Tree Preservation Order (TPO). The trees are visible from the adjacent street Norton Hill. They are located at the approximate positions shown on aerial photography (Appendix 1). It is proposed to protect these trees with a TPO.

Recommendation to the Board

That a Tree Preservation Order be made with immediate effect, in respect of the Copper Beech and Spruce located at Applegarth, Norton Hill, Austrey, for the reasons given in this report, and that any representations received be referred to the Board for it to consider whether to make the Order permanent.

2 Background and Statement of Reasons

- 2.1 The planning application (PAP/2018/0138) is an approval of reserved matters application for 14 dwellings. The application follows the grant of outline planning permission. The site contains a large copper beech tree and a Norway Spruce that have been identified by local residents and the Council's Tree Officer as significant. Whilst the scheme shows the retention of these trees, they are very close to the developable area and will form something of an impediment to the easy development of the land. The trees in question are shown to the south west of a newly formed drive on the proposed site layout below:



- 2.2 The large Copper Beech and the Norway Spruce are both of considerable height and are highly visible from surrounding land. They are shown in the street scene in the photographs below:

View from Norton Hill:



- 2.3 The trees are considered to be good specimens in terms of their physiological and structural condition; there are no visible defects and have good longevity. The trees are large and clearly visible across a significant public area, meaning that they have high amenity value and strong suitability for protection with a Tree Preservation Order. The Council's TEMPO report shown in Appendix 2 supports this, showing that an order is soundly defensible.

- 2.4 The Tree Officer confirms the two trees are very visible to the public within this area and offer a Mature Canopy Cover that would cause a detrimental effect to the street scene and locality if the trees were to be removed. The Beech in particular, though not rare, is a prime specimen and seen to be highly valued at his location.
- 2.5 Though the proposed site layout shows the retention of the trees it would nevertheless be close to the proposed development site, without the protection of a Tree Preservation Order, it could be removed or substantially cut back without any requirement for permission. The development would be easier to execute without the impediment of the trees. Protection with a TPO is justified.
- 2.6 Given the above, a Tree Preservation Order is recommended. The owners/occupiers of the property and the adjoining owners/occupiers will be served with copies of the TPO and will have an opportunity to make representations/objections.
- 2.7 A further report will be presented to the Planning and Development Board for Members to consider whether the TPO should be confirmed and made permanent.

3 Report Implications

3.1 Legal and Human Rights Implications

- 3.1.1 The owners of the land and those with an interest in it have the opportunity to make representations to the Council before any Order is confirmed.

3.2 Environment and Sustainability Implications

- 3.2.2 The trees have high public amenity value and their protection will contribute to the quality of this development.
- 3.2.2 The trees to be protected exhibit an amenity value for both the present and the future amenities of the area, given their appearance and prominence in the street scene.

3.3 Financial and Value for Money Implications

- 3.3.1 There are no implications in the making of the Order. Members are aware that in certain circumstances, compensation may be payable following confirmation and the refusal of consent to undertake works to the trees.

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date
1	NWBC Tree Officer	TEMPO Evaluation	25/07/2018

The Contact Officer for this report is Erica Levy (719294)

Appendix 1



Appendix 2

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO)

SURVEY DATA SHEET & DECISION GUIDE

Date: 25/07/18.	Surveyor: Andrew Watkins.
Tree details	
TPO Ref (if applicable):	Tree/Group No:
Owner (if known):	Species: SPRUCE, BEECH.
	Location: APPELGARTH, AUSTREY.

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

- | | |
|---------------------|-------------------------|
| 5) Good | Highly suitable |
| ③ Fair | Suitable |
| 1) Poor | Unlikely to be suitable |
| 0) Dead | Unsuitable |
| 0) Dying/dangerous* | Unsuitable |

Score & Notes ③ Tree in fair condition and seen to be valued by developer

* Relates to existing context and is intended to apply to severe irremediable defects only

b) Retention span (in years) & suitability for TPO

- | | |
|-----------|-----------------|
| 5) 100+ | Highly suitable |
| 4) 40-100 | Very suitable |
| ② 20-40 | Suitable |
| 1) 10-20 | Just suitable |
| 0) <10* | Unsuitable |

Score & Notes ② Condition of base seen to suggest that specimens would meet higher end of retention span.

*Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- | | |
|---|---------------------|
| 5) Very large trees with some visibility, or prominent large trees | Highly suitable |
| ④ Large trees, or medium trees clearly visible to the public | Suitable |
| 3) Medium trees, or large trees with limited view only | Suitable |
| 2) Young, small, or medium/large trees visible only with difficulty | Barely suitable |
| 1) Trees not visible to the public, regardless of size | Probably unsuitable |

Score & Notes ④ Both trees clearly in view to public at this location.

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- | |
|--|
| 5) Principal components of arboricultural features, or veteran trees |
| 4) Tree groups, or members of groups important for their cohesion |
| 3) Trees with identifiable historic, commemorative or habitat importance |
| ② Trees of particularly good form, especially if rare or unusual |
| 1) Trees with none of the above additional redeeming features |

Score & Notes ② Both have good form as per leaves and species.

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

- | |
|-------------------------------|
| 5) Immediate threat to tree |
| 3) Foreseeable threat to tree |
| 2) Perceived threat to tree |
| ① Precautionary only |

Score & Notes ① Threat to tree precautionary only.

Part 3: Decision guide

- | | |
|---------|-----------------------|
| Any 0 | Do not apply TPO |
| 1-6 | TPO indefensible |
| 7-10 | Does not merit TPO |
| ① 11-14 | TPO defensible |
| 15+ | Definitely merits TPO |

Add Scores for Total:

12

Decision:

TPO defensible.

Agenda Item No 9

Planning and Development Board

4 February 2019

**Report of the Head of
Development Control**

**Confirmation of Tree Preservation
Order - Polesworth**

1 Summary

- 1.1 This report seeks confirmation, with modification, of the Tree Preservation Order made at this address.

Recommendation to the Board

That the Order be confirmed in its modified form as set out in this report.

2 Consultation

- 2.1 Consultation has taken place with the relevant Members and any comments received will be reported at the meeting.

3 Background

- 3.1 The Board made an Order in respect of a number of trees at this address in High Street, Polesworth at its August meeting. A copy of the report is attached at Appendix A.

...

4 Observations

- 4.1 One representation has been received during the consultation period following the making of this Order. That doesn't relate to the principle of the decision, but to the actual location of the trees to be protected.

- 4.2 The TPO Regulations enable an Order to be modified upon confirmation and in this would be the appropriate action here.

...

- 4.3 For the avoidance of doubt a modified Order Plan is attached at Appendix B and the modified Order is at Appendix C. The Schedules at the back of Appendix C, highlight the location changes.

...

5 Report Implications

5.1 Finance and Value for Money Implications

5.1.1 Members are aware that in certain circumstances, compensation may be payable following confirmation and any subsequent refusal of consent to undertake works to the trees.

5.2 Environment, Sustainability and Health Implications

5.2.1 The trees have substantial public amenity value and their protection would contribute to the quality of the redevelopment scheme in the locality.

The Contact Officer for this report is Jeff Brown (719310).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date

Agenda Item No 7

Planning and Development Board

6 August 2018

Report of the
Head of Development Control

Tree Preservation Order - Land at
The Old School and Polesworth
Learning Centre, High Street,
Polesworth

1 Summary

- 1.1 The land on which the trees are situated is the subject of a current planning application proposing the development of the land with twelve new dwellings (PAP/2017/0425). The associated planning application has been reported earlier in the agenda. The site contains a number of trees, some of which will be felled as part of the planning application but others of which are significant trees, having importance in the landscape.
- 1.2 The trees have been inspected and those that are to remain have been identified as worthy of a Tree Preservation Order (TPO). The trees are visible from surrounding streets. They are located at the approximate positions shown on aerial photography (Appendix 1). The trees are shown with more accuracy in the tree survey schedule and plan contained in Appendix 2. The trees proposed to be protected are referred to as T6, T7, T8, T10, T11, T12, T13 and G2. It is proposed to protect these trees with a TPO.

Recommendation to the Board

That a Tree Preservation Order be made with immediate effect, in respect of seven individual trees and one group of trees located at The Old School and Polesworth Learning Centre, High Street Polesworth for the reasons given in this report, and that any representations received be referred to the Board for it to consider whether to make the Order permanent.

2 Background and Statement of Reasons

- 2.1 The planning application (PAP/2017/0425) is a full planning application application for 12 dwellings. The scheme shows the retention of these trees along the southern and western boundaries of the site. Retained trees, in the context of the proposed site layout, are shown below:



2.2 The trees are shown in the photographs below:

Trees on the southern boundary of the site:



Trees on the western boundary of the site:



View from High Street (middle and far distance trees):



- 2.3 The trees are considered to be good specimens in terms of their physiological and structural condition; there are no visible defects and have good longevity. The trees are large and clearly visible across a significant public area, meaning that they have high amenity value and strong suitability for protection with a Tree Preservation Order. These trees are visually prominent and make a very important contribution to the character and appearance of the Conservation Area and the setting of the listed buildings, including the church/abbey. The Council's TEMPO report shown in Appendix 3 supports this, showing that an order is highly defensible.

- 2.4 Though the proposed site layout shows the retention of the trees they would nevertheless be close to the proposed development site. It would be reasonable to predict that future occupiers may perceive future “issues” by way of claims of nuisance caused to the occupants of the properties either by shading of gardens or root trespass and damage/subsidence concerns (unfounded or otherwise will cause the untrained person to raise numerous concerns with the potential removal of the trees requested). Though the trees are within a Conservation Area and therefore afforded some protection already, without the protection of a Tree Preservation Order, it would be easier to seek the removal or substantial cut back of the trees. The Council’s Tree Officer recommends that these trees are worthy of protection of Tree Preservation Orders due to their high amenity value, mature age class and good condition. The trees also make a valuable contribution to the heritage setting of the area. It is reasonable to believe that the development could be considered easier to execute, and manage going forward, without the impediment of the trees, or that the removal of them, or works to them, could be believed to enhance the development value. Though these threats may be relatively low, given the significance of the trees, it is considered appropriate to clarify their status and protection with a TPO is justified.
- 2.5 Given the above, a Tree Preservation Order is recommended. The owners/occupiers of the property and the adjoining owners/occupiers will be served with copies of the TPO and will have an opportunity to make representations/objections.
- 2.6 A further report will be presented to the Planning and Development Board for Members to consider whether the TPO should be confirmed and made permanent.

3 Report Implications

3.1 Legal and Human Rights Implications

- 3.1.1 The owners of the land and those with an interest in it have the opportunity to make representations to the Council before any Order is confirmed.

3.2 Environment and Sustainability Implications

- 3.2.2 The tree to be protected exhibits an amenity value for both the present and the future amenities of the area, given its appearance and prominence in the street scene. They add significantly to the character and appearance of the Conservation Area.

3.3 Financial and Value for Money Implications

- 3.3.2 Members are aware that the making of an Order does not carry any financial implications, but in certain circumstances, following confirmation of an Order, compensation might be payable in the event of future refusals of Consent to undertake work to the trees.

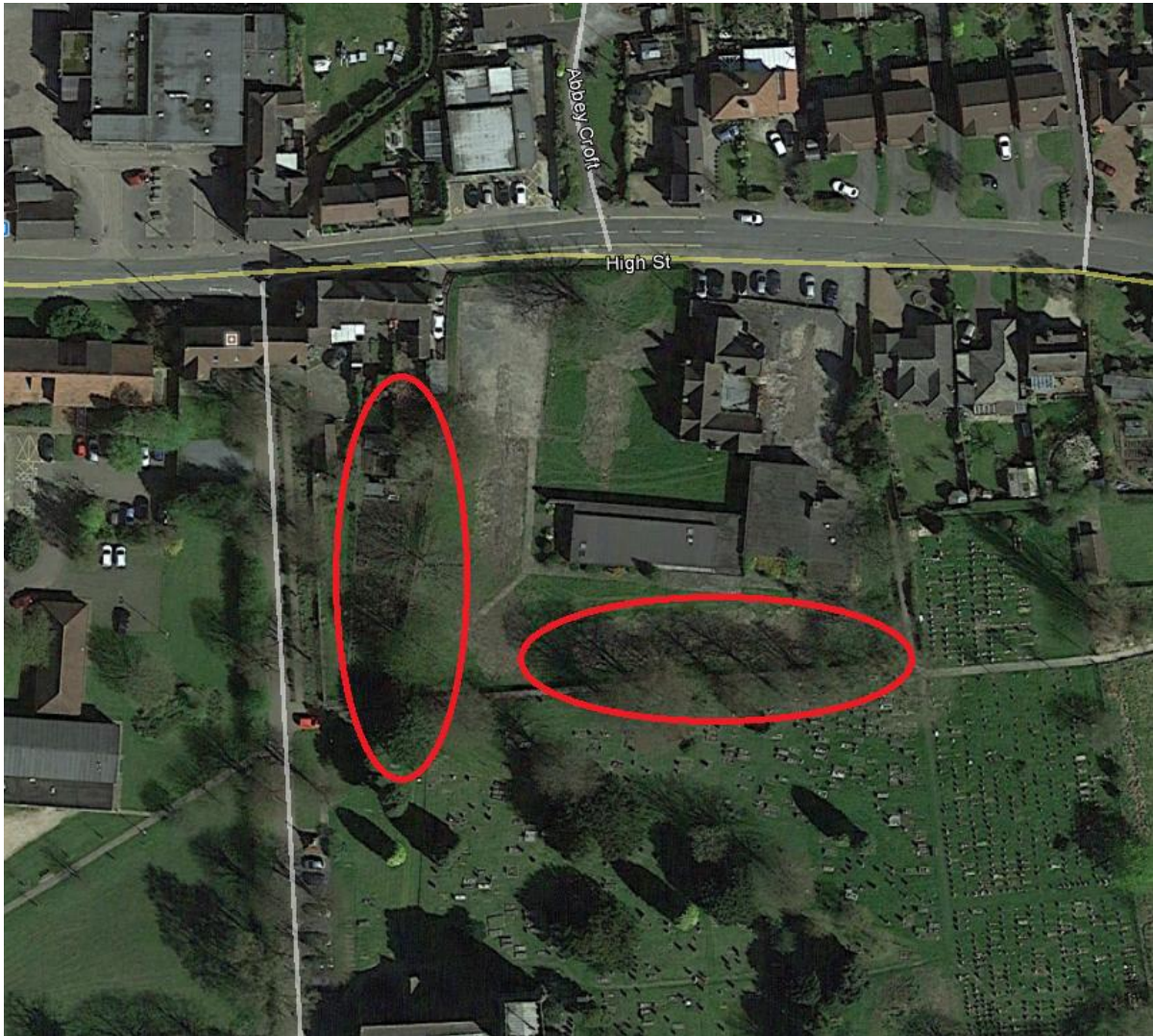
Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date
1	NWBC Tree Officer	TEMPO Evaluation	25/07/2018

The Contact Officer for this report is Erica Levy (01827 719294)

Appendix 1



APPENDIX 2 : SURVEY SCHEDULE (page 1 of 3)

Tree No.	Species (common name)	Age class	Height (m)	Crown Spread (m) :					Crown Clearance (direction)	Stem dia. (mm)	Vigour	Amenity Value	Condition	Comments	Recommendations	Ret. Cat. (sub cat.)	RPA (m)
				N	E	S	W										
T1	<i>Prunus serrulata</i> 'Tai Haku' (Great White Cherry)	mature	10	6.5	6.5	6.5	6.5	6.5	2.5	480	normal	moderate	fair	Co-dominant stems from 2m, heavily cankered on stem and primary branches	Remove to facilitate development	B (1)	(5.8)
T2	<i>Prunus serrulata</i> 'Tai Haku' (Great White Cherry)	mature	10	6	6	6	6	9	0	470	normal	moderate	Fair/poor	Pronounced crown die-back, major deadwood, heavily cankered	REMOVE	U	n/a
T3	<i>Prunus avium</i> (Wild Cherry)	Semi-mature	6	3	3	3	3	3	1.5	170	normal	low	Good/fair	Self-set tree close to boundary fence	Crown lift on west side only to 2.2m	C	2.1
T4	<i>Sorbus intermedia</i> (Swedish Whitebeam)	Semi-mature	6	2.5	2.5	2.5	2.5	2.5	1.5	3x 100	normal	low	Good/fair	3 stems from base	Remove to facilitate development	C	(2.1)
T5	<i>Ilex aquifolium</i> (Holly)	Semi-mature	5	1	1	1	1	1	0	3x 100	normal	low	Good/fair	3 stems from base, lvy on stems	Remove to facilitate development	C	(2.1)
T6	<i>Aesculus hippocastanum</i> (Horse Chestnut)	mature	16	7.5	7.5	7.5	7.5	7.5	2	650	normal	Mod/high	good	Exposed surface roots, minor bark lesions	No works required	B (1)	7.8
T7	<i>Quercus rubra</i> (Red Oak)	mature	15	10	11.5	8	9	1.5	645	normal	Mod/high	good	Overly extended lower crown to east	Crown lift to 2.5m	A (1)	7.8	

The Old School Site, Polesworth : Tree Survey Report - June 2017

Tree No.	Species (common name)	Age class	Height (m)	Crown Spread (m):				Crown Clearance (direction)	Stem dia. (mm)	Vigour	Amenity Value	Condition	Comments	Recommendations	Ret. Cat. (sub cat.)	RPA (m)
				N	E	S	W									
T8	<i>Carpinus betulus</i> (Hornbeam)	mature	14	7.5	7.5	7.5	7.5	1	660	normal	Mod/High	good	No comments	Crown lift to 2.5m	A (1)	7.9
T9	<i>Fraxinus excelsior</i> (Ash)	mature	23	8	7	10	12	2.5	890	normal	Mod/High	Fair/poor	Co-dominant stems from 3.5m, advanced crown die-back to north & east, major unstable deadwood, east stem constricted by wire at 3.5m, old floodlight attached lower branch to east	REMOVE subject to protected species regs.	U	n/a
T10	<i>Tilia x europaea</i> (Common Lime)	mature	21	7.5	7.5	7.5	7.5	2	650	normal	Mod/High	Good/fair	Located off site in Churchyard	No works required	B (2)	7.8
T11	<i>Taxus baccata</i> (Yew)	mature	12	7	7	7	7	2	600	normal	Mod/High	good	Located off site in Churchyard	No works required	A (1/2)	7.2
T12	<i>Acer pseudo-platanus</i> (Sycamore)	Early mature	13.5	3	4.5	4.5	4.5	2	2x 300	normal	Moderate	good/fair	Located off site, co-dominant stems from base	No works required	B (2)	5.0
T13	<i>Salix caprea</i> (Goat Willow)	mature	11	6	2	4	7	2.5	4x 250	normal	moderate	Good/fair	Located off site, 4 co-dominant stems	No works required	B (2)	6.0

The Old School Site, Polesworth : Tree Survey Report - June 2017

Group No.	Species (common name)	Age class	Height (m)	Crown Spread	Crown Clearance (direction)	Stem dia. (mm)	Vigour	Amenity Value	Condition	Comments	Recommendations	Ret. Cat. (sub cat.)	RPA (m)
G1	<p>2no. <i>Taxus baccata</i> (Yew), 1no. <i>Crataegus monogyna</i> (Hawthorn), 1no. <i>Betula pendula</i> (Silver Birch), 1no. <i>Chamaecyparis lawsoniana</i> (Lawson Cypress)</p>	Early mature	< 7	See plan	0	Avg. 300	normal	moderate	Good to fair	Boundary group of densely planted trees and shrubs (including one Buddlia), combined and congested crowns, Cypress at north end of better quality	Remove all but the Lawson Cypress to facilitate construction of parking area / replant boundary with Yew hedging post-construction	B (2)	3.6
G2	<p>1no. <i>Quercus rubra</i> (Red Oak), 3no. <i>Aesculus hippocastanum</i> (Horse Chestnut), 3no. <i>Tilia x europaea</i> (common Lime), 1no. <i>Fagus sylvatica</i> (Beech)</p>	mature	< 23	See plan	1.5	Avg. 750	normal	high	Good to fair	Large linear group of off-site trees in Churchyard	Crown lift over site to 2.5m	A (2)	9.0

Appendix 3

The trees the subject of this TEMPO are referred to as T6, T7, T8, T10, T11, T12, T13 and G2 in tree survey schedule and plan

TREE EVALUATION METHOD FOR PRESERVATION ORDERS (TEMPO)

SURVEY DATA SHEET & DECISION GUIDE

Date: 25/07/2018 Surveyor: Andrew Watkins.

Tree details
 TPO Ref (if applicable): Tree/Group No: Species: OAK, LIME, HORNBEAM, BEECH
 Owner (if known): Location: POLESWORTH LEARNING CENTRE, HIGH STREET, POLESWORTH

REFER TO GUIDANCE NOTE FOR ALL DEFINITIONS

Part 1: Amenity assessment

a) Condition & suitability for TPO

- 5) Good Highly suitable
- 3) Fair Suitable
- 1) Poor Unlikely to be suitable
- 0) Dead Unsuitable
- 0) Dying/dangerous* Unsuitable

Score & Notes 3) Trees in fair condition given that the site is currently vacant.

* Relates to existing context and is intended to apply to severe irremediable defects only

b) Retention span (in years) & suitability for TPO

- 5) 100+ Highly suitable
- 4) 40-100 Very suitable
- 2) 20-40 Suitable
- 1) 10-20 Just suitable
- 0) <10* Unsuitable

Score & Notes 2) Trees should meet the higher end of the retention span, even after development of the site.

*Includes trees which are an existing or near future nuisance, including those clearly outgrowing their context, or which are significantly negating the potential of other trees of better quality

c) Relative public visibility & suitability for TPO

Consider realistic potential for future visibility with changed land use

- 5) Very large trees with some visibility, or prominent large trees Highly suitable
- 4) Large trees, or medium trees clearly visible to the public Suitable
- 3) Medium trees, or large trees with limited view only Suitable
- 2) Young, small, or medium/large trees visible only with difficulty Barely suitable
- 1) Trees not visible to the public, regardless of size Probably unsuitable

Score & Notes 4) High portions of trees are visible to public local to site.

d) Other factors

Trees must have accrued 7 or more points (with no zero score) to qualify

- 5) Principal components of arboricultural features, or veteran trees
- 4) Tree groups, or members of groups important for their cohesion
- 3) Trees with identifiable historic, commemorative or habitat importance
- 2) Trees of particularly good form, especially if rare or unusual
- 1) Trees with none of the above additional redeeming features

Score & Notes 4) Tree group of high amenity value give diversity of genus represented.

Part 2: Expediency assessment

Trees must have accrued 9 or more points to qualify

- 5) Immediate threat to tree
- 3) Foreseeable threat to tree
- 2) Perceived threat to tree
- 1) Precautionary only

Score & Notes 1) Threat to trees is precautionary only at this time.

Part 3: Decision guide

- Any 0 Do not apply TPO
- 1-6 TPO indefensible
- 7-10 Does not merit TPO
- 11-14 TPO defensible
- 15+ Definitely merits TPO

Add Scores for Total:
14

Decision:
TPO defensible

Land currently known as Polesworth Learning Centre TPO 713.060/3

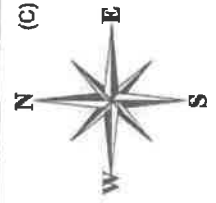


Date: 04/10/18
Scale: 1:850



North Warwickshire

- T1 - HORNBAM.
- T2 - WILLOW
- T3 - SYCAMORE
- T4 - OAK
- T5 - HORSE CHESTNUT



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Ordnance Survey



Town and Country Planning Act 1990

North Warwickshire Borough Council

(Polesworth Learning Centre, High Street, Polesworth)

Tree Preservation Order, 2018

The North Warwickshire Borough Council, in exercise of the powers conferred on them by section 198 of the Town and Country Planning Act 1990 make the following Order—

Citation

1. This Order may be cited as the North Warwickshire Borough Council (Polesworth Learning Centre, High Street, Polesworth) Tree Preservation Order, 2018.

Interpretation

2.—(1) In this Order “the authority” means the North Warwickshire Borough Council.

(2) In this Order any reference to a numbered section is a reference to the section so numbered in the Town and Country Planning Act 1990 and any reference to a numbered regulation is a reference to the regulation so numbered in the Town and Country Planning (Tree Preservation)(England) Regulations 2011.

Effect

3.—(1) Subject to article 4, this Order takes effect provisionally on the date on which it is made.

(2) Without prejudice to subsection (7) of section 198 (power to make tree preservation orders) or subsection (1) of section 200 (tree preservation orders: Forestry Commissioners) and, subject to the exceptions in regulation 14, no person shall—

(a) cut down, top, lop, uproot, wilfully damage, or wilfully destroy; or

(b) cause or permit the cutting down, topping, lopping, wilful damage or wilful destruction of,

any tree specified in the Schedule to this Order except with the written consent of the authority in accordance with regulations 16 and 17, or of the Secretary of State in accordance with regulation 23, and, where such consent is given subject to conditions, in accordance with those conditions.

Application to trees to be planted pursuant to a condition

4. In relation to any tree identified in the first column of the Schedule by the letter “C”, being a tree to be planted pursuant to a condition imposed under paragraph (a) of section 197 (planning permission to include appropriate provision for preservation and planting of trees), this Order takes effect as from the time when the tree is planted.

Dated this day of October 2018

The Common Seal of the North Warwickshire Borough Council
was affixed to this deed in the presence of -

.....
The Designated Officer
Signed on behalf of the North Warwickshire Borough Council

CONFIRMATION OF ORDER

This Order was confirmed by the North Warwickshire Borough Council without modification on
the day of

OR

This Order was confirmed by the North Warwickshire Borough Council, subject to the modifications
indicated by , on the day of

.....
The Designated Officer
Signed on behalf of the North Warwickshire Borough Council

DECISION NOT TO CONFIRM ORDER

A decision not to confirm this Order was taken by North Warwickshire Borough Council on
the day of

.....
The Designated Officer
Signed on behalf of the North Warwickshire Borough Council

VARIATION OF ORDER

This Order was varied by the North Warwickshire Borough Council on
the day of

by a variation order under the reference number
a copy of which is attached

.....
The Designated Officer
Signed on behalf of the North Warwickshire Borough Council

REVOCATION OF ORDER

This Order was revoked by the North Warwickshire Borough Council on
the day of

.....
The Designated Officer
Signed on behalf of the North Warwickshire Borough Council

Schedule 1, Specification of trees

Trees specified individually

(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Hornbeam	T1, T2, T3, T4, and T5 are all situated in a line within the curtilage of land to the rear of 34 High Street, Polesworth, B78 1DU currently known as Polesworth Learning Centre as marked on the Map
T2	Willow	
T3	Sycamore	
T4	Oak	
T5	Horse Chestnut	

Trees specified by reference to an are

(within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
NONE		

Groups of trees

(within a broken black line on the map)

<i>Reference on map</i>	<i>Description (including number of trees of each species in the group)</i>	<i>Situation</i>
NONE		

Woodlands

(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
NONE		

Amended Schedule 1, Specification of trees

Trees specified individually

(encircled in black on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
T1	Hornbeam	T1, T4, and T5 are all situated in a line within the curtilage of land to the rear of 34 High Street, Polesworth, B78 1DU currently known as Polesworth Learning Centre as marked on the Map
T2	Willow	
T3	Sycamore	
T4	Oak	
T5	Horse Chestnut	

Trees specified by reference to an are

(within a dotted black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
-------------------------	--------------------	------------------

NONE

Groups of trees

(within a broken black line on the map)

<i>Reference on map</i>	<i>Description (including number of trees of each species in the group)</i>	<i>Situation</i>
-------------------------	---	------------------

NONE

Woodlands

(within a continuous black line on the map)

<i>Reference on map</i>	<i>Description</i>	<i>Situation</i>
-------------------------	--------------------	------------------

NONE

Agenda Item No 10

Planning and Development Board

4 February 2019

Report of the Corporate Director - Environment

Local List of Heritage Assets

1 Summary

- 1.1 The report seeks the Board's approval to establish a local list of heritage assets in North Warwickshire that are non-designated.

Recommendation to the Board:

- a Agree the draft selection criteria (Appendix A) and nomination form (Appendix B); and**
- b Agree to consult on the draft selection criteria (Appendix A) and request nominations to the Local Heritage Listings via nomination forms (Appendix B) for a minimum of six weeks**

2 Consultation

- 2.1 Consultation has taken place with Councillors Simpson, Sweet and Reilly. Any comments received will be reported at the meeting.

3 Introduction

- 3.1 The proposal is to produce a local list of heritage assets (non-designated) for the Borough. The local list would include buildings of a special architectural and/or historic interest that are not on a statutory list i.e. buildings and structures not listed. The local list may also include historic landscape features, structures or monuments of local interest and of local value which are not nationally listed by the Government.
- 3.2 It is proposed to publicise the production of the local list. The appendix of this report sets out a draft selection criteria and nomination form and subject to the agreement of the Board, officers propose to launch a public consultation for a minimum period of six weeks.

4 Background

- 4.1 The reason for a local list is in response to the growing pressure from development in North Warwickshire, which has inevitably compromised some non-designated heritage assets of local importance. The consideration of non-designated Heritage Assets is mentioned in paragraph 197 of section 16 *Conserving and enhancing the historic environment* of the NPPF: “*The effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset.*” A local list is a way of helping conserve buildings of local, rather than national importance, which make a positive contribution to the character of North Warwickshire and re-enforcing the sense of local character and distinctiveness in the historic environment. Moreover, the adoption of a local list will assist the Council when make planning decisions. In addition, various Neighbourhood Plans have highlighted the importance of key buildings and structures.
- 4.2 Although local listing will not have the level of protection of statutory designation, it will be a “material planning consideration” when planning permission is sought which might harm a building’s special interest or the character of the historic environment. It will complement the policies of the adopted Core Strategy (NW14) and emerging Local Plan (LP12).
- 4.3 Local listing does not change any existing permitted development rights for a property but is considered as a “material planning consideration” that can be included in the decision making process of any application affecting the property.
- 4.4 Neighbourhood Plans have assisted in identifying local non – designated heritage assets, such as buildings of local architectural and/or historic interest. A list can firstly be compiled of those assets already identified through Neighbourhood Plans

5 Observations

- 5.1 There could be many nominations for buildings for other features in the historic environment that might have potential for meeting the criteria for local listing. It is therefore proposed to commence with the inclusion of local buildings of architectural or historic significance already identified through neighbourhood plans and subsequently adding to the list following public consultation for nominations throughout the Borough. The list will be increased in stages and regular reports provided to Planning Board to assist in adopting the local list.

a) What is a local list?

- 5.2 A local list is one of the tools used to conserve and enhance the historic environment. It will set out information for some of the non- designated

heritage assets within North Warwickshire. Some non-designated heritage assets can be located within Conservation Areas and would benefit from the control over demolition afforded by the Planning (Listed Buildings and Conservation Areas) Act 1990.

- 5.3 The development of a Local Heritage List will provide benefits for:
- The protection and/or enhancement of heritage assets to inform the character of new development.
 - Generating economic benefits through retention and re-purposing of heritage assets.
 - Retaining the character and the local distinctiveness of the historic environment.
- 5.4 The NPPF identifies that the conservation of a non-designated heritage asset is a material consideration when determining the outcome of a planning application. This helps to inform the management of the asset and inform the balanced judgement with regard to the scale of any harm or loss and the significance of the heritage asset.

b) What are the implications?

- 5.5 Locally listing a building does not however provide statutory protection from demolition in areas outside of the Conservation Area. The threat is that of the prior notification procedure under Class B, Part 11, of Schedule 2 of the Town and Country Planning (General Permitted Development) Order, 2015, as amended, which permits demolition unless assets are statutorily protected, in other words a local list does not guarantee retention of a local heritage asset. Other controls may be necessary such as Article 4 Directions.

c) How to select a building or site to include on the local list

- 5.6 In order to include a local heritage asset on the local list then there must be a selection criteria used to identify an assets character and historic interest. The preparation and use of selection criteria is a consistent way for identifying and managing the importance of the local heritage assets. Each local listing will have a set of heritage values contributing to their significance which have been developed by Historic England in their Conservation Principles, Policies and Guidance, 2008. This document provides information for local planning authorities on establishing the criteria for Local Heritage Listings, while recognising the need for a flexible approach to respond to local requirements. The main heritage values are defined as the following:
- Historic value
 - Aesthetic value
 - Evidential value
 - Communal value
- 5.7 Additional “local” selection criteria is also relevant as provided by the Historic England Advice Note: 7: Local Heritage Listing; the following criteria will also be relevant to an assets significance:
- Age

- Aesthetic interest
- Group value
- Rarity
- Historical Association
- Archaeological interest
- Archival interest
- Designed landscape interest
- Social value
- Landmark status

5.8 The above selection criteria have been drafted in the selection guidance in Appendix A of this report. Each local listing may meet several of the aforementioned selection criteria. There may be nominated assets that do not meet the criteria for inclusion on the local list. The selection criteria can be used to ensure the proper validation and recording of each local heritage asset. The nomination form at Appendix B requires justification on how a local asset meets the criteria for inclusion on the North Warwickshire local list of heritage assets.

d) Implementation

5.9 The process for establishing a local list will involve undertaking both internal/ external consultation.

5.10 It is proposed to undertake a six-week consultation period envisaged on the following elements:

- selection criteria; and
- request for nominations to the local list

5.11 The consultation will involve:

- provision of information on North Warwickshire webpages;
- notification of parish councils and interested parties by email or letter;
- public notices in local newspaper publications; and
- publication on social media (Facebook and Twitter).
- publication in North Talks, encouraging nomination from the members of the public.

5.12 Following the close of consultation, all nominations will be considered and an assessment will be made against the selection criteria. Nominated assets will be further discussed with Parish Councils, Warwickshire County Council's Historic Environment team and the various Civic Societies. In addition, discussions will take place with the owners and tenants (where appropriate) of the assets inviting views on its heritage value and suitability for inclusion in the Local List. All responses will be reported back Board.

e) Adoption

5.13 The final local list will be presented to the Board for consideration and for adoption. If adopted, the Local Heritage Listings and selection criteria will be

published on the North Warwickshire website and used to update any relevant heritage information sources such as the Historic Environment Record. Landowners and tenants will be informed via email and/or letter. The local list will be reviewed and up-dated as and when appropriate. It will be monitored on an annual basis.

6 Report Implications

6.1 Legal, Data Protection and Human Rights Implications

6.1.1 Local Listing is not a statutory procedure and therefore any property which is Locally Listed will not have statutory protection. However, Local Listing is considered to be a “material planning consideration” that can be considered as part of a planning application affecting a locally listed building or site.

6.2 Environment, Sustainability and Health Implications

6.2.1 The historic environment is an important asset for the Borough as highlighted in the Core Strategy, the emerging Local Plan and various Neighbourhood Plans.

6.3 Links to Council’s Priorities

6.3.1 A local list is directly linked to the Council’s priority of “*protecting and improving our countryside and heritage in times of significant growth challenges.*” The local list will provide an opportunity to have a greater input into any changes that may affect buildings or structures on the list.

The Contact Officer for this report is Fiona Wallace (719475).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date

North Warwickshire Local List
Selection Criteria

- 1 This note sets out the criteria that will be used in nominating and selecting those buildings, structures, historic or special features in the landscape, gardens, memorials or sunken lanes that will be placed on to the Local Heritage List for North Warwickshire.
- 2 North Warwickshire has an abundance of designated and non-designated Heritage Assets that collectively contribute to the historic environment within North Warwickshire. Designated Heritage Assets range from Scheduled Ancient Monuments, Historic Parks and Gardens, Grade 1, 2* and 2 listed buildings and protection of historically significant townscapes and settlements through designated Conservation Areas.
- 3 There are many other non-designated heritage assets of local importance that are valued by the local community for their contribution to a setting or place. Including local non-designated heritage assets on a local list would ensure their significance is taken into account in planning decision-making. The local list can include buildings, structures, historic or special features in the landscape, gardens, memorials or sunken lanes that are not of sufficient merit to be statutorily listed but are seen to be of local historic importance or architectural significance.

Guidance for assessing the significance of local heritage assets

- 4 Each local listing will have a set of heritage values contributing to their significance which have been developed by [*Historic England in their Conservation Principles, Policies and Guidance 2008*](#). To gain an understanding of the Principle of significance you can access the Historic England website on the link <https://historicengland.org.uk/advice/constructive-conservation/conservation-principles>
- 5 The heritage values are defined as the following:-
 - **Historic Value:** the ways in which past people, events and aspects of life can be connected through a place to the present;
 - **Aesthetic Value:** the ways in which people draw sensory and intellectual stimulation from a place;
 - **Evidential Value:** the potential of a place to yield evidence about past human activity; and
 - **Communal Value:** the meanings of a place for people who relate to it, or for whom it figures in their collective experience or memory.
- 6 Furthermore, Historic England Advice Note 7: Local Heritage Listing - provides advice and guidance on local selection criteria to assist with identifying local heritage assets suitable for listing. This can be accessed on the link <https://historicengland.org.uk/images-books/publications/local-heritage-listing-advice-note-7/>

- 7 The selection criteria developed by Historic England provides a consistent way for identifying and managing the importance of the local heritage assets to ensure the proper validation and recording of each local heritage asset. The local selection criteria are set out below:

Age	The age of an asset may be an important criterion to take into account distinctive local characteristics or building traditions. Age does not necessarily mean that the building has to be decades old. Mid to late 20th Century buildings also may be considered.
Aesthetic Interest	The intrinsic design value of an asset relating to local styles over its lifetime, materials or any other distinctive local characteristics. The authenticity of the remaining historic fabric and whether the building, structure, or landscape represents a good example of intact features that are authentic to the period.
Group Value	Groupings of assets with a clear visual design or historic relationship
Rarity	Appropriate for all assets, it could be the last surviving example of its type
Historical Association	The significance of a heritage asset may be enhanced by historical association of local or national note, including links to important local figures or events.
Archaeological Interest	The local heritage asset may provide evidence about past human activity in the locality, which may be archaeological – that is in the form of buried remains – but may also be revealed in the structure of buildings or in a manmade landscape.
Archival Interest	The significance of a local heritage asset may be enhanced by a contemporary or historic written record.
Designed Landscape Interest	The interest attached to locally important historic designed landscapes, parks and gardens that may relate to social history. This may be a local green space.
Social and Communal Value	Sources of local identity, distinctiveness, social interaction and coherence, contributing to the ‘collective memory’ of a place.
Landmark Status	An asset with strong communal or historical associations, or because it has an especially striking aesthetic value, may be a landmark within the local scene.

- 8 The above criteria will be used for nominating and assessing a local heritage asset.



North Warwickshire
Borough Council

North Warwickshire Local List of Heritage Assets – Nomination Form

Name and location of your nominated heritage asset *(please provide a photograph and map – if possible and an address point):*

Please refer to the separate note: *North Warwickshire Local Heritage List - Selection Criteria*. The note explains the selection criteria which will be used in determining whether a nomination is successful. It is very important to provide as much information in this form as possible to explain how the selection criteria are being addressed.

A WHAT IS IT?

Please tick one of the following:

	A building or group of buildings
	A monument or site (an area of archaeological remains or a structure other than a building)
	A place (a street, park, garden or open space)
	A landscape (an area defined by a visual feature, village, suburb, field system, sunken lane)

B WHY IS IT SIGNIFICANT? Indicate what it is about the asset that is valued locally. Please use the heritage values to define significance (Section 5 of the Note on Selection Criteria).

Historic:

Aesthetic:

Communal:

Evidential:

C ARE THERE OTHER FACTORS OF HERITAGE SIGNIFICANCE?

Indicate what might make your nominated asset stand out from the surrounding environment (Section 7 of Note Selection Criteria):

Age: Is it old, or does it have a Significant date?	
Rarity: Is it unusual in the area. Or an only surviving example?	
Identity: Does it have a particular character that would be typical of North Warwickshire?	
Group Value/Quality: It is part of a group of assets?	
Landmark Quality: Does it have a visual prominence in the townscape/landscape?	
Other: Is there any other factor: Local value or Landscape interest? Archaeological Interest? Or Archival record? – Please explain	

Contact Details

Please provide us with your contact details so we can contact you to deal with any queries or to find out any additional information in relation to this nomination. We will not provide this information to a 3rd party.

Name:.....

Telephone:.....

Email:.....

Please tick this box if you would like you details to be added to the Local Plan mailing list to be kept informed of planning policy work by the Borough Council.

(The Privacy Notice and how your data will be used can be found on the Council's website – www.northwarks.gov.uk.)

Returning this Form

Please return the form using any of the following:

By email: planningpolicy@northwarks.gov.uk

By Post: Heritage and Conservation Officer,
Forward Planning Team,
North Warwickshire Borough Council,
The Council House,
South Street,
Atherstone
CV9 1DE

If you have any queries please contact Fiona Wallace on 01827 719475 or email fionawallace@northwarks.gov.uk.

Agenda Item No 11

Planning and Development Board

4 February 2019

Report of the Corporate Director - Environment

Hinckley and Bosworth New Directions for Growth Consultation

1 Summary

- 1.1 Hinckley and Bosworth Borough Council (HBBC) have published for consultation a document setting out new directions for future growth as part of the review of their Local Plan.

Recommendations to the Board:

- a The report be supported; and**
- b These observations and any further comments by Members be sent to HBBC by Sunday 3 March 2019**

2 Consultation

- 2.1 A copy of the report has been sent to Councillors Simpson, Reilly and Sweet. Any comments received will be reported at the meeting.

3 Local Plan Review

- 3.1 Hinckley and Bosworth Borough Council (HBBC) has published "*Local Plan Review: New Directions for Growth Consultation*" which builds upon the Scope, Issues and Options consultation undertaken in January 2018. The current consultation is open from Monday, 7 January 2019 until Sunday, 3 March 2019. The document can be viewed at www.hinckley-bosworth.gov.uk/localplanreview.
- 3.2 The *New Directions for Growth Consultation* is the next stage in the process for preparing a new Local Plan 2016 to 2036 for HBBC. This will replace the existing planning framework comprising the Core Strategy (2009), Site Allocations and Development Management Policies DPD (2016), and the Hinckley Town Centre (2011) and Earl Shilton and Barwell (2014) Area Acton Plans.
- 3.3 As part of this consultation HBBC are also asking for sites to be put forward which may be capable of accommodating new housing and economic growth

which they will consider for their suitability for inclusion as allocations in the Local Plan.

3.4 There are three suggested areas for growth.

1. M42 Opportunity Area
2. North West of the urban area
3. North east connections to Leicester

These growth areas are beyond the current permissions which are focussed around the existing settlements.

3.5 The local authorities within Leicestershire have worked together to prepare background evidence to determine the future housing and employment land requirements. The amounts of development are not part of this consultation. The current consultation focuses on options for growth without specifying the amounts. However HBBC have agreed, as have other LPA's within the Leicester / Leicestershire area, a Strategic Growth Plan (SGP) which sets out assumptions about housing and employment numbers. The SGP is a non-strategic document which sets out the growth of homes and jobs expected within the Leicester / Leicestershire area up to 2050. Discussions are ongoing, particularly with Leicester City, as to the exact amount of growth expected to be delivered in other LPA's.

3.6 The consultation document includes 6 main questions:

- Q 1** Do you consider the urban area of Hinckley, Burbage, Earl Shilton and Barwell suffers from transport and infrastructure challenges? If so please explain what you consider the issues to be.
- Q2** Should the authority explore other options for growth beyond the existing urban area? Do you support this and if so why.
- Q 3** If you consider the authority should explore options for growth beyond the existing urban area, within which broad areas identified on map 3 should we focus on, and why?
- Q 4** A new settlement could address some of the housing and employment growth needs in the borough. Should the authority explore options for a new settlement?
- Q 5** No land has so far been identified which could have the potential to accommodate a new settlement. If you think a new settlement is a good idea do you have any suggestions for where a new settlement could be located within the borough?
- Q6** Do you have any other comments/suggestions for how the borough can meet its housing and employment growth needs up to 2036?

4 **Observations**

4.1 The questions within the consultation document are, as expected, very specific to HBBC. This Council's response will focus on the key issues that affect this Borough. For this reason it is not proposed to answer the questions directly but to make some overarching comments.

- 4.2 The size of the growth options is important to understand. This is not clear from the current consultation. Any proposals need to take account of any capacity in the existing infrastructure to cater for the amount of development. If there is no capacity or no facilities then the scale of development needs to be such that it can allow existing infrastructure to be improved or that it brings with it the necessary infrastructure. This is particularly important from this Borough's point of view if any development is close to this Borough, be this a new settlement or expansion of existing settlements. Provision and thought needs to be made to the services and facilities in the area and the burden that additional development will place on services and facilities within NWBC.
- 4.3 The option of building in the M42 Opportunity Area will particularly have an impact on this Borough. The settlements in the northern part of the Borough are generally small in nature accessed by country lanes. Development in the Twycross area of HBBC, for example, will require substantial road improvements. Rat running through the country lanes would increase causing further problems and issues. Any development in this area, due to the current low level of services and facilities, would require new services and facilities. This would result in developments of a suitable scale to provide such infrastructure.
- 4.4 Any proposed option needs to consider the implications on the A5 and its future dualling. HBBC is an active member of the A5 Partnership and is seeking dualling between the M69 and the M42. Further funding to enable the dualling is dependent on the amount of development that can be released directly along the road. Development which is remote from the A5 will not contribute to its improvements even if the traffic will eventually end up on the A5. This means that the A5 needs to be the focus for future growth in order to get these improvements.
- 4.5 As the local authorities within Leicestershire know there is a need to deal with growth that cannot be accommodated within Leicester city's boundary then any proposed development to deal with this growth should have linkages to that area. Public transport linkages and in particular rail should be explored.
- 4.6 In relation to the Duty to Co-operate, if HBBC decide that a new settlement is the way to go forward then further discussions should take place to explore the options for that settlement or settlements to take some of the growth from the Coventry and Warwickshire area. If a new settlement is close to the M42 then this opens up further opportunities to explore in relation to dealing with growth from the Greater Birmingham area.

5 Report Implications

5.1 Environment, Sustainability and Health Implications

- 5.1.1 As part of the Local Plan Review HBBC will need to prepare a Sustainability Appraisal (SA) of the various options. It is expected that a Draft Local Plan will be prepared towards the end of the year and a Draft SA will be prepared alongside that document.

The Contact Officer for this report is Dorothy Barratt (719250).

Background Papers

Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date
1	HBBC	Consultation document	January 2019

Agenda Item No 12

Planning and Development Board

4 February 2019

Report of the Head of Development Control

Reforming Developer Contributions

1 Summary

- 1.1 The report describes a recent Government consultation paper proposing changes to the Community Infrastructure Levy and recommendations are made to the Board in response.

Recommendation to the Board

That the comments made below be referred to the MCLG together with others that the Board may agree.

2 Consultation

- 2.1 Consultation has taken place with the Section 106 Working Group which met on 31 January and its comments made will be reported at the meeting.

3 Background

- 3.1 Members will be aware that the Council is not a Charging Authority in respect of collecting the Community Infrastructure Levy from developers following the grant of planning permissions.
- 3.2 However the Council does continue to collect developer contributions for infrastructure projects through Section 106 Agreements. Such Agreements have to be compliant with the Levy Regulations.
- 3.3 The Board will know too that this compliance is statutorily defined; that there is a “pooling” restriction of the number of Agreements that can contribute towards an eligible project and that these Regulations do not apply to the provision of affordable housing.
- 3.4 The Government has recently published a consultation paper on further reforming these Regulations. Much of the paper relates to amendments to the actual Levy and thus to Charging Authorities. However there are some proposals that will affect the Borough Council as a non-charging Authority.

4. Proposals

- 4.1 The first proposal is to remove the “pooling” restriction on 106 contributions towards an eligible infrastructure project. This is welcomed. Members will know that this “artificial” restriction has affected the scope of contributions and in some cases, the ability to deal with matters in a strategic way. This is reflected elsewhere in the country and particularly where contributions are cross-Authority.
- 4.2 The second is that the Government is proposing that Authorities prepare an Annual Infrastructure Funding Statement which would set out how contributions have been spent. In other words, a monitoring report would become a public document. This too is welcomed as Members have already initiated this process through setting up the 106 Working Group. That Group will increasingly take on this monitoring role.
- 4.3 To assist Authorities with this role, it is proposed that a “monitoring fee” could be included within a Section 106 Agreement. This is welcomed because the scale and scope of future 106 Agreements in the Borough is going to become more complicated and because of the need to provide timely infrastructure to service substantial new developments. Whether this could enable a new staff post would need to be explored.
- 4.4 As indicated above the consultation paper was considered by the 106 Working Group a few days ago and a verbal update will be provided at the meeting.

5 Report Implications

5.1 Finance and Value for Money Implications

- 5.1.1 The removal of the pooling restriction should open up the prospect of increased contributions.

5.2 Environment, Sustainability and Health Implications

- 5.2.1 The prospect of increased contributions and the means to monitor them should enable the timely implementation of essential infrastructure thus delivering more sustainable development.

5.3 Human Resources Implications

- 5.3.1 The prospect of additional resource to monitor contributions is welcomed.

The Contact Officer for this report is Jeff Brown (719310).



Ministry of Housing,
Communities &
Local Government

Reforming developer contributions

Technical consultation on draft regulations



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Scope of the consultation

Topic of this consultation:	<p>This consultation seeks views on draft regulations amending the Community Infrastructure Levy Regulations 2010 (as amended).</p> <p>The draft regulations primarily implement reforms consulted on in March 2018. They also introduce an exemption from the Community Infrastructure Levy for starter homes which was announced in a Written Ministerial Statement in 2015.</p>
Scope of this consultation:	<p>This consultation looks at proposed reforms to the system of developer contributions, primarily the Community Infrastructure Levy and section 106 planning obligations.</p>
Geographical scope:	<p>These proposals relate to England only.</p>
Impact Assessment:	<p>The Community Infrastructure Levy does not fall within the requirements for regulatory impact assessments.</p> <p>The responses to consultation will help to ensure that our proposed changes deliver the intended policy outcome.</p>

Basic Information

To:	This consultation is open to everyone. We are keen to hear from a wide range of interested parties from across the public and private sectors, as well as from the general public. We are particularly interested in comments from developer contributions practitioners.
Body/bodies responsible for the consultation:	Ministry of Housing, Communities and Local Government
Duration:	This consultation is open from 20 December until 31 January.
Enquiries:	For any enquiries about the consultation please contact: DeveloperContributionsConsultation@communities.gov.uk
How to respond:	<p>The consultation questions are embedded in the body of the text. A copy of the draft regulations is set out in Annex A.</p> <p>Consultation responses should be submitted by online survey: https://www.surveymonkey.co.uk/r/PMPJKXJ</p> <p>Responses should be sent via the online survey, particularly from organisations with access to online facilities such as local authorities, representative bodies and businesses.</p> <p>Consultations on planning policy receive a high level of interest across many sectors. Using the online survey greatly assists our analysis of the responses, enabling more efficient and effective consideration of the issues raised for each question.</p> <p>Should you be unable to respond online you can email your responses to: DeveloperContributionsConsultation@communities.gov.uk</p> <p>Or send to:</p> <p>Planning Infrastructure Division Ministry of Housing, Communities and Local Government 3rd floor Fry Building 2 Marsham Street LONDON SW1P 4DF</p>

If you are responding in writing, please make it clear which questions you are responding to.

When you reply it would be very useful if you confirm whether you are replying as an individual or submitting an official response on behalf of an organisation and include:

- your name,
- your position (if applicable),
- the name of the organisation (if applicable),
- an address (including post-code),
- an email address, and
- a contact telephone number

If you are responding on behalf of an organisation, please highlight which group you represent:

Local Authorities (including National Parks, Broads Authority, the Greater London Authority and London Boroughs)
Neighbourhood Planning Bodies / Parish or Town Councils
Private Sector Organisations (including housebuilders, housing associations, businesses, consultants)
Trade Associations / Interest Groups / Voluntary or Charitable Organisations
Academia / Private individual / Other

Introduction

1. The Government announced a package of reforms to the system of developer contributions at Autumn Budget 2017, in response to the Community Infrastructure Levy Review¹. These reforms complement changes to the assessment of viability in the National Planning Policy Framework and aim to make the system of developer contributions more transparent and accountable by:
 - Reducing complexity and increasing certainty for local authorities, developers and communities;
 - Supporting swifter development;
 - Improving the market responsiveness of the Community Infrastructure Levy;
 - Increasing transparency over where developer contributions are spent; and
 - Introducing a new tariff to support the development of strategic infrastructure.

2. The Government consulted on its proposals in March 2018² and published its response to the consultation in October 2018³. The Government is also introducing an exemption from the Community Infrastructure Levy for starter homes which was announced in a Written Ministerial Statement in 2015⁴. We are now consulting on the draft regulations which will amend the Community Infrastructure Levy Regulations 2010 (as amended). These proposals relate to England only.

3. The regulatory changes the Government are bringing forward relate to:

¹ The CIL review team: A new approach to developer contributions, February 2017.

<https://www.gov.uk/government/publications/community-infrastructure-levy-review-report-to-government>

² Supporting housing delivery through developer contributions: Reforming developer contributions to affordable housing and infrastructure.

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/691182/Developer_Contributions_Consultation.pdf

³ Government response to supporting housing delivery through developer contributions: A summary of consultation responses and the Government's view on the way forward

https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/752183/Developer_Contributions_Government_Response.pdf

⁴ <https://publications.parliament.uk/pa/cm201415/cmhansrd/cm150302/wmstext/150302m0001.htm#1503022000006>

- Ensuring that consultation is proportionate;
 - Removing the restriction which prevent local authorities from using more than five section 106 obligations to fund a single infrastructure project (the pooling restriction);
 - Improvements to the operation of the Community Infrastructure Levy;
 - A more proportionate approach to administering exemptions;
 - Extending abatement provisions to phased planning permissions secured before the introduction of the Community Infrastructure Levy;
 - Applying indexation where a planning permission is amended;
 - Indexing Community Infrastructure Levy rates to more closely track the value of development;
 - Removing Regulation 123 restrictions and introducing Infrastructure Funding Statements;
 - Clarifying that local planning authorities can seek a sum as part of a section 106 planning obligation for monitoring planning obligations;
 - Delivering Starter Homes.
4. The purpose of the current technical consultation is to ensure that the draft regulations deliver the intended policy changes and do not give rise to unforeseen consequences. A number of the proposals consulted on in March will be addressed through guidance and these are not considered in this consultation. The Government will also bring forward guidance to support the delivery of the proposals in this consultation.
5. The Government has already introduced changes by reforming the approach to viability, which is set out in the revised National Planning Policy Framework and in associated national planning guidance. This new approach ensures that local plans clearly set out the contributions that developers are expected to make towards infrastructure and affordable housing; introduces a standard approach to establishing land value; and increases transparency and accountability through the publication of viability assessments and through improvements to the monitoring and reporting of section 106 planning obligations.

Reducing complexity and increasing certainty

Ensuring that consultation is proportionate

6. Charging authorities are currently required to undertake two rounds of consultation on proposed Community Infrastructure Levy rates (firstly on a preliminary draft schedule and then on a draft schedule) before they can

introduce or revise the Levy. The majority of charging authorities report that the initial implementation of the Levy took one to two years. Local authorities have suggested that resource constraints can affect their willingness to introduce or review charges.

7. To address concerns about the time taken to introduce or revise a charging schedule, the Government proposed to remove the current requirement for two rounds of consultation and replace it with a statement setting out how the authority had sought an appropriate level of engagement. This would then be considered as part of the examination process.
8. We have modified our proposal in light of the consultation responses. To ensure that stakeholders have the opportunity to feed into the preparation of a charging schedule, and to allow charging authorities to air and consider any issues ahead of the examination, the Government now proposes to retain the requirement for an authority to consult on their draft charging schedule. However, the statutory requirement to consult on a preliminary draft charging schedule will be removed. It will be for charging authorities to decide whether they wish to exceed the minimum consultation requirement and the details of how they wish to consult. A charging authority might, for example, decide to undertake two rounds of consultation if they are introducing the Levy for the first time. In providing authorities with greater flexibility the regulations remove requirements for publishing newspaper notices when introducing a charging schedule, aligning with the approach taken for plan-making.
9. The legislative change is set out in draft regulation 3.
10. **Question 1:** Are there any elements in regulation 3 which will prevent the Government achieving the policy intent?

Removing the restriction which prevents local authorities using more than five section 106 obligations to fund a single infrastructure project ('the pooling restriction')

11. Local authorities are currently prohibited from using five or more section 106 planning obligations to fund a single infrastructure project (the 'pooling restriction'). While the pooling restriction is intended to incentivise local authorities to introduce the Community Infrastructure Levy, it is recognised that it can have distortionary effects and lead to otherwise acceptable sites being refused planning permission.

12. The Government proposed to remove the restriction on local authorities using more than five section 106 obligations to fund a single infrastructure project in the following circumstances:
 - a) in areas that have adopted the Levy;
 - b) where local authorities fall under a threshold based on the tenth percentile of average new build house prices, meaning the Levy cannot feasibly be charged; or
 - c) where development is planned on several strategic sites.

13. The Government proposed that the pooling restriction would be maintained in all other circumstances. The Government also proposed to ensure measures are in place to incentivise uptake and continued use of the Levy.

14. Following the consultation, the Government has decided to lift pooling restrictions altogether. This will address the uncertainty, complexity and delay created by the restriction. It will allow all local planning authorities to seek section 106 planning obligations to fund infrastructure to help support, and bring forward, new housing, regardless of how many planning obligations have already contributed towards an item of infrastructure. This could speed up the delivery of infrastructure as local authorities will be able to raise funding from more developments, where appropriate, to pay for infrastructure.

15. Lifting the pooling restriction in all areas will also allow section 106 to be applied more consistently than under the proposals set out in the consultation document. It will avoid the situation where some areas have unlimited pooling while neighbouring areas still have the restriction in place. It will also create more certainty for developers and local authorities.

16. The regulations will allow local authorities to use both the Levy and section 106 planning obligations to fund the same item of infrastructure. Together with other reforms set out in this consultation, such as removing restrictions in regulation 123 of the Community Infrastructure Regulations 2010 (see paragraphs 48-53 below), this will give charging authorities greater flexibility for funding infrastructure. This will enable authorities to approve development that may otherwise have been refused. The Government will consider how guidance can be used to incentivise uptake and ensure that planning obligations are used effectively. In order to incentivise continued use of the Levy the Government proposes to require that, should authorities consider stopping charging the Levy, they should consult on doing so. The consultation would set out the expected impacts of ceasing to charge the Levy on funding infrastructure and how the authority intended to replace any lost funding. These proposals do not apply to the Mayor of London.

17. Section 106 planning obligations can only be used if they are necessary to make a development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. These requirements, which are set out as statutory tests in the Community Infrastructure Levy Regulations 2010, will remain. By removing regulation 123 restrictions, the Levy, which is collected from a much wider number of developments including those not subject to section 106, could be used in addition to section 106 contributions necessitated by a specific development. For example, an authority could use section 106 contributions from nearby developments to fund a local school, the need for which was created by those developments, and additionally provide Levy funding towards the school (as development elsewhere in their borough could use some of the new school places it provides). The Levy could expedite the delivery of the school by addressing any remaining funding gap without risking the viability of the nearby developments that have already contributed through section 106 obligations.
18. This is set out in draft regulations 4 and 11.
19. **Question 2:** Are there any elements in regulations 4 and 11 which will prevent the Government achieving the policy intent?

A more proportionate approach to administering exemptions

20. The Community Infrastructure Levy regulations allow for certain development (such as residential extensions and self-build housing) to be exempt, or gain relief, from the Levy. In most cases a developer must submit a Commencement Notice to the charging authority prior to the start of works to confirm the exemption or relief. Failure to do so results in the exemption or relief being removed. The full Levy liability then becomes due immediately, and any ability to pay the Levy in phases is removed.
21. There have been cases where developers have submitted Commencement Notices after starting work on site. They have consequently been required to pay the full Levy liability immediately. This affects smaller developers and self-builders particularly, as they tend to be less familiar with the requirements of the legislation. The Government considered that the immediate application of this penalty is disproportionate to the failure to submit a Commencement Notice on time.
22. The Government therefore proposed to introduce a 'grace period' that would allow the Commencement Notice to be served within two months of the start of

the works. If a Notice is submitted within this period, the exemption or relief would remain in place. The Government also sought views on introducing a small penalty charge for submitting a Notice within the proposed grace period.

23. Following the consultation, the Government has decided not to introduce a grace period. The response to the consultation highlighted the difficulty in understanding when the grace period would start and therefore end. It would also result in self-builders still being liable for the full Community Infrastructure Levy liability if they did not put in a Notice before it ended. The Government response therefore set out that a modified proposal would be taken forward. Changes will be made to the penalties associated with the failure to submit a Commencement Notice prior to development being started. Because it is important to understand when development is commenced in order to stop exemptions being used to 'game' the system (e.g. a developer getting an exemption as a self-builder only to then sell on the home) there will, instead, be a smaller penalty than present for not submitting a Notice. The penalty proposed mirrors that elsewhere in the Community Infrastructure Levy regulations: a surcharge equal to 20 per cent of the notional chargeable amount or £2,500, whichever is the lower amount. This will therefore always be lower than the current penalty of the full Levy liability. The Government also proposes to clarify that a Commencement Notice is not required in relation to an exemption for residential extensions.

24. This is set out in draft regulation 7.

25. **Question 3:** Are there any elements in regulation 7 which will prevent the Government achieving the policy intent?

Extending abatement provisions to phased planning permissions secured before the introduction of the Community Infrastructure Levy ('balancing')

26. Where planning permission is first secured for phased development after the Levy comes into force in an area and is subsequently amended under section 73 of the Town and Country Planning Act 1990 (through a 'section 73 application'), provisions exist to offset any resulting increases in Levy liabilities in one phase against any decreases in liability in another phase ('abatement'). However, for developments first permitted before a charging authority implemented the Levy ('transitional' cases), the regulations limit the way in which such abatement can be used. A change in one phase may lead to an increase in liabilities, but this cannot be offset by a decrease in liabilities in another phase as negative liabilities are taken to be zero under the current regulations.

27. The Government proposed to allow phased development originally permitted before the Levy came into force to balance Levy liabilities between different phases of the same development.
28. Following consultation, the Government has taken this proposal forward.
29. This is set out in draft regulation 12.
30. Regulation 128AD will allow phased developments, which were originally consented before the Levy came into force in the area, to offset future Levy liabilities across different phases of the same development. This will mean that negative Levy liabilities in one phase of transitional cases can act as a potential future credit against a liability created in another phase of the development rather than reverting to zero. However, each phase will remain a separate chargeable development.
31. **Question 4:** Are there any elements in regulation 12 which will prevent the Government achieving the policy intent?

Applying indexation where a planning permission is amended

32. If a section 73 application is granted in relation to a chargeable development in an area where there was a charging schedule in effect when the development was first permitted, the charging authority should first establish, following regulation 9, whether there is a difference in Levy liability between the original and the new permission (by assuming, for the purposes of comparison, that they were both calculated on the same day). If there is no difference, the original Levy liability stands. If there is a difference, then a new Levy liability must be calculated, following regulation 40, for the entire new permission. This can result in developers being charged more, because of indexation, for floorspace for which they have already paid the Levy. The Government is also aware that there is uncertainty about how these regulations should be interpreted.
33. The existing regulations are inconsistent with the change brought in through the 2018 regulations⁵ which addressed a parallel issue for developments which were first permitted before there was a charging schedule in place, and which were subsequently amended through a section 73 permission after the charging schedule was introduced. Regulation 128A provides that in such circumstances, an indexed rate of the Levy should be charged on any change in liability, but indexation should not be charged on already permitted floorspace. The Government therefore proposed introducing a similar approach for

⁵ Regulation 128A.- Transitional provision: section 73 of the TCPA 1990 applications

developments first granted planning permission when the Levy was already in place.

34. Following the consultation, the Government has taken this forward by drafting provisions to enable reductions in Levy liability to be calculated at the rate that applied when the original permission was granted and increases in Levy liability to be charged at the rate that applied when the later section 73 permission was granted. In such circumstances, any increased levy would only apply to the change between the previous and latest section 73 permissions in order to avoid charging for already permitted floorspace.
35. A new calculation will ensure that any increases in liability resulting from a section 73 application are charged at the latest rate, including indexation, while previously permitted floorspace continues to be charged at the rate/rates in place when those elements of the development were permissioned. A decrease in liability resulting from a section 73 application is calculated at the indexation rate of the original permission, while other elements of the development continue to be charged at the rate/rates in place when those elements of the development were permissioned.
36. Where a development is recommenced, the earlier liability notice, which had previously been issued for that development, should be re-issued, and a new calculation of liability should not be undertaken.
37. This is set out in draft regulation 6.
38. **Question 5:** Are there any elements in regulation 6 which will prevent the Government achieving the policy intent?

Increasing market responsiveness

Indexation of Community Infrastructure Levy rates

39. To reduce the gap that can open up over time between Levy rates being set and subsequent changes to the value of development, the Government considered linking Levy rates more closely with the value of development, rather than to the cost of building infrastructure. This would mean charging schedules would stay up to date in terms of their impact on viability.
40. The Government proposed that the Levy for residential development should be indexed to the House Prices Index. It could be indexed to either (i) the change in the seasonally adjusted house price index on a monthly or quarterly basis or (ii) the change in the local authority-level house price index on an annual basis.

41. The Government proposed that the Levy for non-residential development should be indexed to a different metric, as there is no clear link between the value of non-residential development and house price inflation. Two approaches were identified: (i) indexing to the Consumer Price Index or (ii) indexing to a combined proportion of the House Price Index and the Consumer Price Index.
42. Following the consultation, the Government has amended the proposal on indexing the Levy. For residential development, the Government proposes indexing to a three-year smoothed average of the annual local House Price Index. This addresses the risk of the volatility of House Price Index data, whilst retaining the close link with changes over time to the viability of the development. We are continuing to test the period over which the index will be averaged, to ensure that three years is the most appropriate option.
43. For non-residential indexation the Government proposes indexing to the Consumer Price Index. This is a national index, and it is proposed that there will not be any smoothing of the data.
44. To implement this, the Government proposes that authorities should set out in their Charging Schedules, or summaries of the rates that apply in their area, which index would apply to development falling within a particular rate. The proposed 'rate summaries' would also allow developers to understand the prevailing rate of the Levy, taking account of indexation changes, in any given year. The proposed changes to indexation also apply in relation to social housing relief and the neighbourhood share of the Levy (including where passed to local councils). In relation to the neighbourhood share, the cap in regulation 59(A)(7) of the Community Infrastructure Levy Regulations 2010 (as amended) has been increased to account for indexation since it was introduced. From the draft regulations coming into force the cap will be indexed to the Consumer Price Index.
45. This is set out in draft regulation 5.
46. **Question 6:** Are there any elements in regulation 5 which will prevent the Government achieving the policy intent?
47. **Question 7:** Do you have any further comments in relation to the Government's proposed approach to Community Infrastructure Levy indexation including, for residential development, the approach of using a smoothed index using local house prices.

Improving transparency and increasing accountability

Removing regulation 123 restrictions and introducing Infrastructure Funding Statements

48. To improve transparency and accountability around the spending of the Community Infrastructure Levy and section 106 planning obligations, the Government proposed to remove the restrictions on section 106 planning obligations in regulation 123. Regulation 123 lists (i.e. the list of infrastructure projects or types of infrastructure that a local authority intends will be, or may be, wholly or partly funded by the Levy) would be replaced with a more transparent approach to reporting by charging authorities on how they propose to use developer contributions through Infrastructure Funding Statements.
49. The Government proposed that local authorities should be required to provide an annual Infrastructure Funding Statement in an open data format. This would provide a flexible tool to set out infrastructure priorities and delivery, and could provide a framework for improving communication with local communities about delivery of section 106 planning obligations.
50. Following the consultation, the Government proposes taking this forward by introducing a requirement for all local authorities (including those that have not implemented the Levy) to publish an annual Infrastructure Funding Statement by 31 December each year. The Infrastructure Funding Statement would report 'what has happened' on revenues from developer contributions and the way in which those revenues have been applied. It would also look forward to anticipated revenues from developer contributions and how they propose to apply them in the following years. The Infrastructure Funding Statement would be available on the local authority website.
51. The Government will produce a data specification and tools to help authorities collect data for their Infrastructure Funding Statements. A draft of the data specification and prototype tools are available for review and comment [here](#).
52. This is set out in draft regulation 9.
53. **Question 8:** Are there any elements in regulation 9 which will prevent the Government achieving the policy intent?

Monitoring fees

54. Charging authorities can use a proportion of the Community Infrastructure Levy to cover the administration of the Levy (including meeting legislative

requirements on reporting). There is uncertainty about whether section 106 planning obligations can be used in a similar way as there is no similar provision for planning obligations. To improve transparency and ensure local communities are better informed about the infrastructure and affordable housing that is being delivered, the Government sought views on whether local planning authorities should be able to seek a sum for monitoring planning obligations as part of a section 106 agreement.

55. In light of the consultation, the Government intends to clarify how section 106 planning obligations can be used for monitoring. The proposals will require reporting of developer contributions from the Community Infrastructure Levy and section 106 planning obligations through the Infrastructure Funding Statement. In order to support this, the Government proposes to specifically permit authorities to seek a monitoring fee through section 106 planning obligations. Any fee should be 'proportionate and reasonable' and reflect the actual cost of monitoring.

56. This is set out in draft regulation 10.

57. **Question 9:** Are there any elements in regulation 10 which will prevent the Government achieving the policy intent?

Delivering Starter Homes

58. In line with the position set out in the housing White Paper *Fixing our Broken Housing Market*, the Government is committed to introducing starter homes as a new affordable home ownership product. The amended Community Infrastructure Levy Regulations include provisions which will exempt starter homes from the Levy where the dwelling is sold to individuals whose total household annual income is no more than £80,000 (£90,000 in Greater London). This is in line with other affordable housing products.

59. This is set out in draft regulation 8.

60. The Government will also be introducing regulations on the broader aspects of the starter homes policy shortly. The National Planning Policy Framework sets out a clear policy for a minimum of 10% affordable home ownership units on larger sites. It is for local areas to work with developers to agree an appropriate level of delivery of starter homes to meet local need, alongside other affordable home ownership and rented tenures. In particular, that there will be no

mandatory requirement for local authorities to deliver starter homes. Local authorities will have the flexibility to choose the appropriate affordable home ownership products to meet local need as set out in the National Planning Policy Framework.

61. **Question 10:** Are there any elements in regulation 8 which will prevent the Government achieving the policy intent?

Other technical clarifications

62. The Government is also proposing to bring forward a small number of other clarifications in the regulations to deal with issues that were identified during and after the March 2018 consultation. These changes are proposed to ensure the Government's original policy intention can be delivered through regulations.

Regulation 40 (Calculation of chargeable amount) – clarifying the meaning of 'retained parts of in-use buildings' (K_R).

63. It has been identified that the definition of K_R in regulation 40 can be read in a way which could allow a section 73 application to reduce the Levy liability. This could occur by including floorspace that had been constructed under the original permission (or an earlier section 73 amendment) as 'retained parts of in-use buildings', where it has been in lawful use for a continuous period of at least six months at the point at which the latest section 73 amendment is granted. This was not the Government's policy intent. It is therefore proposed to amend the definition of 'new build' in regulation 40(11) so that it is clear that chargeable development granted planning permission under section 73 includes any new buildings and enlargements to existing buildings which were built pursuant to the original planning permission to which the new permission relates.

64. See regulation 13.

Regulation 65(12)(c) (Liability notice) – "relevant person" in relation to liability notices.

65. The Government has been made aware of an issue resulting from a change made to regulation 65(12)(c) by the 2014 Regulations⁶ in relation to the definition of 'relevant person'. This impacts on who liability notices must be

⁶ Through regulation 9(3)(e) of the 2014 Regulations
<http://www.legislation.gov.uk/ukxi/2014/385/regulation/9/made>

served on, as well as who is eligible to request a review. The 2014 amendment introduced the word 'phased' into both Regulation 65(12)(b) and (c). This could be taken to exclude planning applicants from being an interested party under Part 10 (Appeals). The Government therefore proposes to omit the word 'phased' from Regulation 65(12) (c), to clarify the policy intent.

66. See regulation 13.

Regulation 128A (Transitional provision: section 73 applications) –multiple section 73 permissions and clarifying how the transitional provisions operate in relation to reliefs and exemptions.

67. There is uncertainty about how the existing transitional provisions in regulation 128A apply in situations where a permission is given under section 73 and an earlier amendment has already been secured. This could lead to a subsequent section 73 permission creating a Levy liability for development originally permitted before the Levy came into effect in an area. There is also uncertainty about how the existing transitional provisions in regulation 128A apply in relation to reliefs and exemptions. There is a risk that Levy liabilities in transitional cases can be artificially reduced due to exemptions or reliefs (for example, social housing relief under regulation 50), being calculated on the basis of the whole of the (post-Levy adoption) section 73 permission, but not on the notional pre-Levy liability. This approach could cause perverse outcomes, such as a development increasing its market housing through a section 73 permission but receiving £0 Community Infrastructure Levy liability in regard to it.

68. The Government proposes to amend the regulations to clarify that where there is any subsequent section 73 permission, Levy liability would still fall to be determined under regulation 128A (and in cases of phased development, under new regulation 128AD). The Government also proposes to amend the regulations to clarify that any liability calculated using Regulation 128A should include all exemptions and reliefs to avoid situations where liabilities for amendments to a planning permission are offset by exemptions or reliefs that relate to already permitted floorspace.

69. See regulation 12.

Application of Regulation 128 in areas where the Mayor of London or a Combined Authority has introduced the Community Infrastructure Levy.

70. This will clarify how the Levy applies where a development is permitted where both a local level Levy and a Mayoral Levy are in place.

71. See regulations 12 and 13.

72. **Question 11:** Are there any elements in regulations 12 and 13 which will prevent the Government achieving the policy intent?

Taking forward reforms

73. The Government is consulting now to ensure that the regulations as drafted deliver the intended policy objectives. Responses in which the draft regulations have been tested against real world developments are likely to be particularly informative. The detailed wording and approach of the regulations will be reviewed in light of the consultation responses, before they are laid in parliament in 2019. The Government will also keep under review whether further technical changes are needed before the regulations are laid in parliament.

74. The Government will also use the responses to identify what additional guidance can usefully be provided to support the implementation of the regulations.

About this consultation

This consultation document and consultation process have been planned to adhere to the Consultation Principles issued by the Cabinet Office.

Representative groups are asked to give a summary of the people and organisations they represent, and where relevant who else they have consulted in reaching their conclusions when they respond.

Information provided in response to this consultation, including personal information, may be published or disclosed in accordance with the access to information regimes (these are primarily the Freedom of Information Act 2000 (FOIA), the Data Protection Act 1998 (DPA) and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please be aware that, under the FOIA, there is a statutory Code of Practice with which public authorities must comply and which deals, amongst other things, with obligations of confidence. In view of this it would be helpful if you could explain to us why you regard the information you have provided as confidential. If the Government receives a request for disclosure of the information it will take full account of your explanation, but cannot give an assurance that confidentiality can be maintained in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not, of itself, be regarded as binding on the Department.

The Ministry of Housing, Communities and Local Government will process your personal data in accordance with DPA and in the majority of circumstances this will mean that your personal data will not be disclosed to third parties. Individual responses will not be acknowledged unless specifically requested.

Your opinions are valuable to us. Thank you for taking the time to read this document and respond.

Are you satisfied that this consultation has followed the Consultation Principles? If not or you have any other observations about how the process can be improved please contact us via the [complaints procedure](#).

Personal data

The following is to explain your rights and give you the information you are be entitled to under the Data Protection Act 2018.

Note that this section only refers to your personal data (your name address and anything that could be used to identify you personally) not the content of your response to the consultation.

1. The identity of the data controller and contact details of our Data Protection Officer

The Ministry of Housing, Communities and Local Government (MHCLG) is the data controller. The Data Protection Officer can be contacted at dataprotection@communities.gsi.gov.uk

2. Why we are collecting your personal data

Your personal data is being collected as an essential part of the consultation process, so that we can contact you regarding your response and for statistical purposes. We may also use it to contact you about related matters.

3. Our legal basis for processing your personal data

The Data Protection Act 2018 states that, as a government department, MHCLG may process personal data as necessary for the effective performance of a task carried out in the public interest. i.e. a consultation.

4. With whom we will be sharing your personal data

Your personal data will not be shared with any organisation outside of MHCLG

5. For how long we will keep your personal data, or criteria used to determine the retention period.

Your personal data will be held for two years from the closure of the consultation

5. Your rights, e.g. access, rectification, erasure

The data we are collecting is your personal data, and you have considerable say over what happens to it. You have the right:

- a. to see what data we have about you
- b. to ask us to stop using your data, but keep it on record
- c. to ask to have all or some of your data deleted or corrected
- d. to lodge a complaint with the independent Information Commissioner (ICO) if you think we are not handling your data fairly or in accordance with the law. You can contact the ICO at <https://ico.org.uk/>, or telephone 0303 123 1113.

6. The data you provide directly will be stored by Survey Monkey on their servers in the United States. We have taken all necessary precautions to ensure that your rights in terms of data protection will not be compromised by this.

7. Your personal data will not be used for any automated decision making.

8. Your personal data will be stored in a secure government IT system.

If you submit information to this consultation using Survey Monkey, it will be moved to our internal systems at a date following the consultation publication date.

ANNEX A – Draft Regulations

Draft Regulations laid before the House of Commons under section 222(2)(b) of the Planning Act 2008, for approval by resolution of that House.

STATUTORY INSTRUMENTS

2019 No.

COMMUNITY INFRASTRUCTURE LEVY, ENGLAND

The Community Infrastructure Levy (Amendment) (England) Regulations 2019

Made - - - - *****

Coming into force in accordance with regulation 1

A draft of these Regulations has been laid before the House of Commons in accordance with section 222(2)(b) of the Planning Act 2008(7) and approved by resolution of that House.

The Secretary of State, in exercise of the powers conferred by sections 205(1), 208(8), 210(1) to (3), 211(3) and (5) to (7), 214(4), 215(1) and (3), 216(5) and (7), 216A(1) and (7), 217(3), 218(1), (3) and (4), 220(1) to (3), 222(1) and 223(1) of the Planning Act 2008, with the consent of Treasury, makes the following Regulations.

PART 1

Introduction

1. Citation, commencement and application

—(1) These Regulations may be cited as the Community Infrastructure Levy (Amendment) (England) Regulations 2019 and come into force on [date].

These Regulations apply in relation to England only.

2. Amendments to the Community Infrastructure Levy Regulations 2010

The Community Infrastructure Levy Regulations 2010(8) are amended in accordance with the following Regulations.

⁽⁷⁾ 2008 c.29. Most of the functions of the Secretary of State under Part 11, in relation to Wales, were transferred to Welsh Ministers by article 44 of S.I. 2018/644.

⁽⁸⁾ S.I. 2010/948.

PART 2

Charging schedules

3. Charging schedules: consultation etc

—(2) In regulation 11, in the definition of “consultation bodies” for “regulation 15” substitute “regulation 16”.

In regulation 14(4) for “preliminary draft charging schedule in accordance with regulation 15” substitute “draft charging schedule in accordance with regulation 16”.

Omit regulation 15.

In regulation 16—

in paragraph (1) omit sub-paragraph (d);

after paragraph (1) insert—

“(1A) The charging authority must make such arrangements as it considers appropriate for inviting representations on the draft charging schedule.

(1B) The charging authority must take into account any representations made to it under this regulation before submitting a drafting charging schedule for examination in accordance with section 212 of PA 2008.”;

in regulation (2) after “In this regulation” insert—

“—

“consultation bodies” means—

(a) each of the following whose area is in or adjoins the charging authority's area—

(i) a local planning authority within the meaning of section 37 of PCPA 2004,

(ii) a local planning authority within the meaning of section 78 of PCPA 2004,

(iii) a county council,

(b) each parish council whose area is in the charging authority's area;

(c) the Mayor if the charging authority is a London borough council;

(d) any other person exercising the functions of a local planning authority (within the meaning of TCPA 1990) for an area within, or which adjoins, the charging authority's area;”.

In regulation 17 omit paragraph (3).

In regulation 18 omit sub-paragraph (b).

In regulation 19(4) for “regulation 15” substitute “regulation 16”.

In regulation 21(8) omit sub-paragraph (c).

In regulation 25 omit sub-paragraph (c).

In regulation 26(5)(e) omit paragraph (i).

In regulation 41(1) omit the definition of “by local advertisement”.

4. Charging schedules: procedure in relation to a charging schedule ceasing to have effect

—(3) In regulation 28 omit paragraph (4).

After regulation 28 insert—

“Charging schedules: procedure in relation to a charging schedule ceasing to have effect

28A.—(1) Subject to paragraph (2), a charging authority (other than the Mayor) which proposes to make a determination under section 214(3) of PA 2008 that a charging schedule is to cease to have effect must—

(a) prepare a statement which provides—

- (i) details of the CIL receipts for the period of five years immediately preceding the date on which the statement is first published in accordance with sub-paragraph (d), or, where the charging schedule was not in effect for the whole of the five years, the period during which the charging schedule was in effect;
 - (ii) an assessment, for the period of five years beginning with the date on which it is proposed the charging schedule will cease to have effect in the area, of the potential effects of the proposal on the funding of infrastructure needs for the area; and
 - (iii) a summary of the policies (in relation to planning obligations or otherwise) the charging authority has or intends to put in place in relation to funding of infrastructure needs for the area, together with an assessment of how effective the authority considers those measures are likely to be in replacing the funding lost on the charging schedule ceasing to have effect;
- (b) make a copy of the documents referred to in sub-paragraph (a) available for inspection at its principal office;
- (c) send a copy of those documents to the consultation bodies;
- (d) publish on its website a statement—
- (i) specifying that the authority proposes to determine under section 214(3) of PA 2008 that a charging schedule is to cease to have effect;
 - (ii) summarising the content of the documents referred to in sub-paragraph (a); and
 - (iii) specifying—
 - (aa) the period (being not less than four weeks) within which representations about the proposal may be made;
 - (bb) the address to which, and the name of the person (if any) to whom, representations about the proposal must be made;
 - (cc) that representations may be made in writing or by way of electronic communications;
 - (dd) that representations may be accompanied by a request to be notified at a specified address of the decision of the charging authority in relation to the proposal; and
- (e) consider any representations made to it under this regulation.
- (2) Paragraph (1) does not apply where the determination referred to in paragraph (1) is part of a proposal under which the charging authority replaces a charging schedule (A) with a new charging schedule provided that A ceases to have effect on the same day the new charging schedule takes effect.
- (3) Where paragraph (2) applies, in addition to complying with regulation 28 in relation to the new charging schedule, a charging authority must make the new charging schedule available for inspection.
- (4) Where a charging authority makes a determination under section 214(3) of PA 2008 that a charging schedule is to cease to have effect it must—
- (a) publish a statement of that fact on its website; and
 - (b) notify the relevant consenting authorities of that fact.”.

PART 3

Calculation of chargeable amount

5. Indexation

—(4) In regulation 12—

after sub-paragraph (b) of paragraph (2) insert—

“(bb) a statement explaining which of the following inflation indexes applies to each rate—

- (i) CPI index;
- (ii) local HPI index;”;

after paragraph (3) insert—

“(3A) In paragraph (2)(bb)—

“CPI index” means the general index of consumer prices (for all items) published from time to time by the Statistics Board;

“local HPI index” means the index for the local authority area in which the development is located in the UK house price index published from time to time by the Office for National Statistics.”

(3B) In relation to the Mayor or a MDC, the reference in the definition of “local HPI index” to the local authority area is to be treated as a reference to—

(a) in the case of the Mayor, Greater London;

(b) in the case of a MDC—

(i) where the area of the MDC includes all or part of one local authority area, that local authority area, or

(ii) where the area of the MDC includes all or part of more than one local authority area, the local authority area in which the MDC has the greatest area.

In regulation 40—

for paragraph (5) substitute—

“(5) The amount of CIL chargeable at a given relevant rate (R) must be calculated by applying the following formula—

$$\frac{R \times A \times Ip \times Np}{Ic \times Nc}$$

where—

A is the deemed net area chargeable at rate R, calculated in accordance with paragraph (7);

Ic is—

(i) where the relevant charging schedule took effect before [1st January 2020], the annual index figure of the BCIS index for the year in which the charging schedule containing rate R took effect;

(ii) where the relevant charging schedule took effect on or after [1st January 2020], 1;

Ip is—

(i) where the relevant charging schedule took effect before [1st January 2020], the annual index figure of the BCIS index for 2019;

(ii) where the relevant charging schedule took effect on or after [1st January 2020], 1;

Nc is—

(i) where the relevant charging schedule took effect before [1st January 2020], the annual index figure of the relevant index for 2019;

(ii) where the relevant charging schedule took effect on or after [1st January 2020], the annual index figure of the relevant index for the year in which the charging schedule containing rate R took effect;

Np is the annual index figure of the relevant index for the year in which planning permission was granted.

”

omit paragraph (6);

insert the following definitions in the appropriate places in paragraph (11)—

““annual index figure” means—

(a) where the relevant index is the BCIS index—

- (i) for any year before 2023, the index figure for 1st November for the preceding year or if that index figure is not published any substituted index figure published by Royal Institution of Chartered Surveyors⁽⁹⁾;
- (ii) for any year from 2023 onwards, the index figure for 1st November 2022 or if that index figure is not published any substituted index figure published by Royal Institution of Chartered Surveyors;
- (b) where the relevant index is the CPI index, the index figure for September of the preceding year or if that index figure is not published any substituted index figure published by the Statistics Board;
- (c) where the relevant index is the local HPI index, the aggregate of—
 - (i) the local HPI index figure for July of the preceding year (P) (as revised by any revisions to that figure which are published on or before 1st December in P) or if that index figure is not published any substituted index figure published by Office for National Statistics, and
 - (ii) the local HPI index figures for July of the two years preceding P (as revised by any revisions to those figures which are published on or before 1st December in P) or if any of those index figures are not published any substituted index figure published by Office for National Statistics,
 divided by 3;”

““BCIS index” means the national All-in Tender Price Index published from time to time by the Building Cost Information Service of the Royal Institution of Chartered Surveyors⁽¹⁰⁾;

““CPI index” and “local HPI index” have the same meaning as in regulation 12;”

““relevant index” is—

- (a) the index, in relation to a particular rate, specified in the charging schedule in accordance with regulation 12(2)(bb);
- (b) where, in relation to a particular rate, an index has not been specified in the charging schedule (in accordance with regulation 12(2)(bb)), the index specified for the rate in the annual CIL rate summary in accordance with regulation 121C;
- (c) where, in relation to a particular rate, an index has neither been specified—
 - (i) in the charging schedule (in accordance with regulation 12(2)(bb)), nor
 - (i) in the annual CIL rate summary (in accordance with regulation 121C),
 BCIS index.”.

In regulation 50—

for paragraph (4) substitute—

“(4) The qualifying amount at a given relevant rate (R) must be calculated by applying the following formula—

$$\frac{R \times A \times Ip \times Np}{Ic \times Nc}$$

where—

A is the deemed net area chargeable at rate R;

Ic is—

- (i) where the relevant charging schedule took effect before [1st January 2020], the annual index figure of the BCIS index for the year in which the charging schedule containing rate R took effect;
- (ii) where the relevant charging schedule took effect on or after [1st January 2020], 1;

⁽⁹⁾ Registered in England and Wales RC00487.

⁽¹⁰⁾ Registered in England and Wales RC00487.

Ip is—

- (i) where the relevant charging schedule took effect before [1st January 2020], the annual index figure of the BCIS index for 2019;
- (ii) where the relevant charging schedule took effect on or after [1st January 2020], 1;

Nc is—

- (i) where the relevant charging schedule took effect before [1st January 2020], the annual index figure of the relevant index for 2019;
- (ii) where the relevant charging schedule took effect on or after [1st January 2020], the annual index figure of the relevant index for the year in which the charging schedule containing rate R took effect;

Np is the relevant index for the year in which planning permission was granted.

omit paragraph (5);

in paragraph (8) before sub-paragraph (a) insert—

“(aa) in this regulation “annual index figure”, “BCIS index” and “relevant index” have the same meaning as in regulation 40;”.

In regulation 58A omit the definitions of “IA” and “index figure”.

In regulation 59A(7) for “£100” to the end substitute—

“

$$£139.70 \times N \times \frac{CPI}{106.6}$$

where—

“CPI” is the index figure, for September of the year immediately preceding the financial year in relation to which the payment is made, in the general index of consumer prices (for all items) published from time to time by the Statistics Board, or if that index figure is not published any substituted index figure published by the Board;

and

N is the number of dwellings in the area of the parish council.”.

6. Chargeable development: section 73 permissions

—(5) In regulation 9 for paragraphs (6) to (9) substitute—

“(6) Where a planning permission (B) is granted under section 73 of TCPA 1990 which changes a condition subject to which a previous planning permission (A) was granted, the following paragraphs apply to determine the chargeable development.

(7) Where the notional chargeable amount for B is larger than the notional chargeable amount for A then the chargeable development is—

- (a) the development for which B was granted if commenced, or
- (b) the development for which A was granted if that development is re-commenced.

(8) Where the notional chargeable amount for B is smaller than the notional chargeable amount for A then the chargeable development is—

- (a) the development for which B was granted if commenced, or
- (b) the development for which A was granted if that development is re-commenced.

(9) Where the notional chargeable amount in relation to B is the same as the notional chargeable amount in relation to A then the chargeable development is the development for which A was granted as if that development was commenced.

(10) For the purposes of paragraphs (7) to (9)—

- (a) the notional chargeable amount in relation to A is the amount of CIL that would be payable calculated under regulation 40, including the deduction of any relief⁽¹¹⁾ which is applicable in relation to the development for which A was granted;
- (b) the notional chargeable amount in relation to B is the amount of CIL that would be payable calculated under regulation 40, including the deduction of any relief which is applicable in relation to the development for which B was granted, (as modified by paragraph 11).

(11) For the purposes of calculating the notional chargeable amount in relation to B regulations 40 and 50 apply as if—

- (a) B first permits development on the same day as A;
- (b) Np for B were the annual index figure for the relevant index for the year in which A was granted;
- (c) a reference to a relevant charging schedule were a reference to the charging schedule of the charging authority which was in effect—
 - (i) at the time A first permits development; and
 - (ii) in the area in which the development will be situated.

(12) For the purposes of paragraphs (7) and (8), chargeable development is re-commenced where—

- (a) the development for which A was granted was commenced;
- (b) work on that development is halted and development for which B was granted was commenced; and
- (c) the development for which B was granted was subsequently halted and the development for which A was granted is continued.

(13) Where, after B was granted, a new planning permission is granted in relation to the development under section 73 of TCPA 1990, this regulation applies as if any reference in paragraphs (6) to (12) to B were a reference to the new planning permission.”

In regulation 40(1) at the beginning insert “Subject to regulations 40A and 40B,”.

After regulation 40 insert—

“Calculation of chargeable amount: section 73 permissions which increase liability

40A.—(1) Where a development is chargeable development under regulation 9(7)(a), this regulation applies for determining the liability to CIL charged by a charging authority for that chargeable development.

(2) The chargeable amount shall be—

$$X - Y + Z$$

where—

X = the chargeable amount for the development for which B was granted calculated in accordance with regulation 40, including the deduction of any relief⁽¹²⁾ which is applicable in relation to the development for which B was granted;

Y = the chargeable amount for the development for which A was granted calculated in accordance with regulation 40, including the deduction of any relief which is applicable in relation to the development for which A was granted, (as modified by paragraph (3));

Z = the chargeable amount for the development for which A was granted calculated in accordance with regulation 40, including the deduction of any relief which is applicable in relation to the development for which A was granted, (as shown on the first liability notice issued in relation to A together with any corrections to that notice which relate only to errors in that notice).

(3) For the purposes of calculating Y, regulations 40 and 50 apply as if—

- (a) A first permits development on the same day as B;
- (b) Np for A were the annual index figure for the relevant index for the year in which B was granted;

⁽¹¹⁾ See regulation 2 for the definition of “relief”.

⁽¹²⁾ See regulation 2 for the definition of “relief”.

- (c) a reference to a relevant charging schedule were a reference to the charging schedule of the charging authority which was in effect—
 - (i) at the time B first permits development; and
 - (ii) in the area in which the development will be situated.

(4) Subject to paragraph (5), for the purposes of this regulation A and B have the same meaning as in regulation 9(6).

(5) Where, after B was granted, a new planning permission is granted in relation to the development under section 73 of TCPA 1990, this regulation applies as if any reference to B were a reference to the new planning permission.

Calculation of chargeable amount: section 73 permissions which reduce liability

40B.—(1) Where a development is chargeable development under regulation 9(8)(a), this regulation applies for determining the liability to CIL charged by a charging authority for that chargeable development.

(2) The chargeable amount shall be—

$$X - Y + Z$$

where—

X = the chargeable amount for the development for which B was granted, calculated in accordance with regulation 40, including the deduction of any relief which is applicable in relation to the development for which B was granted, (as modified by paragraph (3));

Y = the chargeable amount for the development for which A was granted, calculated in accordance with regulation 40, including the deduction of any relief which is applicable in relation to the development for which O was granted, (as modified by paragraph (4));

Z = the chargeable amount for the development for which A was granted calculated in accordance with regulation 40, including the deduction of any relief which is applicable in relation to the development for which A was granted, (as shown on the first liability notice issued in relation to A together with any corrections to that notice which relate only to errors in that notice),

and O is the first planning permission granted in relation to the development ignoring any planning permission granted under section 73 of TCPA 1990.

(3) For the purposes of calculating X, regulations 40 and 50 apply as if —

- (a) B first permits development on the same day as O;
- (b) Np for B were the annual index figure for the relevant index for the year in which O was granted;
- (c) a reference to a relevant charging schedule were a reference to the charging schedule of the charging authority which was in effect—
 - (i) at the time O first permits development; and
 - (ii) in the area in which the development will be situated.

(4) For the purposes of calculating Y, regulations 40 and 50 apply as if—

- (a) A first permits development on the same day as O;
- (b) Np for A were the annual index figure for the relevant index for the year in which O was granted;
- (c) a reference to a relevant charging schedule were a reference to the charging schedule of the charging authority which was in effect—
 - (i) at the time O first permits development; and
 - (ii) in the area in which the development will be situated.

(5) Subject to paragraph (6), for the purposes of this regulation, A and B have the same meaning as in regulation 9(6).

(6) Where, after B was granted, a new planning permission is granted in relation to the development under section 73 of TCPA 1990, this regulation applies as if any reference to B were a reference to the new planning permission.”.

PART 4

Reliefs

7. Commencement notices

—(6) In regulation 42B(13)—

in paragraph (4), after “case may be” insert “and, in relation to an exemption for residential annexes, provide an explanation of the requirements of regulation 67(1)”; and

omit paragraph (6).

In regulation 47—

in paragraph (5)(b), after “relief granted” insert “and provide an explanation of the requirements of regulation 67(1)”; and

omit paragraph (7).

In regulation 51—

in paragraph (5)(b), after “qualifying amount” insert “and provide an explanation of the requirements of regulation 67(1)”; and

omit sub-paragraph (a) of paragraph (7).

In regulation 54B—

in paragraph (4), after “case may be” insert “and provide an explanation of the requirements of regulation 67(1)”; and

omit paragraph (6).

In regulation 57(7) after “relief granted” insert “and provide an explanation of the requirements of regulation 67(1)”.

In regulation 58(6) after “and the Mayor” insert “and provide an explanation of the requirements of regulation 67(1)”.

In regulation 83—

at the beginning of paragraph (1) insert “Subject to paragraph (1A),”;

after paragraph (1) insert—

“(1A) Where a relevant development is commenced before the collecting authority has received a valid commencement notice in respect of the development, the collecting authority must impose a surcharge equal to 20 per cent of the notional chargeable amount or £2,500, whichever is the lower amount.”;

after paragraph (4) insert—

“(4A) In this regulation—

“notional chargeable amount” means the amount of CIL that would have been payable calculated in accordance with regulation 40 in relation to the development as if no relief had been granted;

“relevant development” means a chargeable development in relation to which a person has been granted—

- (a) an exemption for residential annexes;
- (b) an exemption for self-build housing;
- (c) charitable relief; or
- (d) social housing relief.”.

⁽¹³⁾ Regulations 42B and 54B were inserted by S.I. 2014/385.

8. Starter homes: social housing relief

—(7) In regulation 2(1)(14) in the definition of “clawback period”, after sub-paragraph (aa), insert—

“(ab) in relation to social housing relief, where condition 6 of regulation 49 is satisfied, the period beginning with the day on which the chargeable development is commenced and ending in respect of a qualifying dwelling when that qualifying dwelling is sold in accordance with that condition.”.

In regulation 49—

in paragraph (2) omit “five”; and

after paragraph (7A) insert—

“(7B) Condition 6 is that all of the following criteria are met—

- (a) the dwelling is a starter home (which has the same meaning as in section 2 of the Housing and Planning Act 2016⁽¹⁵⁾); and
- (b) the dwelling is sold to individuals whose total household income for the relevant tax year is no more than—
 - (i) £90,000, where the dwelling is located in Greater London; or
 - (ii) £80,000, where the dwelling is located outside Greater London,

where—

“relevant tax year” means the tax year immediately preceding the calendar year in which the date of sale of the dwelling falls;

“tax year” means a year beginning on 6th April and ending on the following 5th April;

“total household income” means, in relation to the individuals to whom the dwelling is sold—

- (i) if one individual buys the dwelling, the total income of that individual,
- (ii) if two individuals buy the dwelling, the sum of the total incomes of those individuals,
- (iii) if more than two individuals buy the dwelling, the sum of the two highest total incomes of the individuals; and

“total income” has the same meaning as in section 23 of the Income tax Act 2007⁽¹⁶⁾.”.

PART 5

Enforcement, reporting, monitoring and planning obligations

9. Enforcement by taking away goods

—(8) In regulation 95(1) insert the following definitions in the appropriate places—

““enforcement agent” has the meaning given in Schedule 12;”;

““Schedule 12” means Schedule 12 to the Tribunals, Courts and Enforcement Act 2007, and “the Schedule 12 procedure” means the procedure in Schedule 12;”.

For regulation 98 substitute—

“Enforcement by taking control of goods

98. Where a liability order has been made, payment may be enforced by using the Schedule 12 procedure.”.

⁽¹⁴⁾ S.I. 2010/948, the definition of “clawback period” in regulation 2 was amended by S.I.s 2014/385 and 2015/836, and regulation 49 was substituted by S.I. 2014/385 and paragraph (7A) was inserted by S.I. 2015/836. There are other amendments not relevant to this instrument.

⁽¹⁵⁾ 2016 c.22.

⁽¹⁶⁾ 2007 c.3.

Omit regulation 99.

In regulation 100—

for sub-paragraph (b) substitute—

“(b) the authority has sought to enforce payment by use of the Schedule 12 procedure pursuant to regulation 98 and the enforcement agent reports that they were unable (for whatever reason) to find any or sufficient goods of the debtor to enforce payment; and”;

in paragraph (4) for sub-paragraph (a) substitute—

“(a) the amount outstanding (within the meaning of Schedule 12); and”;

in paragraph (7) for sub-paragraph (a) substitute—

“(a) the amount outstanding (within the meaning of Schedule 12); and”.

In regulation 101(2) for “the appropriate amount mentioned in regulation 98(3)” substitute “the amount outstanding (within the meaning of Schedule 12)”.

In regulation 102—

in paragraph (3) for “regulations 97(2) and 99(2)” substitute “regulation 97(2)”;

in paragraph (4) omit “, 99”.

10. Annual infrastructure funding statements and CIL rate summary

—(9) In regulation 2(1) insert the following definitions in the appropriate places—

““acquired land” has the meaning given in regulation 73;”;

““annual infrastructure funding statement” has the meaning given in regulation 121A;”;

““CIL expenditure” includes—

(a) the value of any acquired land on which development (within the meaning in TCPA 1990) consistent with a relevant purpose has been commenced or completed, and

(b) CIL receipts transferred by a charging authority to another person to spend on infrastructure (including money transferred to such a person which it has not yet spent);”;

““CIL receipts” means—

(a) for a charging authority—

(i) CIL collected by that authority (including the value of any acquired land), but does not include CIL collected on behalf of the charging authority by another public authority but which that authority has not yet paid to the charging authority; and

(ii) CIL recovered by that authority in accordance with regulation 59E, but does not include CIL not yet paid to the charging authority by the parish council;

(b) for a parish council, CIL passed to it under regulations 59(4), 59A(2) or 59B, but does not include funds not yet paid to the parish council by the charging authority in accordance with regulation 59D;”;

““infrastructure list”—

(a) before 31st December 2019, means the list, if any, published by a charging authority of the infrastructure projects or types of infrastructure which it intends will be, or may be, wholly or partly funded by CIL (other than CIL to which regulation 59E or 59F applies);

(b) on or after 31st December 2019, has the meaning given in regulation 121A;”;

““relevant purpose” has the meaning given in regulation 73(13);”.

In regulation 58A omit—

““acquired land” and “relevant purpose” have the same meaning as in regulation 73 (payment in kind);” and the definitions of “CIL expenditure” and “CIL receipts”.

Omit regulations 62 and 62A.

In regulation 73A(12)(d)(17) for the definition of “relevant infrastructure” substitute—

““relevant infrastructure” means—

- (a) the infrastructure projects or the types of infrastructure listed by a charging authority on its infrastructure list; and
- (b) in relation to any time before 31st December 2019, where no such list has been published, any infrastructure.””.

After Part 10 insert—

“PART 10A

Reporting and monitoring on CIL and planning obligations

Annual infrastructure funding statements

121A.—(1) No later than 31st December in each year a contribution receiving authority must publish a document (“the annual infrastructure funding statement”) which comprises the following—

- (a) a statement of the infrastructure projects or types of infrastructure which the charging authority intends will be, or may be, wholly or partly funded by CIL (other than CIL to which regulation 59E or 59F applies) (“the infrastructure list”);
- (b) a report about CIL, in relation to the previous financial year (“the reported year”), which includes the matters specified in paragraph (3) (“CIL report”);
- (c) a report about planning obligations under section 106 of TCPA 1990, in relation to the reported year, which includes the matters specified in paragraph (5) (“section 106 report”);
- (d) a three forecast statement about CIL which includes the matters specified in paragraph (7) (“3 year CIL forecast”); and
- (e) a three forecast statement about planning obligations under section 106 of TCPA 1990 which includes the matters specified in paragraph (8) (“3 year section 106 forecast”).

(2) A contribution receiving authority must publish each annual infrastructure funding statement on its website.

(3) The matters to be included in the CIL report are—

- (a) the total value of CIL set out in all liability notices issued in the reported year;
- (b) the total CIL receipts for the reported year (including any amount of CIL collected by the authority, or by another person on its behalf, in previous reported years which has not been spent);
- (c) the total CIL expenditure for the reported year;
- (d) summary details of CIL expenditure during the reported year (other than in relation to CIL to which regulation 59E or 59F applied) including—
 - (i) the items of infrastructure to which CIL (including land payments) has been applied;
 - (ii) the amount of CIL expenditure on each item;
 - (iii) the amount of CIL applied to repay money borrowed, including any interest, with details of the infrastructure items which that money was used to provide (wholly or in part);
 - (iv) the amount of CIL applied to administrative expenses pursuant to regulation 61, and that amount expressed as a percentage of CIL collected in that year in accordance with that regulation;
- (e) the amount of CIL passed to—
 - (i) any parish council under regulation 59A or 59B; and
 - (ii) any person under regulation 59(4);

(17) Regulation 73A was inserted by S.I. 2014/385.

- (f) summary details of the receipt and expenditure of CIL to which regulation 59E or 59F applied during the reported year including—
 - (i) the total CIL receipts that regulations 59E and 59F applied to;
 - (ii) the items to which the CIL receipts to which regulations 59E and 59F applied have been applied; and
 - (iii) the amount of expenditure on each item;
 - (g) summary details of any notices served in accordance with regulation 59E, including—
 - (i) the total value of CIL receipts requested from each parish council;
 - (ii) any funds not yet recovered from each parish council at the end of the reported year;
 - (h) the total amount of—
 - (i) CIL receipts for the reported year retained at the end of the reported year other than those to which regulation 59E or 59F applied;
 - (ii) CIL receipts from previous years retained at the end of the reported year other than those to which regulation 59E or 59F applied;
 - (iii) CIL receipts for the reported year to which regulation 59E or 59F applied retained at the end of the reported year;
 - (iv) CIL receipts from previous years to which regulation 59E or 59F applied retained at the end of the reported year;
 - (i) in relation to any infrastructure payments accepted by the authority—
 - (i) the items of infrastructure to which the infrastructure payments relate,
 - (ii) the amount of CIL to which each item of infrastructure relates.
- (4) For the purposes of paragraph (3)—
- (a) CIL collected by an authority includes land payments made in respect of CIL charged by that authority;
 - (b) CIL collected by way of a land payment has not been spent if at the end of the reported year—
 - (i) development (within the meaning in TCPA 1990) consistent with a relevant purpose has not commenced on the acquired land; or
 - (ii) the acquired land (in whole or in part) has been used or disposed of for a purpose other than a relevant purpose; and the amount deemed to be CIL by virtue of regulation 73(9) has not been spent;
 - (c) CIL collected by an authority includes infrastructure payments made in respect of CIL charged by that authority;
 - (d) CIL collected by way of an infrastructure payment has not been spent if at the end of the reported year the infrastructure to be provided has not been provided;
 - (e) the value of acquired land is the value stated in the agreement made with the charging authority in respect of that land in accordance with regulation 73(6)(d);
 - (f) the value of a part of acquired land must be determined by applying the formula in regulation 73(10) as if references to N in that provision were references to the area of the part of the acquired land whose value is being determined.
- (5) The matters to be included in the section 106 report for each reported year are—
- (a) the total monies received under any planning obligations under section 106 of TCPA 1990 during the reported year (including any amount received in previous reported years which has not been spent);
 - (b) summary details of any non-monetary contribution which will be provided under all planning obligation under section 106 of TCPA 1990 which was signed during the reported year, including details of—
 - (i) in relation to affordable housing, the total number of units which will be provided;

- (ii) in relation to educational facilities, the number of school places for pupils which will be provided, and the category of school at which they will be provided;
 - (c) summary details of any non-monetary contribution which was provided during the reported year under any planning obligations under section 106 of TCPA 1990 including details of—
 - (i) in relation to affordable housing, the total number of units which have been provided;
 - (ii) in relation to educational facilities, the number of school places for pupils which have been provided, and the category of school at which they have been provided;
 - (d) summary details of any funding or provision of infrastructure which is to be provided through a highway agreement under section 278 of the Highways Act 1980 which was signed during the reported year, and details of any funding or provision of infrastructure under a highway agreement which was provided during the reported year;
 - (e) the total monies (received under any planning obligations under section 106 of TCPA 1990) which were spent during the reported year;
 - (f) summary details of—
 - (i) the items of infrastructure to which monies (received under planning obligations under section 106 of TCPA 1990) have been applied;
 - (ii) the amount of such monies spent on each item;
 - (iii) the amount of such monies applied to repay money borrowed, including any interest, with details of the infrastructure items which that money was used to provide (wholly or in part);
 - (iv) the amount of such monies applied in respect of monitoring (including reporting under regulation 121A) in relation to the delivery of planning obligations under section 106 of TCPA 1990;
 - (g) the total monies received, under any planning obligations under section 106 of TCPA 1990 during any year, which were retained at the end of the reported year.
- (6) For the purposes of paragraph (5), a non-monetary contribution includes any land or item of infrastructure provided pursuant to a planning obligation under section 106 of TCPA 1990.
- (7) The matters to be included in the 3 year CIL forecast are the total CIL receipts the contribution receiving authority estimates should be received for the financial year in which the forecast is published together with the CIL receipts it estimates should be received for the two subsequent financial years.
- (8) The matters to be included in the 3 year section 106 forecast are the total monies the contribution receiving authority estimates should be received under planning obligations for the financial year in which the forecast is published together with the monies it estimates should be received for the two subsequent financial years.
- (9) Nothing in paragraph (1) requires a contribution receiving authority to include in its annual infrastructure funding statement—
- (a) a CIL report or 3 year CIL forecast for any year in which the authority is not a charging authority;
 - (b) any information in relation to CIL which it collects on behalf of another charging authority.
- (10) In this regulation, “contribution receiving authority” means—
- (a) any charging authority which issues a liability notice during the reported year; and
 - (b) any local planning authority (within the meaning in section 1 of the TCPA 1990 as that section has effect subject to sections 2 to 9 of that Act) which enters into any planning obligation under section 106 of TCPA 1990 during the reported year.

Reporting by parish councils

121B.—(1) A parish council must prepare a report for any financial year (“the reported year”) in which it receives CIL receipts.

- (2) The report must include—
 - (a) the total CIL receipts for the reported year;
 - (b) the total CIL expenditure for the reported year;

- (c) summary details of CIL expenditure during the reported year including—
 - (i) the items to which CIL has been applied;
 - (ii) the amount of CIL expenditure on each item;
 - (d) details of any notices received in accordance with regulation 59E, including—
 - (i) the total value of CIL receipts subject to notices served in accordance with regulation 59E during the reported year;
 - (ii) the total value of CIL receipts subject to a notice served in accordance with regulation 59E in any year that has not been paid to the relevant charging authority by the end of the reported year;
 - (e) the total amount of—
 - (i) CIL receipts for the reported year retained at the end of the reported year;
 - (ii) CIL receipts from previous years retained at the end of the reported year.
- (3) The parish council must—
- (a) publish the report—
 - (i) on its website;
 - (ii) on the website of the charging authority for the area if the parish council does not have a website; or
 - (iii) within its area as it considers appropriate if neither the parish council nor the charging authority have a website, or the charging authority refuses to put the report on its website in accordance with paragraph (ii); and
 - (b) send a copy of the report to the charging authority from which it received CIL receipts, no later than 31st December following the reported year, unless the report is, or is to be, published on the charging authority's website.

Annual CIL rate summary

121C.—(1) Subject to paragraph (2), each year, no earlier than 2nd December and no later than 31st December, a charging authority must publish a statement (“annual CIL rate summary”) in relation to the next year (Y_N).

(2) Where Y_N is 2020 the annual CIL rate summary must be published no later than 15th December 2019.

(3) Each annual CIL rate summary must—

- (a) state the name of the charging authority (A) to which it relates;
- (b) state the year, Y_N , to which it relates;
- (c) state the date when each charging schedule and revised charging schedule, issued by the charging authority, took effect;
- (d) specify each of the rates, taken from the charging schedule, at which CIL is chargeable in A 's area, together with a description of the development to which the rate applies;
- (e) subject to paragraph (4), specify for each rate which of the following inflation indexes applies to that rate—
 - (i) BCIS index;
 - (ii) CPI index;
 - (iii) local HPI index;
- (f) for each rate (R), specify for Y_N —
 - (i) the value of—

$$\frac{I_p}{I_c}$$

- (ii) the value of—

$$\frac{N_p}{N_c}$$

(iii) the indexed rate calculated by applying the following formula—

$$\frac{R \times I_p \times N_p}{I_c \times N_c}$$

where I_c , I_p and N_c have the same meaning as in regulation 40 and N_p is the annual index figure of the relevant index for Y_N ;

- (g) where A's area is in Greater London and the Mayor has a charging schedule in effect which applies in all or part of A's area, include a statement explaining that the Mayor also charges CIL in relation to all or part of the area.

(4) Where, in relation to a rate, a charging authority has specified which inflation index applies to a rate (whether in accordance with paragraph (3) or regulation 12(2)(bb)) the authority may not change the index which applies to a particular rate otherwise than by issuing a new or revised charging schedule.

(5) The charging authority must publish each annual CIL rate summary on its website.

(6) In this regulation—

“annual index figure” and “BCIS index” have the same meaning as in regulation 40;

“CPI index” and “local HPI index” have the same meaning as in regulation 12; and

“relevant index” is—

(a) the index, in relation to a particular rate, specified in the charging schedule in accordance with regulation 12(2)(bb);

(b) where, in relation to a particular rate, an index has not been specified in the charging schedule (in accordance with regulation 12(2)(bb)), the index specified for the rate in accordance with paragraph (3)(e).”

11. Fees for monitoring planning obligations

In regulation 122—

at the beginning of paragraph (2) insert “Subject to paragraph (2A),”; and

after paragraph (2) insert—

“(2A) Paragraph (2) does not apply in relation to a planning obligation which requires a sum to be paid to a local planning authority in respect of the cost of monitoring (including reporting under these Regulations) in relation to the delivery of planning obligations in the authority's area, provided—

(a) the sum to be paid fairly and reasonably relates in scale and kind to the development; and

(b) the sum to be paid to the authority does not exceed the authority's estimate of its cost of monitoring the development over the lifetime of that development.”.

12. Removal of pooling restrictions

Omit regulation 123.

PART 6

Transitional cases

13. Section 73 applications

For regulation 128A(18) substitute—

(18) Regulation 128A was inserted by S.I. 2012/2975 and amended by S.I. 2018/172.

“Transitional cases: pre-CIL permissions and section 73 of TCPA 1990

128A.—(1) Where all the criteria set out in paragraph (2) are satisfied by a development, paragraphs (3) to (11) shall apply for determining the liability to CIL charged by a charging authority.

(2) The criteria are—

- (a) on the day planning permission (A) is granted in relation to the development, the development is situated in an area for which the charging authority has no charging schedule in effect;
- (b) a new planning permission (B) is later granted in relation to the development under section 73 of TCPA 1990; and
- (c) on the day B is granted, the development is situated in an area in which that charging authority has a charging schedule in effect.

(3) Liability to CIL shall arise in respect of the development, and the amount of CIL payable (“chargeable amount”) shall be—

$$X - Y$$

where—

X = the chargeable amount for the development for which B was granted, calculated in accordance with regulation 40, including the deduction of any relief⁽¹⁹⁾ which is applicable in relation to the development for which B was granted (and Part 6 (exemptions and reliefs) of these Regulations applies as if the development for which B was granted were a chargeable development);

Y = the amount that would have been the chargeable amount for the development for which A was granted, calculated in accordance with regulation 40, including the deduction of any notional relief applied in relation to the phase of the development, (as modified by paragraph (4)).

(4) For the purposes of calculating Y—

(a) subject to paragraph (5), where the charging authority considers having regard to—

- (i) all the circumstances of the development for which A was granted;
- (ii) any requirement or calculation of relief provided for in Part 6 of these Regulations, as if the charging schedule which applies to B took effect immediately before the date when A first permits development,

that one or more type of relief⁽²⁰⁾ from liability to pay CIL should be applied, the collecting authority may deduct an amount (“notional relief”) from Y;

(b) regulations 40 and 50 apply as if—

- (i) A first permitted development on the same day as B;
- (ii) N_p for A were the annual index figure for the relevant index for the year in which B was granted;
- (iii) a reference to a relevant charging schedule were a reference to the charging schedule of the charging authority which was in effect—
 - (aa) at the time B first permits development; and
 - (bb) in the area in which the development will be situated.

(5) Except for social housing relief, a charging authority may not apply a notional relief for A where the type of relief the authority is considering applying is not applied in relation to B.

(6) If Y is greater than or equal to X, the chargeable amount is deemed to be zero.

(7) The following provisions do not apply in relation to any notional relief for A—

- (a) regulation 42C (withdrawal of the exemption for residential annexes);
- (b) regulation 48 (withdrawal of charitable relief);
- (c) regulation 53 (withdrawal of social housing relief);

⁽¹⁹⁾ See regulation 2 for the definition of “relief”.

⁽²⁰⁾ See regulation 2 for the definition of “relief”.

- (d) regulation 54D (withdrawal of the exemption for self-build housing); and
- (e) regulation 67(5) (acknowledgment to specify date clawback period ends).

(8) Regulations 112, 116, 116A, 116B, 120 and 121 (appeals) apply in respect of relief granted in relation to B as if the development for which B was granted were a chargeable development.

(9) Where after B was granted a new planning permission is granted in relation to the development under section 73 of TCPA 1990, this regulation applies as if any reference in paragraphs (1) to (8) to B were a reference to the new planning permission.

(10) Part 11 of these Regulations (planning obligations) shall not apply in relation to the development referred to in paragraph (1).

(11) This regulation does not apply where A is a phased planning permission.

Transitional cases: pre-CIL phased permissions and section 73 of TCPA 1990

128AA.—(1) Where all the criteria set out in paragraph (2) are satisfied by a development, paragraphs (3) to (14) shall apply for determining the liability to CIL charged by a charging authority.

(2) The criteria are—

- (a) on the day a phased planning permission (A) is granted in relation to the development, the development is situated in an area for which the charging authority has no charging schedule in effect;
- (b) a new planning permission (B) is later granted in relation to a phase of the development under section 73 of TCPA 1990 (“amended phase of the development”); and
- (c) on the day B is granted, the development is situated in an area in which that charging authority has a charging schedule in effect.

(3) Liability to CIL shall arise in respect of the amended phase of the development, and the amount of CIL payable (“chargeable amount”) for that phase shall be—

$$X - Y$$

where—

X = the chargeable amount for the amended phase of the development, calculated in accordance with regulation 40, including the deduction of any relief which is applicable in relation to the phase of the development for which B was granted, as if that phase of the development were a separate chargeable development;

Y = the amount that would have been the chargeable amount for the corresponding phase of the development in A, calculated in accordance with regulation 40, including the deduction of any notional relief applied in relation to the phase of the development, (as modified by paragraph (4)) as if that corresponding phase were a separate chargeable development.

(4) For the purposes of calculating Y—

- (a) subject to paragraph (5), where the authority considers having regard to—
 - (i) all the circumstances of the development for which A was granted;
 - (ii) any requirement or calculation of relief provided for in Part 6 (exemptions and reliefs) of these Regulations, as if the charging schedule which applies to B took effect immediately before the date when A first permits development,

that one or more type of relief⁽²¹⁾ from liability to pay CIL should be applied, the collecting authority may deduct an amount (“notional relief”) from Y;

- (b) regulation 40 and 50 as if—
 - (i) A first permitted development on the same day as B;
 - (ii) Np for A were the annual index figure for the relevant index for the year in which B was granted;

⁽²¹⁾ See regulation 2 for the definition of “relief”.

(iii) a reference to a relevant charging schedule were a reference to the charging schedule which was in effect—

- (aa) at the time B first permits development; and
- (bb) in the area in which the development will be situated.

(5) Except for social housing relief, a charging authority may not apply a notional relief for A where the type of relief the authority is considering applying is not applied in relation to B.

(6) If the chargeable amount calculated under paragraph (3) is less than zero, the chargeable amount for that phase of the development is deemed to be zero, but a phase credit may be created in accordance with the following paragraphs.

(7) Paragraph (8) applies where, in relation to any phase of the development—

- (a) Y is greater than X, and
- (b) development under B has commenced.

(8) Where this paragraph applies—

- (a) a credit (“phase credit”) is created in relation to a phase (“the donating phase”) which is equal to—

$$Y - X$$

- (b) the collecting authority must specify the amount of any phase credit on any liability notice or revised liability notice issued in relation to a donating phase; and
- (c) subject to paragraph (9), all or part of a phase credit may, at the discretion of the developer, be used to reduce the amount of CIL due (and not already paid) for another phase of the development (“the receiving phase”).

(9) A developer may not request that a phase credit is applied to a receiving phase where regulation 128AC (abatement) applies to the phase but no abatement under regulation 128AC(2) has been applied.

(10) The following provisions do not apply in relation to any notional relief for A—

- (a) regulation 42C (withdrawal of the exemption for residential annexes);
- (b) regulation 48 (withdrawal of charitable relief);
- (c) regulation 53 (withdrawal of social housing relief);
- (d) regulation 54D (withdrawal of the exemption for self-build housing); and
- (e) regulation 67(5) (acknowledgment to specify date clawback period ends).

(11) Regulations 112, 116, 116A, 116B, 120 and 121 (appeals) apply in respect of a relief granted in relation to B as if the development for which B was granted were a chargeable development.

(12) Subject to paragraph (13), where after B was granted a new planning permission is granted, in relation to a donating phase of the development, under section 73 of TCPA 1990, this regulation applies as if any reference in paragraphs (1) to (11) to B were a reference to the new planning permission.

(13) Where before the grant of the new planning permission referred to in paragraph (12) all or part of a phase credit from a donating phase has been applied to a receiving phase, paragraph (3) applies to the amended phase of the development for which the new planning permission was granted as if the formula in paragraph (3) were replaced with—

$$(X - Y) + CA$$

where X and Y have the meanings in paragraph (3) (with the modification in paragraph (12)) and CA is a compensating adjustment equal to the amount of any phase credit from the donating phase which has been applied in a receiving phase.

(14) In this regulation “the developer” means a person who—

- (a) has assumed liability to pay CIL in respect of both the donating phase and the receiving phase; or
- (b) has assumed liability to pay CIL in respect of only the receiving phase and has the written agreement, for the phase credit to be applied to the receiving phase, from the person who has assumed liability to pay CIL in respect of the donating phase.

Transitional cases: procedure in relation to phase credits

128AB.—(1) A person who wishes to apply a phase credit from a donating phase to a receiving phase must submit a request to the collecting authority in accordance with this regulation.

(2) A person making a request must be the developer.

(4) A request under this regulation must—

- (a) be submitted to the collecting authority in writing;
- (b) be received by the collecting authority before development of the receiving phase is completed;
- (c) specify the amount of phase credit (which may be all or part of a phase credit) to be applied and the donating phase in which it was created;
- (d) specify the receiving phase to which the amount of phase credit is to be applied; and
- (e) provide evidence that the developer—
 - (i) has assumed liability to pay CIL in respect of both the donating phase and the receiving phase, or
 - (ii) has assumed liability to pay CIL in respect of the receiving phase and has the written agreement, for the phase credit to be applied to the receiving phase, from the person who has assumed liability in respect of the donating phase).

(4) Where a valid request is received by the collecting authority to apply all or part of a phase credit from a donating phase to reduce the amount of CIL due (and not already paid) for the receiving phase, the collecting authority must issue a liability notice or revised liability notice for the receiving phase giving effect to that request.

(5) In this regulation “the developer”, “donating phase”, “phase credit” and “receiving phase” have the same meanings as in regulation 128AA.

Transitional cases: abatements in regulation 128A cases and in regulation 128AA cases within a single phase

128AC.—(1) This paragraph applies where—

- (a) CIL has been paid under regulation 128A in respect of a development, or under regulation 128AA in respect of a phase of a development;
- (b) a new planning permission is later granted, in relation to that development, or that phase of the development, under section 73 of TCPA 1990; and
- (c) the collecting authority has issued a new or revised liability notice in respect of that development, or that phase of the development, because the chargeable amount calculated under regulation 128A(3), or regulation 128AA(3), as the case may be, has changed.

(2) Where paragraph (1) applies a person liable to pay CIL for the development, or the phase of the development, may request that the charging authority credits the CIL already paid in relation to the development, or the phase, against the amount due under the new or revised liability notice.

(3) To be valid a request under paragraph (2) must be accompanied by proof of the amount of CIL that has already been paid.

(4) The charging authority must grant any valid request made under paragraph (2).

Transitional cases: overpayments in regulation 128A cases and in regulation 128AA cases within a single phase

128AD.—(1) Where a person (P) is liable to pay CIL under regulation 128A or regulation 128AA and the amount paid by P, in relation to a development, or in relation to a phase of a development, proves to be greater than the amount for which P is liable, the collecting authority must, as soon as practicable, repay the overpayment.

(2) But the collecting authority is not required to repay an overpayment where—

- (a) it is satisfied that the amount of the overpayment is less than any reasonable administrative costs which it would incur in making the repayment; or

(b) the overpayment is a result of a land or infrastructure payment.

(3) Where a person is entitled to a repayment, the collecting authority must pay that person an additional amount by way of interest on the repayment at a rate which is the higher of—

(a) 0.5% per annum; and

(b) a percentage per annum equal to the Bank of England base rate less one percentage point.

(4) Paragraph (3) does not apply where the chargeable amount in relation to the development, or in relation to the phase of the development, was calculated correctly in accordance with regulation 128A or regulation 128AA, as the case may be.

Transitional cases: appeal in relation to notional relief under regulation 128A or 128AA

128AE.—(1) An interested person who is aggrieved at the decision of a collecting authority to grant a notional relief under regulation 128A(4)(a) or regulation 128AA(4)(a), may appeal to the appointed person on the ground that the collecting authority has incorrectly determined the value of the notional relief allowed.

(2) An appeal under this regulation must be made before the end of the period of 60 days beginning with the day on which the liability notice stating the chargeable amount under regulation 128A, or 128AA, (and the amount of notional relief) was issued.

(3) Where an appeal under this regulation is allowed the appointed person may amend the amount of any notional relief granted to the appellant.

(4) Regulations 120 (appeal procedure) and 121 (costs) shall apply to an appeal under this regulation as if—

(a) any reference to an interested party were a reference to—

(i) the charging authority,

(ii) the collecting authority (if it is not the charging authority), or

(iii) an interested person (other than the appellant); and

(b) any reference to the representations period were a reference to 14 days beginning with the date the acknowledgement of receipt is sent under regulation 120(3), or such longer period as the appointed person may in any particular case determine.

(5) In this regulation—

“appointed person” means—

(a) a valuation officer appointed under section 61 of the Local Government Finance Act 1988⁽²²⁾, or

(b) a district valuer within the meaning of section 622 of the Housing Act 1985⁽²³⁾; and

“interested person” means the person who was granted the notional relief.”

14. Transitional cases: consequential amendments

—(10) In regulation 74A(1), at the beginning insert “Subject to regulation 128AC,”.

In regulation 75(1), at the beginning insert “Subject to regulation 128AD,”.

⁽²²⁾ 1988 c. 41; section 61 was amended by paragraph 69 of Schedule 13 to the Local Government Finance Act 1992 (c. 14).

⁽²³⁾ 1985 c. 68; the definition of “district valuer” in section 622 was substituted by S.I. 1990/434.

PART 7 Miscellaneous

15. Miscellaneous amendments

—(11) In regulation 40(11) in the definition of “new build” at the end insert—

“, and in relation to a chargeable development granted planning permission under section 73 of TCPA 1990 (“the new permission”) includes any new buildings and enlargements to existing buildings which were built pursuant to the previous planning permission to which the new permission relates”.

In regulation 65(12)(c) omit “phased”.

In regulation 128—

for paragraphs (1) and (2) of regulation 128 substitute—

“(1) Subject to paragraph (2), liability to CIL charged by a charging authority does not arise in respect of development if, on the day planning permission is granted for that development, the authority has no charging schedule in effect.

(2) Where the planning permission referred to in paragraph (1) is granted for development by way of a relevant general consent, liability to CIL charged by a charging authority does not arise in respect of that development if—

- (a) it is commenced before 6th April 2013; or
- (b) on the day on which it is commenced, the charging authority for the area in which the development is situated has no charging schedule in effect.”.

In regulation 34(5) of the Town and Country Planning (Local Planning) (England) Regulations 2012 for “62” and “62(4)” substitute “121A(1)(b)” and “121A(3)”.

16. Transitional and saving provisions

—(12) Part 3 of the 2010 Regulations continues to apply, in relation to a draft charging schedule which is published in accordance with regulation 16(1) of the 2010 Regulations before [date – day 1], as if the amendments in regulation [3] [consultation charging schedules] had not been made.

Where before [date – day 1] a charging authority has sent a preliminary charging schedule to consultation bodies in accordance with regulation 15 of the 2010 Regulations, the charging authority must take into account any representations made to it before it publishes a drafting charging schedule in accordance with regulation 16(1) of the 2010 Regulations.

Regulation [5(1) [(indexation)]] does not apply to a draft charging schedule (or a draft revision to an existing charging schedule) which is submitted for examination in accordance with section 212 of PA 2008 where the date on which the charging schedule (or the revision) is to take effect is before [date – day 1].

Regulations

- [5(2) and (3)][(indexation)],
- [6][(chargeable development: section 73 permissions)] and
- [12][(pre-CIL permissions and section 73)]

do not apply to a planning permission granted before [date – day 1] or a liability notice (whenever issued) in relation to such a planning permission.

Regulations

- [7][(commencement notices)],
- [8][(starter homes)] and
- [13][(miscellaneous amendments)]

apply in relation to a development if any liability notice or revised liability notice is issued by a collecting authority under regulation 65 of the 2010 Regulations on or after [date - day 1].

Regulation [10] [(monitoring fees)] applies in relation to a planning obligation entered into on or after [date – day 1].

For the purposes of this regulation, “the 2010 Regulations” are the Community Infrastructure Levy Regulations 2010.

Signed by authority of the Secretary of State for Housing, Communities and Local Government
Name
Minister of State
Date Ministry of Housing, Communities and Local Government

We Consent
Name
Name
Date Two of the Lords Commissioners of Her Majesty’s Treasury

EXPLANATORY NOTE

(This note is not part of the Regulations)

The Community Infrastructure Levy Regulations 2010 (“the 2010 Regulations”) provide for the imposition of a charge known as the Community Infrastructure Levy (“the Levy”).

[*****]

An impact assessment was prepared for the 2010 Regulations and laid in Parliament on 10th February 2010. No formal impact assessment was produced for these Regulations as one is not required for a financial instrument.

Agenda Item No 13

Planning and Development Board

4 February 2019

Report of the Chief Executive

Progress Report on Achievement of Corporate Plan and Performance Indicator Targets April – December 2018

1 Summary

- 1.1 This report informs Members of the progress with the achievement of the Corporate Plan and Performance Indicator targets relevant to the Planning and Development Board for April to December 2018.

Recommendation to the Board

That Members consider the performance achieved and highlight any areas for further investigation.

2 Consultation

- 2.1 Consultation has taken place with the relevant Members and any comments received will be reported at the meeting.

3 Background

- 3.1 This report shows the third quarter position with the achievement of the Corporate Plan and Performance Indicator targets for 2018/19. This is the third report showing the progress achieved so far during this year.

4 Progress achieved during 2018/19

- ... 4.1 Attached at Appendices A and B are reports outlining the progress achieved for all the Corporate Plan targets and the agreed local performance indicators during April to December 2018/19 for the Planning and Development Board.
- 4.2 Members will recall the use of a traffic light indicator for the monitoring of the performance achieved.

Red – target not being achieved (shown as a red triangle)

Amber – target currently behind schedule and requires remedial action to be achieved (shown as an amber circle)

Green – target currently on schedule to be achieved (shown as a green star)

5 Performance Indicators

- 5.1 The current performance indicators have been reviewed by each division and Management Team for monitoring for the 2018/19 year.

6 Overall Performance

- 6.1 The Corporate Plan performance report shows that 100% of the Corporate Plan targets and 67% of the performance indicator targets are currently on schedule to be achieved. The report shows the individual targets that have been classified as red, amber or green. Individual comments from the relevant division have been included where appropriate. The table below shows the following status in terms of the traffic light indicator status:

Corporate Plan

Status	Number	Percentage
Green	7	100%
Amber	0	0%
Red	0	0%
Total	7	100%

Performance Indicators

Status	Number	Percentage
Green	2	67%
Amber	1	33%
Red	0	0%
Total	3	100%

7 Summary

- 7.1 Members may wish to identify any areas that require further consideration where targets are not currently being achieved.

8 Report Implications

8.1 Safer Communities Implications

- 8.1.1 Major applications are considered by the Police Architectural Liaison Officer who is looking to ensure that Secure by Design principles are applied for new developments.

8.2 Legal Data Protection and Human Rights Implications

8.2.1 The national indicators were specified by the Secretary of State for Communities and Local Government. They were replaced by a single list of data returns to Central Government from April 2011.

8.3 Environment and Sustainability Implications

8.3.1 Improvements in the performance and quality of services will contribute to improving the quality of life within the community. The actions to improve apprenticeships, training and employment opportunities and transport links for local residents is contributing towards the raising aspirations, educational attainment and skills priority of the North Warwickshire Sustainable Community Strategy 2009 – 2026.

8.4 Risk Management Implications

8.4.1 Effective performance monitoring will enable the Council to minimise associated risks with the failure to achieve targets and deliver services at the required performance level.

8.5 Equality Implications

8.5.1 The action to improve employment opportunities for local residents is contributing to equality objectives and is a positive impact in terms of the protected characteristics for age through the young people employment programme.

8.6 Links to Council's Priorities

8.6.1 There are a number of targets and performance indicators included relating to supporting employment and business, protecting countryside and heritage, and promoting sustainable and vibrant communities.

The Contact Officer for this report is Robert Beggs (719238).

Background Papers







Local Government Act 1972 Section 100D, as substituted by the Local Government Act, 2000 Section 97

Background Paper No	Author	Nature of Background Paper	Date

Planning and Development 18/19

	Action	Priority	Reporting Officer	Quarter 1	Quarter 2	Quarter 3	Status	Direction
28	Manage development so as to deliver the priorities on the Council's Corporate Plan and in the Sustainable Community Strategy	Protecting our Countryside & Heritage	Jeff Brown	A report will be brought to Board February 2019	A report will be brought to Board February 2019	A report will be brought to Board February 2019	Green	➡
29	To report on Growth pressures on the Borough, how to protect the Green Belt as far as possible and sustain the rurality of the Borough by February 2019 and at least annually thereafter	Protecting our Countryside & Heritage	Jeff Brown	A report will be brought to Board February 2019	A report will be brought to Board February 2019	A report will be brought to Board February 2019	Green	➡
30	Use the Design Champions to ensure the best achievable designs are implemented and developed so as to reflect setting and local character	Protecting our Countryside & Heritage	Jeff Brown	A report will be brought to Board February 2019	A report will be brought to Board February 2019	A report will be brought to Board February 2019	Green	➡
31	To seek to secure the protection of the best of the Borough's built and rural heritage	Protecting our Countryside & Heritage	Jeff Brown	A report will be brought to Board February 2019	A report will be brought to Board February 2019	A report will be brought to Board February 2019	Green	➡
32	a) Work with the County Council, Job CentrePlus and other partners to provide and promote apprenticeships/training opportunities; and b) administer funding provided by the developers and through other funding sources to maximise opportunities for employment of local people including employment engagement activity, development of work clubs and bespoke training; and c) to work with the County Council, Town/Parish Councils and other partners to maximise section 106/CIL contributions for infrastructure, biodiversity offsetting and community improvements	Supporting Employment & Business	Steve Maxey	A number of contributions from developers has been collected and a number of training activities delivered. Focus for upcoming work is digital skills due to demand from employers. Options are being explored to establish a number of code clubs in North Warwickshire and make links with the Digital School House at Coleshill Secondary school. The ability to develop apprenticeship opportunities and training is being reviewed as to whether the Council is in a position to support these. The Council continues to work closely with the Jobcentre to promote work opportunities. A successful Jobs Fair was held in October 2017.	A number of contributions from developers has been collected and a number of training activities delivered. Focus for upcoming work is digital skills due to demand from employers. Options are being explored to establish a number of code clubs in North Warwickshire and make links with the Digital School House at Coleshill Secondary school. A six weeks programming course for adults, Python, starts on 6th November at the Coleshill School. The Council continues to work closely with the Jobcentre to promote work opportunities and a further Jobs Fair is being held on 18th October.	A number of contributions from developers has been collected and a number of training activities delivered. Focus for upcoming work is digital skills due to demand from employers. Options are being explored to establish a number of code clubs in North Warwickshire and make links with the Digital School House at Coleshill Secondary school. A six weeks programming course for adults, Python, starts on 6th November at the Coleshill School. The Council continues to work closely with the Jobcentre to promote work opportunities and a further Jobs Fair is being held on 18th October. Work is underway to explore an enhanced DSH model with a Coordinator post identified. This will bring the digital and creative works together. Plans are in place to undertake a desk top exercise regarding the impacts of automation in North Warwickshire	Green	➡
33	Look at ways to improve transport links, including cycle links, footpath links, public transport and HGV parking to local employment and report on progress by March 2019	Supporting Employment & Business	Jeff Brown	To report by March 2019, but work on Section 106 Agreements continues with bus stop provision being agreed on the St Modwen development and on recent residential developments in Warton	To report by March 2019, but work on Section 106 Agreements continues with bus stop provision being agreed on the St Modwen development and on recent residential developments in Warton	To report by March 2019, but work on Section 106 Agreements continues with bus stop provision being agreed on the St Modwen development and on recent residential developments in Warton	Green	➡
34	To continue to work with North Warwickshire Heritage Forum to protect, promote and develop the heritage and tourism of North Warwickshire	Protecting our Countryside & Heritage	Jeff Brown	Meetings with the Forum have been established and more are programmed. Links to potential heritage projects have been identified - eg Roman history at Mancetter	Meetings with the Forum have been established and more are programmed. Links to potential heritage projects have been identified - eg Roman history at Mancetter	Meetings with the Forum have been established and more are programmed. Links to potential heritage projects have been identified - eg Roman history at Mancetter	Green	➡

NWPI Planning Board 18/19

Ref	Description	Section	Priority	Year End Target 2018/19	Outturn 2017/18	April - Dec Performance	Traffic Light	Direction of Travel	Comments
@NW:NI157a	Processing of planning applications in 13 weeks for major application types	Development Control	Countryside and Heritage	60%	91.00%	85.00%	 Green		Major applications are increasing in number and complexity which is having an impact on their determination periods
@NW:NI157b	Processing of planning applications in 8 weeks for minor application types	Development Control	Countryside and Heritage	80%	79.45%	91.00%	 Green		Good progress
@NW:NI157c	Processing of planning applications in 8 weeks for other application types	Development Control	Countryside and Heritage	90%	85.00%	85.00%	 Amber		consistent progress