
13 November 2018

Dear Councillor,

A meeting of **SCRUTINY COMMITTEE FOR COMMUNITY, HOUSING AND PLANNING** will be held in the **COUNCIL CHAMBER** at these offices on **WEDNESDAY, 21ST NOVEMBER, 2018 at 7.00 pm** when your attendance is requested.

Yours sincerely,
KATHRYN HALL
Chief Executive

A G E N D A

	Pages
1. To note Substitutes in Accordance with Council Procedure Rule 4 - Substitutes at Meetings of Committees etc.	
2. To receive apologies for absence.	
3. To receive Declarations of Interest from Members in respect of any matter on the Agenda.	
4. To consider any items that the Chairman agrees to take as urgent business.	
5. To confirm the Minutes of the previous meeting	3 - 12
6. Site Allocations Development Plan Document - Site Selection Paper 2 - Methodology for Site Allocation	13 - 58
7. Air Quality	59 - 68
8. Private Sector Housing Enforcement Policy 2018	69 - 96
9. Scrutiny Committee for Community, Housing and Planning Work Programme	97 - 98

10. Questions pursuant to Council Procedure Rule 10 due notice of which has been given.

To: **Members of Scrutiny Committee for Community, Housing and Planning:** Councillors A Barrett-Miles, E Belsey, P Coote, S Ellis, C Hersey, C Holden, M Hersey (Vice-Chair), E Matthews, N Walker (Chairman), A Watts Williams, J Wilkinson and P Wyan

Minutes of the Meeting of the Scrutiny Committee for Community, Housing and Planning held on 12 September 2018 from 7:00 p.m. to 8:22 p.m.

Present: Councillors: Neville Walker (Chairman)
Margaret Hersey (Vice-Chairman)

Andrew Barrett-Miles
Edward Belsey
Richard Cherry
Phillip Coote
Sandy Ellis

Sue Hatton
Chris Hersey
Colin Holden
Anne Jones
Edward Matthews

Anthony Watts Williams
John Wilkinson
Peter Wyan *

*Absent

Also Present: Councillors Cherry Catherine, Steve Hansford, Judy Llewellyn-Burke, Pru Moore, Dick Sweatman, Mandy Thomas-Atkins and Garry Wall.

Also Present (Cabinet Members): Councillor Andrew MacNaughton and Councillor Norman Webster.

Also present: Ken Glendinning Homes England, Jim Strike AECOM, Patrick Clark AECOM, Duncan Barrett West Sussex County Council.

1. SUBSTITUTES AT MEETINGS OF COMMITTEE - COUNCIL PROCEDURE RULE 4.

Councillor Bruce Forbes was substituting for Councillor Peter Wyan.

2. APOLOGIES.

Apologies were received from Councillor Peter Wyan.

3. DECLARATIONS OF INTEREST.

None.

4. TO CONSIDER ANY ITEMS THAT THE CHAIRMAN AGREES TO TAKE AS URGENT BUSINESS.

None.

5. MINUTES.

The minutes of the Committee held on 27 June and 4 July 2018 were agreed as correct records and signed by the Chairman.

6. DRAFT NORTHERN ARC MASTERPLAN & DRAFT INFRASTRUCTURE DELIVERY PLAN AND PHASING STRATEGY.

The Chairman reminded the Committee of the importance of this project which had received support from all levels of Government. Judy Holmes, the Assistant Chief Executive, informed Committee that Burgess Hill Councillors' had started this journey 15 years ago and the Burgess Hill Growth Programme, of which the Northern Arc was a key part, was supported by Central Government and the Coast to Capital LEP.

The Northern Arc had been difficult to progress due to complexities of land ownership and therefore Homes England, has acquired the site. The development will take approximately 15 years to complete. The Assistant Chief Executive asked the Committee to scrutinise the Masterplan and draft Infrastructure Delivery Plan and Phasing Strategy, and to recommend to Cabinet that it approve the documents which will bring pace and certainty to the delivery of much needed housing.

Sally Blomfield, Divisional Leader for Planning and Economy, advised Committee that the Masterplan builds on the work of the Burgess Hill Town Wide Strategy, the Neighbourhood Plan and the work of the previous developer. However, Homes England's consultant, AECOM, has worked closely with Mid Sussex District Council and West Sussex County Council and other key partners to prepare the draft documents before Members for their consideration. The draft Masterplan sets out the land use framework and strategic development principles in order to guide development. The Divisional Leader for Planning and Economy advised that the draft Masterplan demonstrates how the quantum of development set in the Policy DP9 of the District Plan can be delivered. The Masterplan can deliver approximately 3,500 homes, two primary schools, a secondary school, three neighbourhood centres and a GP Surgery if the need is identified. All the neighbourhood centres would be accessible by foot. Whilst it had been identified that the Centre for Community for Sport would be located north of the A2300 further technical work had demonstrated because of the gradients of the site and the cost of undergrounding the pylons this was no longer possible. Therefore it was now proposed in the draft Masterplan to locate the Centre for Community for Sport south of the A2300. This would be a good location because of its proximity to the Triangle Leisure Centre and St Pauls School.

However, because of the need to relocate the Centre for Community for Sport the amount of land available for employment south of the A2300 and adjoining to this development had been reduced from 10ha to 4ha. Officers were confident that this shortfall could be met through the allocation of additional employment land by the Site Allocation DPD work as a significant amount of land had been promoted to the Council in the Burgess Hill area for employment use.

The Divisional Leader for Planning and Economy highlighted some of the key 24 Strategic Development Principles. The first 4 Strategic Development Principles relate to access and traffic movement to connect Maple Drive with the A2300 allowing movement onto the A23; this will limit traffic movement to the north of the site, a potential issue several Members had previously identified but allow connectivity with all the parcels of land. The Master Plan incorporates sustainable transport such as the green circle, a green super highway for commuting cyclists and provision of space alongside the spine road for cyclists and pedestrians. This would connect the houses and employment land with the rest of Burgess Hill and integrate it with the rest of the town.

The Divisional Leader for Planning and Economy then referred to the Masterplan map shown on page 69 which set out the land use framework. The alternative layout was highlighted and she noted that this was dependent on the power cables being buried underground.

Lois Partridge, the Business Unit Leader for Planning Policy and Economy introduced the draft Infrastructure Delivery Plan (IDP) and Phasing Strategy advising that Policies DP7 and DP9 of the District Plan stated the range of infrastructure required for strategic development and site allocation for land in the north of Burgess Hill and the IDP report provided all the details. Chapter six of the IDP lists the transport, utilities, social and green infrastructure to support the development; the development

will deliver 30% affordable housing to meet the requirements of DP31. The Business Unit Leader for Planning Policy and Economy advised that the phasing strategy listed the timescales and key dates.

Chris Tunnell, Special Adviser to the Council, told the Committee that at the start of the process outline applications were high level, the details would be received in further planning applications over the next 10 to 15 years. The Special Advisor to the Council advised that the Freeks Farm application was due this Autumn followed by the outline application for the Northern Arc site in Autumn this year and the application for the Freeks Farm Bridge and link road to Isaac's Lane in the Spring of 2019, the Freeks Farm and link road works have an expected start date of 2020. The Assistant Chief Executive reminded Committee that all applications would be subject to consideration and determination by the Planning Committees.

Several Members praised the Officers and all associated organisations, including Homes England, for their hard work on this project.

A Member expressed concern over the design of the road network, and wanted assurance that there would be provision of footways and car parking; people should be encouraged to use public transport and cycle and pedestrian routes should be provided so people from could come into Burgess Hill easily. In response, Patrick Clarke for AECOM, advised that there was a commitment in the Masterplan to the importance of creating a high quality network of integrated streets so people had a choice. The provision of car parking facilities would not dominate the area.

A Member asked whether the funding was in place for the project and was concerned with the high density of the buildings in an area which is currently the countryside. Ken Glendinning from Homes England confirmed on going work with the Treasury regarding investments in the site. Homes England has already invested by acquiring the site.

The Divisional Leader for Planning and the Economy stated that the Council was working with AECOM and Homes England to create good homes and this was a key principle of the Masterplan. A Strategic Development Principle is the commitment to get the Building for Life 12 outstanding rating through the accreditation scheme and to build a legacy the council can be proud of. In response to the Member question on densities the Divisional Leader for Planning and the Economy advised density ranges would vary across the site. In addition, the higher densities would be focused around the neighbourhood centres and would probably be delivered by developing town houses or flats. The detailed design guide would include examples of different housing types to demonstrate how these densities could be achieved.

Queries were raised over the aspirational rather than prescriptive elements on sustainability, and a Member asked whether solar panels and rain water harvesting would be included in the design guide. In response Jim Strike, AECOM, advised that the Masterplan stated aspirational sustainability details as work was ongoing to identify suitable methods of sustainability which were achievable, viable and deliverable on this site.

The Business Unit Leader for Planning and the Economy stated that p20 of the Committee report was a summary of the sustainability measures proposed and that the 24 Strategic Development Principles related to sustainability and started to set out more prescriptive details i.e. off street parking and electric vehicle points. Whilst the Strategic Development Principles would set out the framework, Officers were working with AECOM for more details and the Member's comments had been noted.

Ken Glendinning of Homes England added that as technology was continually changing and the Master Plan would take up to 15 years to complete they did not want to be too prescriptive at this stage to enable the use of new technology or new approaches for the later stages of the development. The homes needed to be flexible and adaptable to embrace new technology of the future.

A Member questioned if there would be a separate cycle path or whether there would be shared space with cars on the road and if the cycle path would connect up with the Haywards Heath and Hassocks cycle paths. He also asked if the extra land at Bedelands would be put into a Trust. The Divisional Leader for Planning and Economy advised that the spine road would have a separate three metre cycle way/footway along parts of the roads in addition to the extensive network of pedestrian and cycle links (including the green super highway) to ensure connectivity. The Council was working closely with West Sussex County Council to deliver a Sustainable Transport Project to ensure a connection with the cycle route to Wivelsfield railway station and into Haywards Heath. The Assistant Chief Executive stated that the Council would work closely with the Town and Parish Councils to discuss land adoption.

A Member questioned whether the Masterplan would deliver 3,500 homes and showed concern over the loss of land at The Triangle Centre car park which is already at capacity. He also asked whether the impact on surrounding villages north and south would be investigated. In response the Assistant Chief Executive advised that the Plan will deliver approximately 3,500 houses and by re-modelling the use of land at the car park and outside space at the Triangle more efficiently, this will provide an area of 1 hectare to help make up the shortfall originally envisaged for the Centre for Sport. Duncan Barrett advised that the impact to traffic would be looked at carefully by traffic modelling work and once complete they will look at any mitigation works necessary; this is part of the detailed work which will look at the wider impact on the network.

In response to a Member's question on the viability of rerouting power cables underground, Ken Glendinning advised that specialist agencies had been appointed to negotiate with UK Power Networks regarding the undergrounding of the cables. He was confident that they would be able to agree a scheme which enabled the undergrounding of cables south of the A2300 in order to facilitate developments in this area.

A Member asked whether all the houses would be delivered as 716 would be delivered in 2032 - 2035 which is beyond the life of the District Plan. The Special Advisor advised Committee that Homes England were committed to delivering all the homes.

In response to a question regarding the rate of employment land development Jim Strike of AECOM stated that provision of land for employment use was an early part of the scheme. However the uptake of the employment floor space would be dependent on market demand and interest from commercial occupiers to use that space so he could not give any figures at this stage.

Following a Member's question the Assistant Chief Executive advised Committee that neither the Waste Recycling Centre nor the Science Park were within the boundary of the Masterplan.

A Member commented that they were concerned with the standard of work by developers and the ability of the railway to cope with future demand as it was working at full capacity. The Divisional Leader for Planning and Economy replied that conditions would be included in the detailed design for construction standards. Ken Glendinning advised that the Homes England's Procurement process had been recently revised to weight good design higher and Homes England were committed to accelerate the delivery without compromising on quality.

The Assistant Chief Executive reminded Committee that they were not scrutinising the Burgess Hill Growth Plan, it provided Committee with information on the other projects which included improvements in connectivity and sustainable transport. A Member commented that he was concerned with the quality and life span of the road. Patrick Clarke of AECOM informed Committee that the design of streets would fulfil all functions required for cyclists, pedestrians and motorists; the designs would vary to create character to the development. He also advised that the life span of the buildings should be several hundred years; they would be built to last, using durable materials and to meet the required standards. The credentials of prospective developers would be checked ensuring they have a good track record.

In response to a question concerning the Goddards Green Waste Water Site, the Divisional Leader for Planning and Economy advised that convenient grants had been secured by the Council to undertake improvement works to reduce odour emissions from the site and that the Council was working closely with Southern Water over the design and deliverability of these proposals.

The Business Unit Leader for Planning Policy and Economy replied to a question on the ability of the health services to cope with the increased demand created by this development. Officers are liaising with the CCG to meet the needs of the new homes and are seeking contributions to improve existing services in Burgess Hill and for a new centre once there is sufficient critical mass. A health centre will be based in one of the neighbourhood centres on the site.

In reply to a query concerning self-certification by contractors working for West Sussex County Council, Duncan Barrett advised this scheme has been withdrawn.

A Member thanked Homes England for upholding their commitments to residents and asked about the disruption to residents when utility companies have to dig up the network. The Divisional Leader for Planning and Economy advised that one of the 33 Burgess Hill Growth projects was a "Dig Once" project, where implementing utilities are combined to minimise disruption.

Norman Webster the Cabinet Minister for Community advised he was happy with the future focus of the plan regarding the technological change and that future meetings with the CCG were planned to ensure that any medical needs are catered for.

The Chairman noted that no Members wished to speak so moved to the recommendation, which was agreed unanimously.

RESOLVED

The Committee;

- (i) Considered and commented on the draft Masterplan and the draft Infrastructure Delivery Plan and Phasing Strategy; and
- (ii) Recommended to Cabinet that, subject to considering any comments from this Committee, it approves the documents as material considerations in the determination of planning applications for development within the Northern Arc strategic allocation.

7. SCRUTINY COMMITTEE FOR COMMUNITY, HOUSING AND PLANNING WORK PROGRAMME 2017/18.

Tom Clark, the Solicitor to the Council introduced the work programme to the Committee. He told Members that the Gambling Policy had received no representations from the public consultation and the item would go to Council for ratification but an update report on Site Allocation DPD would be received at the next meeting.

The Chairman moved to the recommendation which was agreed unanimously.

RESOLVED

The Committee agreed the current work programme.

8. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 10 DUE NOTICE OF WHICH HAS BEEN GIVEN.

None.

Andrew Barrett-Miles thanked the Officers, Homes England and AECOM members for the work over the years to get a scheme that Burgess Hill wants and needs. All other Members concurred.

Chairman

**Minutes of the Meeting of the Scrutiny Committee for
Community, Housing and Planning held on 25 September 2018
from 7:00 p.m. to 7:47 p.m.**

Present: Councillors: Neville Walker (Chairman)
Margaret Hersey (Vice-Chairman)

Andrew Barrett-Miles*
Edward Belsey*
Richard Cherry
Phillip Coote
Sandy Ellis

Sue Hatton
Chris Hersey
Colin Holden
Anne Jones*
Edward Matthews

Anthony Watts Williams
John Wilkinson
Peter Wyan

*Absent

Also Present: Councillor Moore, Councillor Stockwell, Councillor Clarke, Councillor Maples, Councillor and Councillor Wall.

Also Present (Cabinet Members): Councillor Andrew MacNaughton.

1. SUBSTITUTES AT MEETINGS OF COMMITTEE - COUNCIL PROCEDURE RULE 4.

None.

2. APOLOGIES.

Apologies were received from Councillors Barrett-Miles, Jones, E. Belsey and Webster.

3. DECLARATIONS OF INTEREST.

None.

4. TO CONSIDER ANY ITEMS THAT THE CHAIRMAN AGREES TO TAKE AS URGENT BUSINESS.

None.

5. SITE ALLOCATIONS DEVELOPMENT PLAN DOCUMENT – ASSESMENT OF HOUSING SITES AGAINST DISTRICT PLAN STRATEGY.

Alice Henstock, Senior Planning Officer, introduced the report which provided Members with an update on the preparation and publication of the Strategic Housing and Economic Land Availability Assessment (SHELAA), which includes the further assessment of housing and employment sites, and outlines the work which has been carried out to assess the 'palette' of housing sites against the District Plan Strategy and the ongoing work programme. She drew Member's attention to Appendix 5 of the Site Selection Paper 1 which set out the 91 sites which were assessed as not being compliant with the District Plan Strategy.

A Member raised concerns over the allocation of sites in East Grinstead as it has been recognized that the town suffers seriously from congestion. He enquired whether West Sussex County Council (WSSCC) Highways had been consulted as he could find no mention of a consultation being carried out in the report.

Sally Blomfield, Divisional Leader for Planning and Economy, confirmed that Policy DP4 sets out the Spatial Distribution of Housing Requirement which concentrates development within the main settlements of the District such as East Grinstead. The later stages of the Site Allocation DPD work will carry out further site and highway assessment work.

Lois Partridge, Business Unit Leader for Planning Policy & Economy, informed the committee that the 2 sites considered in East Grinstead are subject to the same assessment process as other sites in the District. There is no presumption that both sites will come forward. The work to date has only assessed sites against the DP Strategy i.e. sites priority to the Built Area and relationship with Policy D6 hierarchy settlement. She noted that a formal consultation will be carried out by the Council next year once further assessment has been carried out.

A Member expressed his appreciation of the Officers and the Site Allocations Working Group for all the work they have done to bring the report to the committee. He highlighted that the 'Broad location to the West of Burgess Hill', SHELAA ID 740, has been recorded as being part of the settlement of Burgess Hill when in fact the land falls under the parish of Hurstpierpoint. The Member also questioned whether the developers of the sites had been informed that their site was not being considered for development.

The Divisional Leader for Planning and Economy thanked the Member for highlighting the potential inaccuracy and confirmed that it would be checked.

Judy Holmes, Assistant Chief Executive, confirmed that as part of the consultation work the developers are being consulted with throughout this work at appropriate stages. A Member raised his concerns over the lack of infrastructure provision being planned within the document and over the erosion of the strategic gap between East Grinstead and Crawley Down. He felt there has been a lack of forward thinking as planning for infrastructure should be carried out at an early stage.

The Business Unit Leader for Planning Policy & Economy informed the Member that the document is at the first stage which focuses only whether a site conforms or does not conform with the District Plan. Further, detailed assessments would consider the issue of a buffer between settlements. She explained that the cumulative impact of developments on highways is identified through a Transport Assessment which is a model applied at the next stage of this work.

The Member sought clarification over what is considered to be a strategic gap.

The Business Unit Leader for Planning Policy & Economy confirmed that there is no defined distance for what could be considered to be a gap.

A Member queried whether the statutory stakeholders have been consulted.

The Assistant Chief Executive confirmed that at this stage of the process they are only applying the District Plan Strategy to potential sites. The Council will look later in the current year to provide more detail about what sites will be taken forward during the next stage. Through the Site Allocations Working Group (SAWG), further work will be carried out with consultants and statutory stakeholders.

A Member referenced the existing settlements mentioned on P.6 of the report and questioned the definition of what would be a settlement in relation to the 150 metre degree of separation rule.

Alice Henstock, Senior Planning Officer, confirmed that the 150-metre rule is to assess whether a site is or is not connected to a built-up boundary of an existing settlement. The District Plan strategy requires that a site must be connected to a built up area.

The Chairman noted that no Member wished to speak so moved to the recommendation which was agreed unanimously.

RESOLVED

That the Committee;

- i. Considered and commented on the work to date and;
- ii. Noted the further work to be undertaken on the residual housing and employment sites.

6. STATEMENT OF COMMUNITY INVOLVEMENT (SCI).

Lois Partridge, Business Unit Leader for Planning Policy & Economy, introduced the report which asked the committee to consider the revised draft version of the Statement of Community Involvement (SCI) which was adopted in 2011. The statement has been updated to comply with national legislation, the adoption of the District Plan and evolving best practice on community and stakeholder engagement.

A Member noted the references made on the Community Infrastructure Levy (CIL) on P.54 and sought reassurances from officers that the Council will adopt CIL in the future.

The Business Unit Leader for Planning Policy & Economy confirmed that the Council is waiting for the final guidance from Central Government on CIL before starting work on this, and noted that the Council's commitment to adoption of CIL in due course is set out in the Local Development Scheme (LDS) 2017.

The Member sought clarification on whether Town and Parish Councils will be entitled to 25% of the CIL funding. It was confirmed that this was indeed the case.

Sally Blomfield, Divisional Leader for Planning and Economy, explained that the LDS which indicates a timetable for the implementation of CIL was revised and approved last year however , it would be updated again in June 2019, when the Regulation 18 Issues and Options draft Site Allocations DPD is published.

A Member noted that Neighbourhood Plans have to be updated every 5 years and enquired which is the first Town or Parish Council that needs to update their Plan. He raised his concerns that the Plans are costly to prepare and sought further clarification on whether there will be any financial support for the Town and Parish Councils.

The Business Unit Leader for Planning Policy & Economy noted that the Government had recently issued updated guidance which confirmed that funding would continue to be provided to support Town and Parish Councils if they wished to review their Plans.

Tom Clark, Solicitor to the Council, confirmed that Cuckfield Parish Council would be the first to update their Plan if they wish.

Judy Holmes, Assistant Chief Executive, informed the committee that the Council is working closely with the Town and Parish Councils to bring forward any reviews of Plans but iterated that it is up to the individual Town and Parish Councils to review or update their Plans..

The Chairman noted that no Member wished to speak so moved to the recommendation which was agreed unanimously.

RESOLVED

That the Committee:

- i) Noted the contents of the report;
- ii) Noted the extent of work required to assess sites and implications of this on the timeline originally proposed for the preparation of the Site Allocations DPD.

10. QUESTIONS PURSUANT TO COUNCIL PROCEDURE RULE 10 DUE NOTICE OF WHICH HAS BEEN GIVEN.

None.

Chairman.

SITE ALLOCATIONS DEVELOPMENT PLAN DOCUMENT – SITE SELECTION PAPER 2 – METHODOLOGY FOR SITE SELECTION

REPORT OF: DIVISIONAL LEADER FOR PLANNING AND ECONOMY
Contact Officer: Alice Henstock – Senior Planning Officer
Email: alice.henstock@midsussex.gov.uk Tel: 01444 477394
Wards Affected: All
Key Decision: Yes
Report to: Scrutiny Committee for Communities, Housing and Planning
Date of meeting: 21st November 2018

Purpose of Report

1. The Council is currently preparing a Site Allocations Development Plan Document (DPD). To inform the preparation of the Site Allocations DPD, a methodology for site selection has been developed. The purpose of this report is to provide an opportunity for the Committee to consider this methodology.

Summary

2. This report:
 - a) Sets out the proposed Site Selection Methodology;
 - b) Sets out the work undertaken to date to prepare the Site Selection Methodology, including consultation with other parties;
 - c) Confirms the number of dwellings the Site Allocation Development Plan Document will seek to allocate; and
 - d) Outlines the ongoing work programme.

Recommendations

3. **That the Scrutiny Committee for Communities, Housing and Planning:**
 - i. **Considers and comments on the proposed Site Selection Methodology;**
 - ii. **Authorises the Divisional Leader for Planning and the Economy, in consultation with the Cabinet Member for Planning, to make any further necessary minor amendments to the proposed methodology, if required;**
 - iii. **Notes the Site Allocations Development Plan Document will seek to allocate up to 2,500 dwellings, in accordance with District Plan policy DP4; and**
 - iv. **Notes the work programme.**

Background

4. At the District Plan Examination, the Council committed to preparing a Site Allocations Development Plan Document (DPD), which will allocate sites to provide the residual housing requirement of approximately 2,500 homes (identified in DP4:Housing), to meet the Council's full housing need over the Plan period to 2031.
5. At its meeting in January 2018, this Scrutiny Committee considered the work programme required to develop the Site Allocations DPD, updated Members on the call for sites and the resultant Strategic Housing Land Availability Assessment (SHELAA) and agreed that the next stage was to assess whether the sites promoted meet the adopted District Plan Strategy. A Member Working Group was set up to oversee this work.
6. In September 2018, Scrutiny Committee considered the conclusions of the Site Selection Paper One – Assessment of Housing Sites against District Plan Strategy. This report also noted that the next stage of work would be to develop the site selection methodology, against which the remaining sites would be assessed. The purpose of the Site Selection Methodology is to provide a clear process for selecting the most suitable and sustainable sites for inclusion in the Site Allocations Document.
7. Officers have prepared a draft Site Selection Methodology which they have discussed with the Site Allocation Member Working Group.

Site Selection Methodology

8. The Site Selection Methodology sets out the criteria that have been developed to establish the suitability, availability and deliverability of each site. This includes relevant land designations, constraints, accessibility to services, infrastructure and transport. There are 17 criteria for the housing sites and 19 for the employment sites.
9. The criteria have been designed to enable a comparison of sites against one another with the aim of determining the most sustainable and developable in accordance with the National Planning Policy Framework, which will ensure selection is consistent with the principles of sustainable development and consistent with the policies within the Framework.

Consultation process

10. Following agreement from the Working Group, officers consulted the following groups on the revised draft Methodology for Site Selection:
 - a) The Mid Sussex Developer Liaison Group – a meeting was held on 3rd October 2018. There were 15 attendees, representing landowners, development companies, land promoters and registered housing providers.

b) Neighbouring Authorities - The draft Methodology was sent to planning officers at Crawley Borough Council and Horsham District Council as neighbouring authorities in the North West Sussex housing market area. Authorities in the functional economic market area including Brighton and Hove Council, Adur and Worthing Council and Eastbourne and Lewes Council were also given the opportunity to comment on the methodology. Neighbouring authorities of Wealden and Tandridge were also given opportunity to comment.

c) Town and Parish Councils – a meeting was held on 8th October 2018. Representatives from 17 Town and Parish Councils were represented at the briefing.

11. All consultees were given the draft Methodology to review, and were asked to submit comments. Consultees were advised that if no response was submitted, it would be taken that they had no objections to the proposed methodology.

Summary of Responses

12. Feedback was received from a number of respondents; 2 from the development industry, 2 from adjacent Local Authorities, 6 from Town and Parish Councils and 1 on behalf of local residents.
13. Appendix 2 sets out the comments received, and identifies where these have resulted in changes to the Methodology. Many of the comments have resulted in clarifications to the methodology or the criteria, and further information has been included on the sources of data which will be used in the assessment process.

DP4 Housing – Residual Amount

14. A number of the consultation responses received referred to the number of dwellings that the Site Allocations Document is seeking to allocate, including suggestions that the number should be higher or lower than the amount set out in policy DP4 Housing.
15. District Plan policy DP4: Housing sets out the sources of housing supply that will deliver the total housing requirement, as at 1st April 2017. The policy indicates that 2,439 dwellings are to be delivered 'Elsewhere in the District, as allocated through future Neighbourhood Plans and the Site Allocations Document'. It is acknowledged that this residual amount will have changed due to new permissions granted and dwellings completed. However, it is recommended that the Site Allocations Plan still seeks to allocate land for around 2,500 dwellings.
16. There are a number of reasons for this:
 - a) There are a number of allocations from the Mid Sussex Local Plan (2004), Small Scale Housing Allocations DPD (2008) and various Neighbourhood Plans that have yet to secure a planning permission. Officers are currently seeking to make contact with the landowners/developers to establish the longer term intentions for these sites, with the intention of reviewing these allocations as part of the preparation of the Site Allocations Plan. In light of the time elapsed since some of these sites were allocated, it is prudent to review whether these sites are still available for development. Following this, it is possible that further sites will be required to replace these sources of supply. It is important to note that none of these sites contributes to the Council's 5 year housing land supply calculation.
 - b) The Northern Arc Infrastructure Delivery Plan (2018) indicates that the delivery of 700 units, out of a total of 3,500 units, will fall outside the Plan period, i.e. post 2031.

c) The housing requirement figures in the District Plan are a minimum. Consistent with the principles of the NPPF, (para 59), 'To support the Government's objective of significantly boosting the supply of homes', it is prudent that the District Plan policy framework allocates more than the figure indicated in the policy.

17. Therefore, to ensure that the Council will be able to maintain a deliverable supply of homes to meet its identified housing need, it is considered appropriate to plan for the delivery of up to 2,500 dwellings through the Site Allocations Plan.
18. It is important to note that the delivery of 2,500 dwellings units will be subject to the Council being able to demonstrate that this level of housing growth would not cause further harm to the integrity of the Ashdown Forest SAC. The Habitats Regulations Assessment will be a key part of the evidence base going forward.

Next Steps

19. Following Scrutiny Committee comments, over the coming months, officers will use the Methodology to undertake the site assessment work. This will involve liaison with experts in specialist fields to inform the conclusions of the assessment work. Officers will also continue to discuss the emerging work with Town and Parish Council and will liaise closely with those Parishes where there is a potential conflict with Neighbourhood Plans.
20. Officers will continue to liaise with site promoters and landowners where required, to gather further information about the site. To facilitate this, a questionnaire has been sent to all landowners/agents/site promoters with the aim of establishing when a site is likely to be available for development and what infrastructure would be delivered as part of the development. The feedback from this will be used to inform the site selection templates. A copy of the questionnaire is attached at Appendix 3.
21. Officers will continue to work with the consultants appointed to undertake the Transport Assessment, Air Quality and Habitats Regulations Assessment Work.
22. Officers will provide a further update to the Committee on the Site Allocations DPD work in the Spring 2019.

Financial Implications

23. Commissioning consultants to carry out transport modelling, air quality assessment and Habitats Regulations Assessment has financial implications and these costs have been budgeted for.

Risk Management Implications

24. If a robust and detailed assessment of the sites is not undertaken, the inclusion or exclusion of sites from the Sites Allocations DPD will be challenged at the DPD Examination and risk it not being adopted in a timely manner. The Site Allocations DPD will identify housing and employment sites which will enable the Council to demonstrate a five year housing land supply; without this document in place, the Council will be vulnerable to speculative planning applications. The allocation of additional employment sites will make an important contribution to the delivery of Economic Development Strategy.

Equality and Customer Service Implications

25. It is important that the Council allocates sites for housing and employment to maximise accessibility for all to decent housing and employment opportunities. An Equality Impact Assessment will be prepared alongside the Site Allocations DPD to ensure opportunities to promote equality and/or barriers to service are considered and addressed.

Other Material Implications

26. There are no other material implications.

Appendix 1: Site Selection Paper Two – Methodology for Site Selection

Appendix 2: Summary of responses to the Site Allocations – Site Selection Methodology

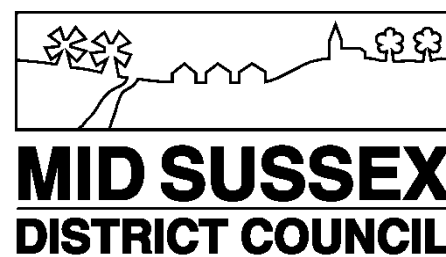
Appendix 3: Developer Questionnaire

Background papers

Previous Committee reports and Site Selection paper one.

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Mid Sussex District Council



Site Allocations Development Plan Document

Site Selection Paper 2 - Methodology for Site Selection

DRAFT – Scrutiny Committee for Community, Housing and Planning

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1. Site Selection Paper 2 – Methodology for Site Selection

Introduction

- 1.1. Following the adoption of the Mid Sussex District Plan in March 2018, work has commenced on the preparation of the Site Allocations Development Plan Document. Policy DP4: Housing, commits the Council to preparing a Site Allocations DPD to identify around 2,500 additional residential units.
- 1.2. In order to decide which sites will be allocated for development in the DPD, the Council is carrying out a robust process to identify, assess and score the potential sites. The first stage of that process was to prepare a Strategic Housing and Employment Land Availability Assessment (SHELAA), which sets out the sites which will be considered further through the Site Selection process. The second stage was the assessment of sites against the District Plan Strategy, which was published in Site Selection Paper 1. The next stage will be to assess sites against the proposed methodology set out in this paper.

Purpose of the Paper

- 1.3. The purpose of this paper is to explain the methodology the District Council will follow to select a shortlist of housing and employment sites from the long list for inclusion in the Site Allocations DPD Regulation 18 consultation.
- 1.4. The methodology has been considered by the Site Allocations Working Group, representatives from the development industry via the Developer Liaison Group and Town and Parish Councils. The methodology for the Site Selection Process as a whole has also been considered by the Scrutiny Committee for Community, Housing and Planning.

Background

- 1.5. A palette of potential housing and employment sites has been identified through the preparation of the Strategic Housing and Employment Land Availability Assessment. On the 25th September 2018, the Scrutiny Committee for Community, Housing and Planning considered a report and accompanying paper that set out how the palette of housing sites had been assessed against the District Plan Strategy (Site Selection Paper 1). As a result of this work 91 sites were classified as not complying with District Plan Strategy and will therefore not be considered further for the purposes of preparing the Site Allocations DPD. There are 146 housing sites and 95 employment sites remaining in the palette of sites for consideration.
- 1.6. A high-level site selection methodology was previously considered by the Scrutiny Committee in January 2017. This methodology has been developed further within Site Selection Paper 2 to provide a clear process for selecting the most suitable and sustainable sites.
- 1.7. Officers will use this methodology, working with the Site Allocations Working Group to undertake the site selection exercise. The outcome of this work will inform the content of the Regulation 18 Consultation documents that will be published in Summer 2019.
- 1.8. There are different factors to consider when selecting a housing site compared to an employment site. For example, criteria relating to distance to education/health will be important considerations when assessing the suitability and sustainability of a housing

site, but less important for an employment site. Similarly, proximity to labour force and attractiveness to the market will be important factors for an employment site. Therefore, in line with good practice, housing and employment sites will be subject to their own separate site selection methodologies.

Site Selection – Principles

- 1.9. The site selection criteria have been developed to establish the suitability, availability and deliverability of each site. This includes relevant land designations, constraints, accessibility to services, infrastructure and transport. The ability of each site to contribute to the delivery of the District Plan Strategy through its inclusion in the Site Allocations DPD is also taken into account.¹
- 1.10. The NPPF (2018) states that “*Plans should be prepared with the objective of contributing to the achievement of sustainable development*” and “*be prepared positively, in a way that is aspirational but deliverable*” (NPPF, para 16). It goes on to state that “*Planning policies should identify a sufficient supply and mix of sites, taking into account their availability, suitability and likely economic viability*” (NPPF, para 67).
- 1.11. The criteria have been designed to enable a comparison of sites against one another with the aim of determining the most sustainable and developable in accordance with the NPPF, which will ensure selection is consistent with the principles of sustainable development and consistent with the policies within the Framework (NPPF, Chapter 2)

Site Assessments - Principles

- 1.12. The impact of each site on each criterion will be measured using the requirements set out in the tables below. The impacts have been drawn from the supporting evidence base and through liaison with stakeholders and statutory consultees. The source(s) of evidence which inform the assessment are listed under the criteria in sections 3 and 5.
- 1.13. The assessments will also be based on information provided by the site promoter up until the point of assessment. The Council welcomes the submission of any evidence/technical reports/etc that would assist in undertaking the assessment.
- 1.14. It may be possible to improve the impact against certain criteria by mitigating negative impacts. However, in order to provide a consistent approach, it is not for the Council, at this stage, to establish the specific mitigation that would be required in order to improve any negative impacts. However, a high-level assessment will be made as to whether negative impacts could, in theory, be mitigated (for example, Ancient Woodland can be mitigated by the application of a 15m buffer or excluding area from developable area of the site), as already noted in the Site Selection Criteria.
- 1.15. If any specific mitigation measures/infrastructure provision has been provided by site promoters within their site submission or subsequent correspondence since, these will be accounted for when undertaking the assessments. If the promoters don't provide this information it will be assumed that no mitigation/additional infrastructure is to be accounted for within the assessment process. The Council will continue to engage

¹ The assessment criteria uses a similar methodological approach to that used in the Strategic Site Selection Paper, that was prepared to inform the preparation of the Mid Sussex District Plan (EP23a https://www.midsussex.gov.uk/media/3159/ep23a_strategicsitepaper_sep17.pdf). This approach was supported by the District Plan Inspector who commented that this approach was sound. The assessment criteria and methodology used for the District Plan has been developed to reflect the fact that the Site Allocations DPD assessment is looking at a range of size of sites and to reflect latest government in the NPPF (2018).

proactively with site promoters to explore mitigation measures, and promoters will have the opportunity to comment and provide further information on mitigation (should it be required) once the initial assessments have been completed.

- 1.16. As part of the plan making process and in accordance with legislation, the Site Allocations DPD will be informed and accompanied by a Sustainability Appraisal. The Sustainability Appraisal will assess all 'reasonable alternatives' (e.g. options for sites) against a range of sustainability criteria (known as the 'Sustainability Framework'). The assessment within this paper does not intend to replace the Sustainability Appraisal, which will be prepared separately. The Site Selection Paper(s) will help refine the list of 'reasonable alternatives' to be assessed within the Sustainability Appraisal. Both documents will be used in combination to assist with the determination of the most suitable and sustainable sites for allocation in the DPD. This is a robust approach which was used during the preparation and examination of the District Plan.

2. Site Selection Methodology – Housing Sites

Introduction

- 2.1. The methodology has been developed to provide a clear framework to assess each housing site on a consistent basis to develop a shortlist of the most suitable and sustainable sites for inclusion in the Site Allocations DPD.
- 2.2. There are 17 criteria which each housing site will be assessed against, split into three parts. The impact on each criterion is graded using a 'traffic light' system dependent upon its potential impact:

	Very Positive Impact
	Positive Impact
	Neutral Impact
	Negative Impact
	Very Negative Impact

- 2.3. For some criteria, there is more than one way of achieving a 'very positive impact' or 'very negative impact'. Similarly, some criteria may not achieve any negative impacts as all possible outcomes are positive. The 'very negative' impacts are usually reserved for criteria that are highlighted within the National Planning Policy Framework (NPPF) as a significant constraint to development, or those which would "significantly and demonstrably" outweigh any benefits.

Criteria Selection and Weighting

- 2.4. The 17 criteria have been split into three sections; Part 1: Constraints, Part 2: Deliverability considerations and Part 3: Sustainability/Access to Services.
- 2.5. Once all the sites have been assessed they will be ranked against other sites in the same settlement, according to how they perform against the Site Selection criteria. This ranking will not be a simple totalling of the number of 'Very Positive' -> 'Very Negative' impacts because some criteria carry more weight than others. For example, a 'red' – high impact for a site in the AONB (under criteria 1), will carry more weight than 'red' low impact for landscape capacity (under criteria 8).

- 2.6. The NPPF is clear that development in the most environmentally sensitive locations should be avoided. The constraints section of the criteria have been developed to reflect this, and the Council will place the greatest weight on these criteria in the selection process. It is the intention that sites scoring as 'very negative' (red) on any of the criteria in this section will be removed from the palette of sites at this stage, as these have the greatest negative impact, and more suitable sites are available.
- 2.7. The second section of the assessment looks at the deliverability considerations. This will take into account factors such as impact on the strategic highway network, deliverability and infrastructure delivery.
- 2.8. The third section of the assessment will look at the proximity of sites in relation to services.
- 2.9. The site selection process will be an iterative process. The District Plan strategy, set out in DP4: Housing and DP6: Settlement Hierarchy clearly sets out how development should be distributed between the settlements. The starting point for the preparation of the DPD is to achieve this distribution. However, ahead of undertaking the site selection process it is not known to what extent this strategy can be delivered using suitable and sustainable sites. This means that following the assessment there will be a need to revisit DP4: Housing and DP6: Settlement Hierarchy to ensure the sites selected meet with District Plan Strategy as far as possible.
- 2.10. In the event that one settlement category cannot meet its requirement, any shortfall will need to be met in the next settlement category in the hierarchy. For example, if there are not sufficient suitable, available and developable sites to deliver the 838 dwellings in category 2 (as required by DP4: Housing), the residual amount will then be passed down to the settlements within category 3, and so on. If, having been through the site assessment process, there are still insufficient sites to satisfy the settlement category requirement, it will be necessary to repeat the process. This will involve looking again at sites that had previously been excluded or perform negatively and seeking opportunities to overcome potential constraints and barriers to development, in order to reassess them against the criteria.

3. Site Selection Criteria - Housing Sites

Part 1 – Planning Constraints

1) AONB	
<p><i>“Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.”</i> (NPPF 2018, para 172)</p>	
<p>Source: High Weald AONB Unit assessment of sites within/proximity of the AONB</p>	
<p>Assessment Notes: Low/Moderate/High impact on the AONB will be determined by the High Weald AONB unit based on their own assessment criteria and knowledge.</p>	
Wholly/most within – High impact	The whole site/ majority is within the AONB, AONB unit conclude high impact
Wholly within – Moderate Impact	The whole site/ majority is within the AONB, AONB unit conclude moderate impact
Wholly within – Low impact	The whole site/ majority is within the AONB, AONB unit conclude low impact
Proximity	Site is not within or adjacent to the AONB, but is in close proximity
N/A	Site is not within, adjacent or in close proximity to the AONB

2) Flood Risk	
<p><i>“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.”</i> (NPPF 2018, para 155)</p>	
<p>Source: Environment Agency Flood Risk Zones, MSDC Strategic Flood Risk Assessment</p>	
<p>Assessment Notes: Where flood risk would make a site undevelopable (due to the location of the area at risk from flooding, or the amount of site at risk from flooding) it will be assessed as ‘Significant’.</p>	
Significant	Site is affected by significant areas of flood risk/historic flood events which would affect the site’s developability
FZ2/3 and Historic	Site has areas within Flood Zone 2/3 or has flooded historically
Partial FZ 2/3	Site has small areas within Flood Zone 2/3, no known historic events
Historic	Site has flooded historically but is not within Flood Zone 2/3
Adjacent FZ 2/3	Site is adjacent to Flood Zone 2/3, potential future flood risk
None	Site is unaffected by flood risk

3) Ancient Woodland	
<p><i>“development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.”</i> (NPPF 2018, para 175c)</p>	
<p>Source: Mid Sussex Ancient Woodland Inventory (GIS)</p>	
<p>Assessment Notes: Where presence of ancient woodland would make a site undevelopable (due to the location or the amount of ancient woodland that cannot be mitigated) it will be assessed as ‘Significant’.</p>	
Significant	Site is affected by significant amounts of ancient woodland which would affect the site’s developability
Partial	Site is partially covered by areas of ancient woodland, site yield could be achieved but mitigation required
Adjacent	Site is adjacent to an area of ancient woodland
15m Buffer only	Site is within a 15m buffer from an area of ancient woodland
None	No ancient woodland on site or within 15m

4) SSSI/Local Wildlife Sites/Local Nature Reserves

“development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted.” (NPPF 2018, para 175b)

Source: Natural England SSSI dataset and Impact Risk Zones, consultation responses from Natural England/Sussex Wildlife Trust.

Assessment Notes: Impact on Sites of Special Scientific Interest (SSSI) will be determined by Natural England (NE) based on their own assessment criteria and knowledge. Impact on locally designated sites (Local Wildlife Sites - LWS/Local Nature Reserves - LNR) will be determined by Sussex Wildlife Trust (SWT).

SSSI Adjacent – NE Objection	Site is adjacent to a Site of Special Scientific Interest (SSSI) – objection from NE
SSSI Adjacent – NE Mitigation	Site is adjacent to a Site of Special Scientific Interest (SSSI) – NE raise or conclude impacts can be mitigated.
Local Wildlife Site Adjacent – SWT Objection	Site is adjacent to a Local Wildlife Site (LWS – Locally designated site) –objection from Sussex Wildlife Trust
Local Wildlife Site Adjacent – SWT Mitigation	Site lies adjacent to a Local Nature Reserve (LNR – Locally designated site) – Sussex Wildlife Trust raise no objection or conclude impacts can be mitigated.
None	Site is not adjacent to a SSSI/Local Wildlife Site/LNR

5) Heritage - Listed Building

“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.” (NPPF 2018, para 193)

Source: Historic England Listed Buildings (GIS), consultation response from MSDC Conservation Officer

Assessment Notes: Comments from MSDC Conservation Officer will determine whether there is predicted to be Substantial Harm/Harm/No Impact re: Listed Buildings. Based on site layout information submitted by site proponent (where provided).

LB - On Site - Substantial Harm	Listed buildings are present on site - substantial harmful impact on Listed Building
LB - On Site – Harm	Listed buildings are present on site - harmful impact on Listed Building
LB – on Site – no objection	Listed Buildings are present on sites - no impact/ impact can be mitigated
LB - Proximity	Listed buildings in proximity to the site - no impact/ impact can be mitigated
None	There are no listed buildings near the site

6) Heritage Conservation Area

“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.” (NPPF 2018, para 193)

Source: Consultation response from MSDC Conservation Officer

Assessment Notes: Comments from MSDC Conservation Officer will determine whether there is predicted to be Harm/No Impact based on site layout information submitted by site proponent (where provided).

Within CA – objection	Site is within conservation area – harmful impact on Conservation Area
Within CA – no objection	Site is within conservation area – no objection/impact can be mitigated
Adjacent CA	Site is adjacent to conservation area – no objection/impact can be mitigated
None	There are no conservation areas near the site

7) Archaeology

“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.” (NPPF 2018, para 193)

Source: West Sussex County Council Archaeological Notification Areas (GIS), consultation response from WSCC County Archaeologist.

Assessment Notes: Impact on archaeological assets will be determined by the WSCC County Archaeologist based on their own assessment criteria and knowledge.

Severe	Severe impact on archaeological asset, objection from archaeological adviser
Moderate - Mitigation	Moderate impact on archaeological asset, archaeological adviser concludes impact can be mitigated.
None	No impact on archaeological asset, no objection from archaeological adviser

8) Landscape Capacity/Suitability (for sites not in AONB)

“Planning policies and decisions should contribute to and enhance the natural and local environment by... protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils... recognising the intrinsic character and beauty of the countryside” (NPPF 2018, para 170)

Source: Capacity of Mid Sussex District to accommodate development (LUC, 2014), SHLAA: Review of Landscape and Visual Aspects of Site Suitability (LUC, 2015), Landscape Capacity Update (TBC)

Assessment Notes: Conclusions are drawn for each site dependent on which Landscape Capacity area they are within (as determined by the landscape capacity studies, based on their assessment methodology).

Low	Based on the LUC Capacity Study and SHLAA Audit, low potential in landscape terms
Low/Medium	Based on the LUC Capacity Study and SHLAA Audit, low/medium potential in landscape terms
Medium	Based on the LUC Capacity Study and SHLAA Audit, medium potential in landscape terms
Medium/High	Based on the LUC Capacity Study and SHLAA Audit, medium/high potential in landscape terms
High	Based on the LUC Capacity Study and SHLAA Audit, high potential in landscape terms

9) Trees/ Tree Preservation Orders (for sites not affected by Ancient Woodland)

“development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists” (NPPF 2018, para 175c)

“Planning Policies and decision should contribute to and enhance the natural and local environment by....recognising the intrinsic character and beauty of the countryside – including...trees and woodland.” (NPPF 2018, para 170b)

Source: Tree Preservation Orders (GIS), consultation response from MSDC Tree Officer

Assessment Notes: Impact on trees will be determined by the MSDC Tree Officer based on their own assessment criteria and knowledge.

Significant tree cover – high impact	A significant part of the site covered by trees, objection raised by Tree Officer
Low/Medium	Parts of sites affected by trees, will limit the developable area of the site, Tree Officer concludes that impact can be mitigated.
None	Site not affected by trees

Part 2 –Developability considerations

10) Highways/Strategic Road Network

“Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health” (NPPF 2018, para 103)

Source: Mid Sussex Transport Study (SYSTRA)

Assessment Notes: The Mid Sussex Transport Study will identify locations with transport constraints, officer assessment will be made (based on available evidence) as to whether it is likely the development could mitigate any impacts the development is likely to have. Note: an assessment of in-combination effects (i.e. likely combined impact from multiple sites) will be undertaken to inform proposed development scenarios later in the Site Allocations DPD process.

Severe	Severe transport constraints, caused by the development, unlikely to be mitigated by development
Significant - Uncertain	Significant transport constraints, caused by the development, uncertain if they can be mitigated
Significant - Improve	Significant transport constraints, caused by the development, could be improved/mitigated by development
Moderate - Improve	Moderate transport constraints, caused by the development, could be improved/mitigated by development
Minor - Improve	Minor transport constraints, caused by the development, likely to be improved/mitigated by development
None	No known transport constraints caused by the development

11) Local Road Network/Access to site

“Development should only be prevented or refused on highways grounds if there would be an unacceptable impact on highway safety, or the residual cumulative impacts on the road network would be severe.” (NPPF 2018, para 109)
In assessing sites that may be allocated for development in plans, or specific applications for development, it should be ensured that... safe and suitable access to the site can be achieved for all users.” (NPPF 2018, para 108c)

Source: SYSTRA Site Access Report (2018)

Assessment Notes: Officer assessment of whether there is likely to be an impact on the local highway network (based on the findings of the Mid Sussex Transport Study). Officer assessment to determine whether there is likely to be suitable access – any with uncertain access arrangements will be assessed within the SYSTRA Site Access Report and conclusions used to determine the impact for this criterion.

Severe	Severe impact on local highway network, caused by development/ access to site cannot be achieved, unlikely to be mitigated by development
Significant - Uncertain	Significant impact on local highway network caused by development / access to site can be achieved, uncertain if they can be mitigated
Significant - Improve	Significant impact on local highway network caused by development / access to site can be achieved, could be improved/mitigated by development
Moderate - Improve	Moderate impact on local highway network caused by development / access to site can be achieved, could be improved/mitigated by development
Minor - Improve	Minor impact on local highway network transport constraints caused by development, likely to be improved/mitigated by development
None	No known transport constraints caused by development / access to site can be achieved.

12) Developability

“To be considered deliverable, sites need for housing should be available now, offer a suitable location for development now, and be achievable with a realistic prospect that housing will be delivered on the site within five years” (NPPF 2018, Annex 2)

“To be considered developable, sites should be in a suitable location for housing development with a reasonable prospect that they will be available and could be viably developed at the point envisaged” (NPPF, 2018, Annex 2)

Source: SHELAA Site Submissions, Site Promoter Developability Questionnaire

Assessment Notes: Site proponent submissions, including responses to the Site Promoter Developability Questionnaire will inform the assessment. The Site Allocation DPD will cover a 13 year timeframe. The document will allocate some sites that are capable of delivery in the first 5 years of the Plan and others will come forward later in the Plan period. Therefore, the assessment is considering both deliverable and developable sites.

Uncertain if the site is developable	Whilst the site has been promoted for development through the call for sites, there has been no further evidence submitted to demonstrate that the site is developable within the Plan period.
Reasonable prospect	Whilst it has not been demonstrated that the site is deliverable within five years, there is a reasonable prospect that it will be developable within the Plan period
Developable	It has been demonstrated that the site is deliverable, within the Plan period

13) Infrastructure

“Achieving sustainable development means...

a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure” (NPPF 2018, para 8a)

Source: SHELAA Site Submissions, Site Promoter Deliverability Questionnaire

Assessment Notes: Site proponent submissions, including responses to the Site Promoter Deliverability Questionnaire will inform the assessment.

Infrastructure deficit	Significant deficits in on-site/off-site infrastructure exist which are unlikely to be viably improved or replaced, despite contributions from this and other development
Potential to improve Infrastructure	Improvements to on-site/off-site infrastructure (physical, community, green infrastructure) required but can be provided either in whole or part funding from the development
Infrastructure capacity	No improvements to on-site/off-site infrastructure (physical, community, green infrastructure) required.

Part 3 – Sustainability/ Access to services

14) Education – Distance to Primary Schools

“It is important that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should... give great weight to the need to create, expand or alter schools through the preparation of plans and decisions on applications” (NPPF 2018, para 94)

“Planning policies should... support an appropriate mix of uses across an area, and within larger scale sites, to minimise the number and length of journeys needed for employment, shopping, leisure, education and other activities” (NPPF 2018, para 104a)

Source: MSDC Sustainability Mapping (GIS)

Assessment Notes: Measured using the most practical walking route from the centre of the site to nearest Primary School. Based on MSDC Sustainability standards (see Mid Sussex Capacity Study and District Plan Sustainability Appraisal):

- 20 minute walk: 1.6km
- 15 minute walk: 1.2km
- 10 minute walk: 800m

>20 Minute Walk	Site is greater than a 20 minute walk from the nearest primary school
15-20 Minute Walk	Site is between 15-20 minute walk from the nearest primary school
10-15 Minute Walk	Site is between 10-15 minute walk from the nearest primary school
<10 Minute Walk	Site is less than a 10 minute walk from the nearest primary school
Onsite	Likely that a new school would be provided onsite as part of this development

15) Health – Distance to GP Surgery

“Strategic policies should set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision for...community facilities (such as health...)” (NPPF 2018, para 20c)

“Planning policies and decisions should aim to achieve healthy, inclusive and safe places which... enable and support healthy lifestyles, especially where this would address identified local health and well-being needs” (NPPF 2018, para 91c)

Source: MSDC Sustainability Mapping (GIS)

Assessment Notes: Measured using the most practical walking route from the centre of the site to nearest GP surgery. Based on MSDC Sustainability standards (see Mid Sussex Capacity Study and District Plan Sustainability Appraisal):

- 20 minute walk: 1.6km
- 15 minute walk: 1.2km
- 10 minute walk: 800m

>20 Minute Walk	Site is greater than a 20 minute walk from the nearest GP surgery
15-20 Minute Walk	Site is between 15-20 minute walk from the nearest GP surgery
10-15 Minute Walk	Site is between 10-15 minute walk from the nearest GP surgery
<10 Minute Walk	Site is less than a 10 minute walk from the nearest GP surgery
Onsite	Likely that a new GP surgery would be provided onsite as part of this development

16) Services – Distance to Town/Village Centre

“Planning policies and decisions should support the role that town centres play at the heart of local communities, by taking a positive approach to their growth, management and adaptation.” (NPPF 2018, para 85)

“Planning policies should...support an appropriate mix of uses across an area, and within larger scale sites, to minimise the number and length of journeys needed for employment, shopping, leisure, education and other activities” (NPPF 2018, para 104a)

Source: MSDC Sustainability Mapping (GIS)

Assessment Notes: Measured using the most practical walking route from the centre of the site to nearest Town/Village centre. Based on MSDC Sustainability standards (see Mid Sussex Capacity Study and District Plan Sustainability Appraisal):

- 20 minute walk: 1.6km
- 15 minute walk: 1.2km
- 10 minute walk: 800m

>20 Minute Walk	Site is greater than a 20 minute walk from the nearest town/village centre
15-20 Minute Walk	Site is between 15-20 minute walk from the nearest town/village centre
10-15 Minute Walk	Site is between 10-15 minute walk from the nearest town/village centre
<10 Minute Walk	Site is less than a 10 minute walk from the nearest town/village centre

17) Public Transport

“Transport issues should be considered from the earliest stages of plan-making and development proposals, so that... opportunities to promote walking, cycling and public transport use are identified and pursued” (NPPF 2018, para 102c)

“Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health” (NPPF 2018, para 103)

Source: MSDC Sustainability Mapping (GIS)

Assessment Notes: Measured using the most practical walking route from the centre of the site to nearest Public Transport. Based on MSDC Sustainability standards (see Mid Sussex Capacity Study and District Plan Sustainability Appraisal).

Bus Service		Distance			
		400m	600m	800m	800+m
Frequency	Excellent (4+/hour)	Excellent	Good	Good	Fair
	Good (2+/hour)	Good	Good	Fair	Fair
	Fair (<2/hour)	Good	Fair	Fair	Poor
	Poor (Infrequent)	Fair	Fair	Poor	Poor

Train Service	Distance			
	<800m	<1.2km	<1.6km	>1.6km
	Excellent	Good	Fair	Poor

Overall Assessment		Train Service			
		Excellent	Good	Fair	Poor
Bus Service	Excellent	Excellent	Good	Good	Fair
	Good	Good	Good	Fair	Fair
	Fair	Good	Fair	Fair	Poor
	Poor	Fair	Fair	Poor	Poor

Poor	Access to public transport and/or frequency of public transport in this location is poor
Fair	Access to public transport and/or frequency of public transport in this location is fair
Good	Access to public transport and/or frequency of public transport in this location is good
Excellent	Access to public transport and/or frequency of public transport in this location is excellent

4. Site Selection Methodology – Employment Sites

Introduction

- 4.1. The methodology has been developed to provide a clear framework to assess each employment site against criteria to develop a shortlist of the most suitable and sustainable sites for inclusion in the Site Allocations DPD.
- 4.2. There are 19 criteria split into 3 parts which each employment site will be assessed against. The impact on each criterion is graded using a 'traffic light' system dependent upon its potential impact:

	Very Positive Impact
	Positive Impact
	Neutral Impact
	Negative Impact
	Very Negative Impact

- 4.3. For some criteria, there is more than one way of achieving a 'very positive impact' or 'very negative impact'. Similarly, some criteria may not achieve any negative impacts as all possible outcomes are positive. The 'very negative' impacts are usually reserved for criteria that are highlighted within the National Planning Policy Framework (NPPF) as a significant constraint to development, or those which would "significantly and demonstrably" outweigh any benefits.

Criteria Selection and Weighting

- 4.4. The 19 criteria have been split into three parts; Part 1: Constraints, Part 2: Deliverability considerations and Part 3: Market Forces.
- 4.5. The criteria used for housing sites in Site Selection Papers 1 and 2 reflect the District Plan strategy, which does not support sites that are unconnected to existing settlements. Unlike housing, the NPPF is supportive of employment sites in rural areas and recognises the fact that sites "may have to be found adjacent to or beyond existing settlements (para 84). Therefore, the assessment process for employment sites differs in terms of the criteria chosen and the weight that may be applied to the criteria (with less emphasis on isolation from settlements compared to the housing site selection methodology).
- 4.6. The constraints section mirrors the criteria used to assess housing sites. Again, the Council places the greatest weight on these criteria in the selection process, and those sites assessed as having 'very negative' impact on any of these criteria should be removed from the palette of sites.
- 4.7. The second part of the assessment considers deliverability. Of particular note is the criterion related to accessibility to 'A' roads and motorways, given the requirement for many businesses to be on strategic routes. Availability and achievability are also important considerations given the more fluid market demand for employment compared to housing, also bearing in mind the NPPF policy (para 120) on re-allocating land for more deliverable uses should the existing allocation not be brought forward. This is why there are two objectives related to deliverability compared to the housing criteria.

- 4.8. The third part relates to market forces and jobs/market demand. These criteria reflect the requirements of the NPPF, that “planning policies and decisions should recognise and address the specific locational requirements of different sectors” (para 82) and that provision should be made in suitably accessible locations.

DRAFT

5. Site Selection Criteria - Employment

Part 1 - Planning Constraints

1) AONB	
<i>“Great weight should be given to conserving and enhancing landscape and scenic beauty in National Parks, the Broads and Areas of Outstanding Natural Beauty, which have the highest status of protection in relation to these issues.” (NPPF 2018, para 172)</i>	
Source: High Weald AONB Unit assessment of sites within/proximity of the AONB	
Assessment Notes: Low/Moderate/High impact on the AONB will be determined by the High Weald AONB unit based on their own assessment criteria and knowledge.	
Wholly/most within – High impact	The whole site/ majority is within the AONB, AONB unit conclude high impact
Wholly within – Moderate Impact	The whole site/ majority is within the AONB, AONB unit conclude moderate impact
Wholly within – Low impact	The whole site/ majority is within the AONB, AONB unit conclude low impact
Proximity	Site is not within or adjacent to the AONB, but is in close proximity
N/A	Site is not within, adjacent or in close proximity to the AONB

2) Flood Risk	
<i>“Inappropriate development in areas at risk of flooding should be avoided by directing development away from areas at highest risk (whether existing or future). Where development is necessary in such areas, the development should be made safe for its lifetime without increasing flood risk elsewhere.” (NPPF 2018, para 155)</i>	
Source: Environment Agency Flood Risk Zones, MSDC Strategic Flood Risk Assessment	
Assessment Notes: Where flood risk would make a site undevelopable (due to the location of the area at risk from flooding, or the amount of site at risk from flooding) it will be assessed as ‘Significant’.	
Significant	Site is affected by significant areas of flood risk / historic flood events which would affect the site’s developability
FZ2/3 and Historic	Site has areas within Flood Zone 2/3 or has flooded historically
Partial FZ 2/3	Site has small areas within Flood Zone 2/3, no known historic events
Historic	Site has flooded historically but is not within Flood Zone 2/3
Adjacent FZ 2/3	Site is adjacent to Flood Zone 2/3, potential future flood risk
None	Site is unaffected by flood risk

3) Ancient Woodland	
<i>“development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists.” (NPPF 2018, para 175c)</i>	
Source: Mid Sussex Ancient Woodland Inventory (GIS)	
Assessment Notes: Where ancient woodland would make a site undevelopable (due to the location or the amount of ancient woodland that cannot be mitigated) it will be assessed as ‘Significant’.	
Significant	Site is affected by significant amounts of ancient woodland which would affect the site’s developability
Partial	Site is partially covered by areas of ancient woodland, site yield could be achieved but mitigation required
Adjacent	Site is adjacent to an area of ancient woodland
15m Buffer only	Site is within a 15m buffer from an area of ancient woodland
None	No ancient woodland on site or within 15m

4) SSSI/Local Wildlife Sites/Local Nature Reserves	
<i>“development on land within or outside a Site of Special Scientific Interest, and which is likely to have an adverse effect on it (either individually or in combination with other developments), should not normally be permitted.” (NPPF 2018, para 175b)</i>	
Source: Natural England SSSI dataset and Impact Risk Zones, consultation responses from Natural England/Sussex Wildlife Trust.	
Assessment Notes: Impact on Sites of Special Scientific Interest (SSSI) will be determined by Natural England (NE) based on their own assessment criteria and knowledge. Impact on locally designated sites (Local Wildlife Sites - LWS/Local Nature Reserves - LNR) will be determined by Sussex Wildlife Trust (SWT).	
SSSI Adjacent – NE Objection	Site is adjacent to a Site of Special Scientific Interest (SSSI) – objection from NE
SSSI Adjacent – NE Mitigation	Site is adjacent to a Site of Special Scientific Interest (SSSI) – NE raise or conclude impacts can be mitigated.
Local Wildlife Site Adjacent – SWT Objection	Site is adjacent to a Local Wildlife Site (LWS – Locally designated site) –objection from Sussex Wildlife Trust
Local Wildlife Site Adjacent – SWT Mitigation	Site lies adjacent to a Local Nature Reserve (LNR – Locally designated site) – Sussex Wildlife Trust raise no objection or conclude impacts can be mitigated.
None	Site is not adjacent to a SSSI/Local Wildlife Site/LNR

5) Heritage - Listed Building	
<i>“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.” (NPPF 2018, para 193)</i>	
Source: Historic England Listed Buildings (GIS), consultation response from MSDC Conservation Officer	
Assessment Notes: Comments from MSDC Conservation Officer will determine whether there is predicted to be Substantial Harm/Harm/No Impact based on site layout information submitted by site proponent (where provided).	
LB - On Site - Substantial Harm	Listed buildings are present on site - substantial harmful impact on Listed Building
LB - On Site – Harm	Listed buildings are present on site - harmful impact on Listed Building
LB – on Site – no objection	Listed Buildings are present on sites - no impact/ impact can be mitigated
LB - Proximity	Listed buildings in proximity to the site - no impact/ impact can be mitigated
None	There are no listed buildings near the site

6) Heritage Conservation Area	
<i>“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.” (NPPF 2018, para 193)</i>	
Source: Consultation response from MSDC Conservation Officer	
Assessment Notes: Comments from MSDC Conservation Officer will determine whether there is predicted to be Harm/No Impact based on site layout information submitted by site proponent (where provided).	
Within CA – objection	Site is within conservation area – harmful impact on Conservation Area
Within CA – no objection	Site is within conservation area – no objection/impact can be mitigated
Adjacent CA	Site is adjacent to conservation area – no objection/impact can be mitigated
None	There are no conservation areas near the site

7) Archaeology	
<p><i>“When considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation (and the more important the asset, the greater the weight should be). This is irrespective of whether any potential harm amounts to substantial harm, total loss or less than substantial harm to its significance.” (NPPF 2018, para 193)</i></p>	
<p>Source: West Sussex County Council Archaeological Notification Areas (GIS), consultation response from WSCC County Archaeologist.</p>	
<p>Assessment Notes: Impact on archaeological assets will be determined by the WSCC County Archaeologist based on their own assessment criteria and knowledge.</p>	
Severe	Severe impact on archaeological asset, objection from archaeological adviser
Moderate - Mitigation	Moderate impact on archaeological asset, archaeological adviser concludes impact can be mitigated.
None	No impact on archaeological asset, no objection from archaeological adviser

8) Landscape Capacity/Suitability (for sites not in AONB)	
<p><i>“Planning policies and decisions should contribute to and enhance the natural and local environment by... protecting and enhancing valued landscapes, sites of biodiversity or geological value and soils... recognising the intrinsic character and beauty of the countryside” (NPPF 2018, para 170)</i></p> <p><i>“Planning policies and decisions should recognise that sites to meet local business and community needs in rural areas may have to be found adjacent to or beyond existing settlements, and in locations that are not well served by public transport. In these circumstances it will be important to ensure that development is sensitive to its surroundings” (NPPF, para 84)</i></p>	
<p>Source: Capacity of Mid Sussex District to accommodate development (LUC, 2014), SHLAA: Review of Landscape and Visual Aspects of Site Suitability (LUC, 2015), Landscape Capacity Update (TBC)</p>	
<p>Assessment Notes: Conclusions are drawn for each site dependent on which Landscape Capacity area they are within (as determined by the landscape capacity studies, based on their assessment methodology).</p>	
Low	Based on the LUC Capacity Study and SHLAA Audit, low potential in landscape terms
Low/Medium	Based on the LUC Capacity Study and SHLAA Audit, low/medium potential in landscape terms
Medium	Based on the LUC Capacity Study and SHLAA Audit, medium potential in landscape terms
Medium/High	Based on the LUC Capacity Study and SHLAA Audit, medium/high potential in landscape terms
High	Based on the LUC Capacity Study and SHLAA Audit, high potential in landscape terms

9) Trees/ Tree Preservation Orders (for sites not affected by Ancient Woodland)	
<p><i>“development resulting in the loss or deterioration of irreplaceable habitats (such as ancient woodland and ancient or veteran trees) should be refused, unless there are wholly exceptional reasons and a suitable compensation strategy exists” (NPPF 2018, para 175c)</i></p> <p><i>“Planning Policies and decisions should contribute to and enhance the natural and local environment by...recognising the intrinsic character and beauty of the countryside – including...trees and woodland.” (NPPF 2018, para 170)</i></p>	
<p>Source: Tree Preservation Orders (GIS), consultation response from MSDC Tree Officer</p>	
<p>Assessment Notes: Impact on trees will be determined by the MSDC Tree Officer based on their own assessment criteria and knowledge.</p>	
Significant tree cover – high impact	A significant part of the site covered by trees, objection raised by Tree Officer
Low/Medium	Parts of sites effected by trees, will limit the developable area of the site, Tree Officer concludes that impact can be mitigated.
None	Site not effected by trees

Part 2 - Accessibility

10) Highways/Strategic Road Network/Access

“Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health” (NPPF 2018, para 103)

Source: Mid Sussex Transport Study (SYSTRA)

Assessment Notes: The Mid Sussex Transport Study will identify locations with transport constraints, officer assessment will be made (based on available evidence) as to whether it is likely the development could mitigate any impacts the development is likely to have. Note: an assessment of in-combination effects (i.e. likely combined impact from multiple sites) will be undertaken to inform proposed development scenarios later in the Site Allocations DPD process.

Severe	Severe transport constraints, caused by the development, unlikely to be mitigated by development
Significant – Uncertain	Significant transport constraints, caused by the development, uncertain if they can be mitigated
Significant - Improve	Significant transport constraints, caused by the development, could be improved/mitigated by development
Moderate - Improve	Moderate transport constraints, caused by the development, could be improved/mitigated by development
Minor - Improve	Minor transport constraints, caused by the development, likely to be improved/mitigated by development
None	No known transport constraints caused by the development.

11) Strategic Road Access – Accessibility to ‘A’ Roads and Motorway

“Planning policies and decisions should recognise and address the specific locational requirements of different sectors” (NPPF 2018, para 82)

Source: MSDC Sustainability Mapping (GIS)

Assessment Notes: Measured using the most practical driving route from the centre of the site to nearest Motorway/A-Road Junction. Standards based on those used in Chilmark SELAA 2016.

Very Poor Access	Motorway and A-Road junction access both in excess of 5 miles
Poor Access	Motorway and/or A-Road junction access in excess of 5 miles
Moderate Access	Motorway and/or A-Road junction access between 3-5 miles
Good Access	Motorway and/or A-Road junction access in under 3 miles
Excellent Access	Motorway and A-Road junction access both under 3 miles

12) Infrastructure

“Achieving sustainable development means...

a) an economic objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places and at the right time to support growth, innovation and improved productivity; and by identifying and coordinating the provision of infrastructure” (NPPF 2018, para 8a)

Source: SHELAA Site Submissions, Site Promoter Deliverability Questionnaire

Assessment Notes: Site proponent submissions, including responses to the Site Promoter Deliverability Questionnaire will inform the assessment.

Infrastructure deficit	Significant deficits in on-site/off-site infrastructure exist which are unlikely to be viably improved or replaced, despite contributions from this and other development
Potential to improve Infrastructure	Improvements to on-site/off-site infrastructure (physical, community, green infrastructure) required but can be provided either in whole or part funding from the development
Infrastructure capacity	No improvements to on-site/off-site infrastructure (physical, community, green infrastructure) required.

13) Availability

“Planning policies and decisions need to reflect changes in the demand for land. They should be informed by regular reviews of both the land allocated for development in plans, and of land availability.” (NPPF 2018, para 120)

Source: SHELAA Site Submissions, Site Promoter Deliverability Questionnaire

Assessment Notes: Site proponent submissions, including responses to the Site Promoter Deliverability Questionnaire will inform the assessment.

Not Promoted	Site has not been promoted / no confirmation of availability from landowner/developer
Promoted – Other Use	Site has been promoted for B-Class or Housing (conflict)
Promoted	Site has been promoted for B-Class use by landowner/developer

14) Achievability

“Where the local planning authority considers there to be no reasonable prospect of an application coming forward for the use allocated in a plan... they should, as part of plan updates, reallocate the land for a more deliverable use that can help to address identified needs” (NPPF 2018, para 120)

Source: SHELAA Site Submissions, Site Promoter Deliverability Questionnaire

Assessment Notes: Site proponent submissions, including responses to the Site Promoter Deliverability Questionnaire will inform the assessment. Delivery refers to completion of the site in its entirety, for larger strategic sites it refers to delivery of at least the first phase (acknowledging that sites of this size will have longer build-out rates).

Long Term	Delivery is only likely long-term (risk to allocation/potential alternative use) (11+ years)
Medium Term	Reasonable prospect of medium-term delivery (6-10 years)
Short Term	Reasonable prospect of short-term delivery (1-5 years)

Part 3 - Market Forces: Jobs/Market Demand

15) Public and Sustainable Transport

“Transport issues should be considered from the earliest stages of plan-making and development proposals, so that... opportunities to promote walking, cycling and public transport use are identified and pursued” (NPPF 2018, para 102c)

“Significant development should be focused on locations which are or can be made sustainable, through limiting the need to travel and offering a genuine choice of transport modes. This can help to reduce congestion and emissions, and improve air quality and public health” (NPPF 2018, para 103)

Source: MSDC Sustainability Mapping (GIS)

Assessment Notes: Access by public transport measured using the most practical walking route from the centre of the site to nearest Public Transport. Based on MSDC Sustainability standards (see Mid Sussex Capacity Study and District Plan Sustainability Appraisal). Officer based assessment as to whether the site could be viably reached by existing/planned sustainable transport modes.

Bus Service		Distance			
		400m	600m	800m	800+m
Frequency	Excellent (4+/hour)	<i>Excellent</i>	<i>Good</i>	<i>Good</i>	<i>Fair</i>
	Good (2+/hour)	<i>Good</i>	<i>Good</i>	<i>Fair</i>	<i>Fair</i>
	Fair (<2/hour)	<i>Good</i>	<i>Fair</i>	<i>Fair</i>	<i>Poor</i>
	Poor (Infrequent)	<i>Fair</i>	<i>Fair</i>	<i>Poor</i>	<i>Poor</i>

Train Service		Distance			
		<800m	<1.2km	<1.6km	>1.6km
		<i>Excellent</i>	<i>Good</i>	<i>Fair</i>	<i>Poor</i>

Overall Assessment		Train Service			
		Excellent	Good	Fair	Poor
Bus Service	Excellent	<i>Excellent</i>	<i>Good</i>	<i>Good</i>	<i>Fair</i>
	Good	<i>Good</i>	<i>Good</i>	<i>Fair</i>	<i>Fair</i>
	Fair	<i>Good</i>	<i>Fair</i>	<i>Fair</i>	<i>Poor</i>
	Poor	<i>Fair</i>	<i>Fair</i>	<i>Poor</i>	<i>Poor</i>

Poor	Access/frequency of public transport and/or sustainable transport modes in this location is poor
Fair	Access/frequency of public transport and/or sustainable transport modes in this location is fair
Good	Access/frequency of public transport and/or sustainable transport modes in this location is good
Excellent	Access/frequency of public transport and/or sustainable transport modes in this location is excellent

16) Compatibility of Adjoining Uses

“Economic Objective – to help build a strong, responsive and competitive economy, by ensuring that sufficient land of the right types is available in the right places” (NPPF, para 8)

Source: MSDC Mapping (GIS), Site Visit, Desktop Assessment

Assessment Notes: Officer judgement based on proposed use for the site and the existing types of uses on sites in the surrounding area. Includes compatibility with other employment generating development.

Incompatible	Development of proposed employment use(s) would not be compatible with the types of activity and uses taking place on adjoining land.
Compatible - Mitigation	Development of proposed employment use(s) may be compatible with the types of activity and uses taking place on adjoining land.
Compatible	Development of proposed employment use(s) would be compatible with types of activity and uses taking place on adjoining land.

17) Proximity to Labour Force

“Planning policies and decisions should recognise and address the specific locational requirements of different sectors.” (NPPF, para 82)

Source: Employment Need Review, Census 2011, Origin – Destination statistics

Assessment Notes: *[thresholds for Very Poor -> Very Good can be defined upon publication of the Employment Need Review paper – Nov/Dec 2018]*

Labour Force– Very Poor	Census/survey data suggests there is a very poor supply of labour in this location
Labour Force - Poor	Census/survey data suggests there is a poor supply of labour in this location
Labour Force - Moderate	Census/survey data suggests there is a moderate supply of labour in this location
Labour Force - Good	Census/survey data suggests there is a good supply of labour in this location
Labour Force – Very Good	Census/survey data suggests there is a very good supply of labour in this location

18) Market Attractiveness

“Significant weight should be placed on the need to support economic growth and productivity, taking into account both local business needs and wider opportunities for development.” (NPPF, para 80)

Source: Employment Need Review, Market survey

Assessment Notes: *[thresholds for Very Poor -> Very Strong can be defined upon publication of the Employment Need Review paper – Nov/Dec 2018]*

Very Poor	There is a very poor market for additional B-Class use in this location
Poor	There is a poor market for additional B-Class use in this location
Moderate	There is a moderate market for additional B-Class use in this location
Strong	There is a strong market for additional B-Class use in this location
Very Strong	There is a very strong market for additional B-Class use in this location

19) Visibility and Prominence

“Planning policies and decisions should recognise and address the specific locational requirements of different sectors. This includes making provision for clusters or networks of knowledge and data-driven, creative or high technology industries; and for storage and distribution operations at a variety of scales and in suitably accessible locations.” (NPPF, para 82)

Source: Officer assessment, Employment Need Review

Assessment Notes: Officer assessment based on previous assessment criteria used in Chilmark SELAA 2016.

Low	No or highly limited market visibility or prominence of the site’s location
Medium	Limited market visibility or prominence
High	High market visibility and prominent site location

6. Assessment Conclusions

- 6.1. Once all sites have been assessed, the total of very positive to very negative impacts will be recorded and weight applied accordingly to determine the most suitable sites for allocation on a settlement-by-settlement basis.
- 6.2. The Site Allocations DPD intends to allocate sufficient sites according to the strategy established within the District Plan (DP4). The aim of the exercise is to determine the most suitable/sustainable sites to meet the District Plan strategy, whilst assisting in the determination of whether a settlement can reasonably meet its indicative housing requirement set out in the supporting text to policy DP6.
- 6.3. The site assessment conclusions will be compared against each other on a settlement-by-settlement basis. This will allow the most suitable sites to be chosen in each individual settlement. If all sites across the district are compared against one another, it may lead to an unequal distribution of sites to be chosen for allocation.
- 6.4. This may result in some sites being chosen for allocation which have higher negative impact across the objectives because this will be on the basis that the aim is to distribute allocations according to the District Plan strategy in the first instance.
- 6.5. In the event that sites within the same settlement have the same assessment outcome, the following hierarchy will be used in order to distinguish between sites:
 - more weight will be given to the outcomes assessed in the 'Constraints' section to identify if one particular constraint/constraints scored more negatively for one site compared to the other,
 - if this still doesn't separate two sites then the deliverability and infrastructure criteria will be used when making final selections.
- 6.6. The assessment will provide consideration of sites against 'Made' Neighbourhood Plans, if applicable. There is not a specific criteria for this within the assessment criteria due the differences in content of the various Neighbourhood Plans, and the need to be consistent when assessing sites. The assessment will take into account any land use designations in the Neighbourhood Plans on the site and consideration will be given to how this designation may impact on the delivery of the site for housing or employment uses. However, it is important to note that the objective of the Site Allocations DPD is to deliver the housing and employment requirements of the District Plan and this may result in conflict with policies in Neighbourhood Plans. Any such conflict would be discussed with the relevant Parish Council.
- 6.7. The District Plan provides the strategy and policy framework for the District for the period 2014 - 2031. The NPPF confirms (paragraph 30) that, once a Neighbourhood Plan has been brought into force, the policies it contains take precedence unless superseded by strategic and non-strategic policies that are adopted subsequently. Therefore, the strategy and strategic policies within the District Plan take precedence over Neighbourhood Plans that were made prior to its adoption (March 2018), and site assessments will account for this.

7. Next Steps

- 7.1. Over the next couple of months officers will undertake the site assessments, according to the methodology. Once this work is complete officers will develop a shortlist of suitable sites that can deliver the District Plan Strategy.
- 7.2. Officers will seek further information from developers/land promoters if further information is required.
- 7.3. Officers will also discuss the emerging work with Town and Parish Councils as appropriate.
- 7.4. Further assessment work will be undertaken prior to publication of the Site Allocations DPD for consultation, in accordance with the relevant regulations. Such work includes Sustainability Appraisal (including Strategic Environmental Assessment) and Habitats Regulations Assessment (HRA). An Air Quality assessment and the Mid Sussex Transport Study will model the combination of sites chosen to represent (as far as possible) the District Plan strategy set out in policies DP4 and DP6.
- 7.5. The consultation on the Regulation 18 Site Allocations DPD, scheduled for Summer 2019, will provide a further opportunity for comment on the site assessments and the application of the District Plan strategy.

Appendix 1: Site Selection Process - Housing

Step	Action
1	Undertake site assessments against part 1/2/3 Criteria, based on information submitted by site promoters and consultants responses.
2	Remove sites that score "Very Negative" on any Part 1 criteria – classify as 'Not Considered Suitable for Allocation' for the Site Allocations DPD.
3	Rank sites on a settlement basis according to their Very Positive -> Very Negative impact, applying necessary weight according to the methodology
4	Collate a shortlist sites that scored most positively against each of the criteria for each settlement based on their ranking
5	Assess whether the District Plan strategy (DP4/DP6) can be met (not exceeded) by this shortlist, for each category/settlement IF YES go to step (10) IF NO go to step (too few or too many) (6)
6	<ul style="list-style-type: none"> If the total palette of suitable sites in the settlement is too high, refine by applying the most weight to constraints criteria, then developability and Infrastructure to determine the most suitable sites in the settlement. If the total palette of suitable sites is too low, seek further information on potential mitigation and re-assess.
7	Re-rank the sites based on the further re-assessment undertaken at Step 6
8	Assess whether the District Plan strategy (DP4/DP6) can be met for each category/settlement IF YES go to step (10) IF NO go to step (9)
9	<ul style="list-style-type: none"> Allocate as many suitable site(s) within the settlement based on previous steps and re-distribute any shortfall to other settlements according to the settlement hierarchy². For sites considered suitable for allocation – move to Step 10.
10	Consider the site(s) for allocation – site(s) will be subject to in-combination assessments (e.g. Transport, Air Quality, Sustainability Appraisal, Habitats Regulations Assessment, etc)
11	Progress sites(s) to the Regulation 18 consultation stage of the Site Allocations DPD (consultation).

Note: The process above is relevant for sites promoted for Housing. As there are fewer Employment sites, and the District Plan does not set an indicative requirement on a settlement basis, the overall findings from the Site Selection Criteria will be assessed as a whole (i.e. Employment sites are likely to progress Step 1 -> 2 -> 11).

² It may be necessary to repeat the above process if the numbers allocate to each settlement within a category change, if one settlement cannot meet the District Plan Strategy.

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Summary of responses to the “Site Allocations – Site Selection Methodology”
Scrutiny Committee for Community, Housing and Planning - November 2018

Consultants/Developers/Agents

Agent	Section	Comment	MSDC Response
Vail Williams	General	It would assist to understand how the weighting will be applied, given that some constraints will be afforded more weight than others.	Agree – Proposed change: Para 2.5 of the methodology sites that a weighting process will be applied. Further detail will be added to explain this further.
	Flood risk	Would there be a reduced score if there is opportunity to mitigate or avoid areas within flood zone 2/3? Should there be an option dependant on % of area impacted by flood risk? Could there be a score for flood risk not in developable area?	Agree – Proposed change: Whilst we do not consider it appropriate to include a %, further explanation to criteria will be included to state where ‘the presence of flood zone 2/3 would impact on deliverability’. Note that where such features are on site boundaries these areas can be removed from the developable area. Information re: mitigation can be provided to the Council and will be taken into account when assessing the site – promoters will have the opportunity to comment on the initial site assessments upon completion and provide more information on mitigation if required.
	Ancient Woodland	Could a different score be given for partial coverage or a defined % term of coverage, or where it would not be in a developable area?	Agree – Proposed change: Whilst we do not consider it appropriate to include a %, further explanation to criteria will be included to state where ‘the presence of Ancient Woodland would impact on deliverability’. Note that where such features are on site boundaries these areas can be removed from the developable area.
	SSSI/Local Wildlife	Helpful to understand how developers/agents might engage further should further information about mitigation be required as part of the assessment process.	Agree – Proposed change: will provide further detail in the methodology to explain that Council encourages developers to submit all the information on sites that they have and officers will seek further information from developers if required.
	Heritage Listed Building	Is this criterion solely for listed buildings, or will other heritage assets be considered?	Noted – No further action: The Council will only be assessing against national designation of Listed buildings under this criterion. Note that conservation areas and archaeology are assessed under separate criteria.
	Landscape Capacity	It would assist to understand how any revised landscape capacity report will sit alongside the current SHELAA assessment. The current landscape report looks at some sites being low potential, not allowing for mitigation. Further typography assessment may assist a revised report.	Noted – No further action: the further landscape work will ‘plug gaps’ in the existing evidence e.g. where a site has not previously been assessed. The starting point will be that there is no mitigation, further detail will be provided to explain this in the report.
	TPO's/Trees	Does not allow for positive scoring for use of	Disagree – No further action: This is a detailed landscaping/design matter

		existing trees on site, used to enhance the site.	that will be taken into account at a planning application, rather than site selection, stage.
	Highways/ Strategic	Large scale development can improve capacity, clarity on this would assist. Any planned schemes should be considered positively. It is assumed that this element will have higher weighting.	Noted – No further action: The site will be assessed on the basis of information provided to the Council/within the evidence base regarding transport capacity and impact on the wider transport network. Planned highway improvement schemes have been taken into account in the Mid Sussex Transport Model.
	Strategic Road Access	Suggest this has a higher weighting in the scoring.	Disagree – No further action: Whilst this is an important factor, the highest weight is reserved for constraints identified in Part 1 of the criteria as these are likely to have the highest positive/negative impacts.
	Infrastructure	Contributions to on and off site infrastructure should be reflected in assessment.	Agree – Proposed change: amend criteria to refer to on site as well as off site infrastructure.
	Availability	Other employment generating land uses are also required and should be considered as part of the employment criteria	Disagree – No further action: District Plan only seeks to provide employment within ‘B classes’. However, it is acknowledged that strategic scale employment sites may provide other uses.
	Achievability	Further clarity on emerging economic needs assessment timescales to support criteria welcomed and how sites contribute to employment trajectory.	Agree – No change required: This work is underway and will be published in due course.
	Public Transport	Further criteria should be included that acknowledges planned or potential enhancements and assessment of sustainable transport modes.	Agree – Proposed change: This criteria will be amended to cover sustainable transport modes.
	Compatibility of adjoining uses	Supported. Could reference other employment generating development.	Agree – Proposed change: This criteria will be amended to cover other employment generating uses.
	Proximity to labour force	May also look at emerging employment locations under construction or planned	Agree – Proposed change: This will be a consideration.
	Market attractiveness	Supported. Could reference other employment generating development	Agree – No change required: Already included
	Visibility & prominence	Helpful if term “high market visibility” could be clarified.	Agree – Proposed change: Further explanation to be provided in the report in accordance with the revised Employment Need evidence base.
Rydon	Planning constraints	Indicate a weighting to Part 1 constraints, some carry greater weight.	Agree – Proposed change: Para 2.5 of the methodology states that a weighting process will be applied. Further detail will be added to report to explain this further.
		Addition of mitigation option to be added to most, if not all constraints	Agree – Proposed change: will provide further detail to the methodology to explain that the starting point is to assume that there will be no mitigation.

			Site assessment process will be iterative. We are encouraging developers to submit all the information on sites and officers will seek further information from developers if required.
		Methodology requires some flexibility to account for some circumstance where a settlement is wholly washed with AONB, but allocated a housing requirement.	Disagree – No further action: Within the AONB some areas can accommodate development without harm to the character. This is reflected in the scoring of the criteria. The scoring will be informed by consultation with the High Weald AONB unit.
	Deliverability constraints	Fails to identify a site as deliverable as opposed to developable. Should include deliverable and developable option	Agree – Proposed change: Definition in the criteria will be amended.
	Infrastructure	Infrastructure – should include assessment criteria where potential exists to provide on-site	Agree – Proposed change: amend criteria to refer to ‘on site’ as well as ‘off site’ infrastructure.
	Highways/road network	Addition of mitigation option to be added to highway/strategic road network and local road network	Agree – Proposed change: The criteria will be amended to refer to mitigation.
	Education	Education – should include secondary school and 6 th Form provision	Disagree – No further action: There is an acknowledgment that pupils will travel longer distances to secondary education and therefore it is not a measure of sustainability. Most settlements do not have secondary/6 th form provision.
	Transport	Addition of mitigation option to be added	Agree – Proposed change: The criteria will be amended to refer to mitigation.

Local Authorities

Brighton and Hove	General	The 2,500 residual amount should not be taken as an absolute target.	Noted – No further action: The Council is fully aware that the figures in the District Plan are minimum. The Council is still planning to allocate approx. 2,500 homes even though the housing land supply monitoring indicates that this figure has reduced due to additional completions and commitments since 1 st April 2017, in order to provide a buffer to ensure the 5 year housing land supply position can be maintained. We will continue to monitor the number of completions and commitments.
	Para 2.5 and 3.6	Removing sites with ‘very negative’ scoring is not justified in relation to some criteria. (other than Ancient Woodland, flood risk)	Agree – Proposed change: Para 2.5 of the methodology states that a weighting process will be applied. Further detail will be added to report to explain this further.
		Difficult to reach ‘very negative’ without considering scope to mitigate.	Agree – Proposed change: will provide further detail to the methodology to explain that starting point is to assume that there will be no mitigation. Site assessment process will be iterative. We are encouraging developers to

			submit all the information on sites that they have and officers will seek further information from developers if required.
	Para 4.1	Problematic to give criteria equal weight for scoring purposes, some are 'absolute constraints' whereas others are more subjective. Scoring leads to crude comparison of sites rather than allowing consideration on individual merits. These factors should be taken into consideration with weighting exercise.	Agree – Proposed change: Para 2.5 of the methodology states that a weighting process will be applied. Further detail will be added to explain this further.
	AONB	It is unclear how the AONB Unit has reached their conclusions.	Disagree – No further action: The AONB unit are independent experts and will provide comments based on their evidence, including performance against the High Weald objectives.
	Nature Conservation designations	Lack of clarity regarding hierarchy of designations. Seem to put higher weight on SNCI's than LNRS.	Agree – Proposed change: Criteria will be amended.
	Listed buildings/conservation Areas	How can it be concluded 'substantial harm' without considering scheme design.	Disagree – No further action: MSDC's Conservation Officer will undertake an assessment, including a site survey in order to arrive at the conclusions. In some cases there may be an 'in principle' objection to development, even before design has been taken into account.
	Highways and local road network	It could say 'could be mitigated or improved by development'	Agree – Proposed change: The wording of the criteria will be reviewed to ensure clarity.
	Deliverability	Query why there 'uncertain' and 'no further evidence' are a 'negative impact'. This could be due to lack of information and could be followed up through proactive contact.	Disagree – No further action: The Council is being proactive and will be making contact with all landowner/agents/site promoters.
	Public Transport	No explanation as to how this is defined/assessed.	Agree – Proposed change: This will be clarified in the report.
	Employment – market forces job market	Some criteria seem fairly subjective. Not clear how they are assessed and by whom. Commentary setting this out will be helpful.	Agree – Proposed change: This will be clarified in the report.
Tandridge	Flood risk	Should the rating of 'significant' include FZ2/3 and should the rating below this include a reference to the extent of the site within FZ2/3 rather than just stating areas?	Agree – Proposed change: Whilst we do not consider it appropriate to include a %, further explanation to criteria will be included to state where 'the presence of flood zone 2/3 would impact on deliverability'. Note that where such features are on site boundaries these areas can be removed

			from the developable area.
	Ancient Woodland	Clearer if the difference between significant and partial were defined, as partial could refer to a significant area	Agree – Proposed change: Further explanation to criteria will be included to state where ‘the presence of Ancient Woodland would impact on deliverability’. Note that where such features are on site boundaries these areas can be removed from the developable area.
	SSSI LWS	Probably typographical but the first two refers to SNCI’s in the main text box but the traffic light refers to SSS’s. Third box SSSI’s	Agree – Proposed change: Criteria to be amended.
	Listed Building	Not consistently set down between housing and employment sites. Does it need to refer to impact on setting and that impact is dependent upon grading?	Agree – Proposed change: Criteria to be amended
	Conservation Area	Should third criteria state ‘no impact’ rather than ‘no objection’	Agree – Proposed change: Criteria to be amended.
	Trees	Typo - states ‘Tress’	Agree – Proposed change: Criteria to be amended.
	Public Transport	Would help if ratings were defined	Agree – Proposed change: Criteria to be amended.
	Achievability	Helpful to define short, medium, long	Agree – Proposed change: The criteria relating to deliverability is to be amended to clarify.
	Compatibility of adjoin uses	The word ‘not’ should probably be deleted from last box	Agree – Proposed change: Criteria to be amended.
	Proximity of labour force	Unclear how ‘location’ is defined and how quality of supply delivered	Agree – Proposed change: Further information to be provided in the report.
	Market Attractiveness	Unclear how the quality of market will be assessed/defined	Agree – Proposed change: Further information to be provided in the report.

Town and Parish Councils

Albourne	General	Figure of around 2,500 is too high. Latest commitment should be taken into account. Buffer on top of assessed need for market signals. Should be confident of delivery of sites allocated	Noted – No further action: The Council is fully aware that the figures in the District Plan are minimum. The Council is planning to allocate approx. 2,500 homes even though the housing land supply monitoring indicates that this figure has reduced due to additional completions and commitments since 1 st April 2017.
		Disagree that if once settlement cannot meet its requirement, any shortfall will need to be met in the next settlement category. No reason why each category should not meet its allocation	Noted – No further action: District Plan sets out the strategy re: redistribution.

		No mention of how sites will be assessed against Neighbourhood Plans.	Disagree – No further action: The report sets out how the Neighbourhood Plans will be taken into account. This will be amended to provide further clarification.
		Doesn't seem to be an assessment of cumulative sites .v. MSDC policies and settlement hierarchies. E.g. if already large number of commitments in small villages any additional would be contrary to DP6	Disagree – No further action: The commitments and completions were taken into account when the District Plan DP6 was prepared and informed the residual amount calculation. Once the sites have been assessed individually, they will then be grouped together and assessed on a settlement and category of settlement basis. This will include an assessment of other infrastructure on a cumulative basis. The council's monitoring report will update the Housing Land Supply position annually. The site allocations DPD will continue to be prepared against the residual figure in the District Plan policy DP4 and DP6 which takes commitments and completions into account.
	Deliverability	If delivery is uncertain this should be assessed as 'red'	Noted – No further action: All sites have been promoted to the Council, therefore have some prospect of delivery.
	Infrastructure	Deficits in offsite infrastructure which are unlikely to be improved should be assessed 'red'.	Noted – No further action: Allocated sites are not expected to improve existing offsite infrastructure deficits.
	Distance to primary schools	Greater than 20 min walk should be assessed as 'red'	Disagree – No further action: To assess as 'red' this would imply a 'very negative impact' to the same degree as a high-level constraint in the NPPF (e.g. AONB/Flood Risk).
	Health	Greater than 20 minute walk should be assessed as 'red'	Disagree – No further action: To assess as 'red' this would imply a 'very negative impact' to the same degree as a high-level constraint in the NPPF (e.g. AONB/Flood Risk).
	Public transport	The assessment criteria need to be much more specific	Disagree – No further action: To assess as 'red' this would imply a 'very negative impact' to the same degree as a high-level constraint in the NPPF (e.g. AONB/Flood Risk).
Ansty and Staplefield	General	Like to ensure that MSDC consider the environmental impacts of new sites on existing settlements and that they would like to see sites selected that are suitable for smaller units and social housing.	Noted – No further action: Collectively the part 1 criteria in Site Selection Paper 2 consider the environmental impact The Site Allocations Document will be in compliance with the District Plan and therefore will require a mix of dwelling types on sites and provide affordable housing.
Cuckfield	General	Neighbourhood Plans are only considered once all other assessments have been completed. Does not provide avenue for input from local assessments.	Noted – No further action: The report sets out how the Neighbourhood Plans will be taken into account, including the weight to be given to the District Plan in terms of setting the overall strategy. At the Parish briefing District Council officers stated it would be helpful to provide officers with

			evidence prepared to support the preparation of Neighbourhood Plans. Town and Parish Councils will be given the opportunity to comment on the initial site assessments upon completion.
		Cuckfield has substantial evidence, which should be taken into account at an earlier stage.	Noted – No further action: At the Parish briefing District Council officers stated it would be helpful to have any evidence prepared to support the preparation of Neighbourhood Plans, and to pass it on to the Policy Team. However it is important to note that the District Council must undertake the assessments on a consistent basis, across all sites and Parish areas. This is important to enable the District Council to be able to justify, based on evidence, the choices made during the site selection process at Examination.
		'Traffic light' approach needs to be objective supported by robust evidence	Agree – No change required: The assessment and the categorisation of sites within each criteria will be informed by evidence from professionals who are independent experts within their specialist fields.
		Should be wider a role for Neighbourhood Plans and teams that prepare them, utilising the existing knowledge that has been gained in preparing Neighbourhood Plans. Perhaps Parish Councils can review each site against the MSDC criteria.	Disagree – No further action: The District Council as the Planning Authority has a team of qualified planning professionals who have the responsibility for the preparation of Development Plan documents. The Assessments need to be undertaken on a consistent basis. However, as previously stated the District Council will meet the Town and Parish Councils on a regular basis during the preparation of the Site Allocations Document.
		2,500 should be reduced to account for additional permissions, rather than create a buffer.	Disagree – No further action: The 2,500 is a minimum figure. The Council is still planning to allocate approx. 2,500 homes even though the housing land supply monitoring indicates that this figure has reduced due to additional completions and commitments since 1 st April 2017. This will ensure there is sufficient flexibility to ensure that the District Council can continue to demonstrate a 5 year housing land supply on an ongoing basis. The council's monitoring report will update the Housing Land Supply position annually. The site allocations DPD will continue to be prepared against the residual figure in the District Plan policy DP4 and DP6 which takes commitments and completions into account.
		The application of the '150m rule' for areas outside of built up boundaries is arbitrary and local conditions must be taken into account rather than use of blanket policies.	Disagree – No further action: Site Selection Paper 1 – Assessment of Housing Sites against District Plan Strategy, clearly sets out the methodology for the assessment of sites not related to the built up area.
Haywards Heath	General	Need to ensure that any location has the support of sustainable transport/adequate public transport.	Agree – No change required: The Site Selection criteria in Part 3 of the assessment addresses this.
		Green infrastructure must be supported.	Agree – No change required: Sites will need to accord with the relevant

			District Plan policies regarding Green Infrastructure.
		Desire lines adopted to support established pedestrian routes of choice, design to mitigate risk.	Agree – No change required: This detail will be addressed at planning application stage.
		Transport issues should be considered from the earliest stage of plan making and development proposals so that opportunities to promote walking cycling and public transport use are identified and pursued.	Agree – No change required: This will be addressed within the Mid Sussex Transport Study, and criteria have been selected to address site sustainability.
		Further employment land in/around Haywards Heath should be a priority, when suitable sustainable sites are identified.	Noted – No further action: All employment sites will be assessed against the criteria.
		Consider scoring for environmental sustainability for a prospective development location? Such as suitability for extensive solar power, water reclamation, ground heat pumps etc?	Noted – No further action: This is not a site assessment criteria but all development should comply with the principles of sustainable development and specifically with DP39: Sustainable Design and Construction.
Twineham	General	Most of Twineham is more than 20 minutes' walk from the following categories: education health, services and public transport.	Noted – No further action: Sites in Twineham will be assessed accordingly against these criteria.
		Parish was therefore shocked that permission was granted for 6 houses at Twineham Grange Farm, which is a considerable distance from all services.	Noted – No further action: This is not a matter for the Site Selection Process or the Site Allocations DPD.
Worth	General	There is no role identified for Neighbourhood Planning in the exercise, contrary to NPPF para 29, which makes reference to local involvement in non-strategic policies. MSDC are not looking to identify strategic sites, the implication is that this activity relates to a non-strategic policy.	Disagree – No further action: The report sets out how Neighbourhood Plans will be taken into account, and the fact that the District Plan sets the strategy for the district by which Neighbourhood Plans must conform (in accordance with paragraph 30 of the NPPF). For the purposes of the District Plan the threshold for a strategic site was 500 units. This does not apply to the Site Allocations DPD which will consider allocating sites of any size more than 5 units. Strategic policies and site allocations are those that address strategic priorities (NPPF glossary). NPPF Para 20 states that 'Strategic policies should set out the an overall strategy for the pattern, scale and quality of development, and make sufficient provision for: a) housing.....' The delivery of the District Plan housing requirement is a strategic priority and therefore the Site Allocations

			Document will contain strategic policies.
	SSSI/Wildlife sites	Makes no reference to the need to have wildlife corridors to connect such sites to other areas.	Disagree – No further action: Whilst not a specific assessment criteria, the District Plan policy DP38: Biodiversity will be a consideration when sites are considered collectively.
	13,14,15,16	Make reference to para's in NPPF, yet the measurement criteria do not reflect those that the paras are setting. For example, in 14, two paras are quoted, NPPF para 94, and NPPF 104a but criteria only measures walking to school.	Noted – No further action: The quotes provided in the NPPF highlight where the criteria have been derived from and the importance placed on that particular criterion in the NPPF.
	Footnote 2	Please clarify if 1.2km covered in 15min walking is a standard measurement as this seems fast,	Agree – Proposed change: This will be clarified in the report. In any event, all sites will be assessed consistently against the time/distance thresholds noted in the criteria.

Other (on behalf of residents group)

Turley	General	The Strategic Site selection paper was pre NPPF 2018, confirmation required that it aligns with it	Agree – Proposed change: The Council has reviewed its approach in line with the revised NPPF. The report will be amended to confirm compliance with NPPF.
		It does not include all criteria in original methodology e.g. air quality. Clarity needed on when these will be included.	Agree – Proposed change: Additional wording to be added to the report to explain further work that is being undertaken.
	SSSI and AONB's	Should there not be a similar buffer zone for SSSIs and AONBs. Impact on these areas doesn't stop at boundary. SSSIs have impact risk zone around them depending upon species.	Disagree – No further action: There is no requirement for a 15m buffer zone for SSSI's and AONB's. Comments have been sought from Natural England on sites that are within impact risk reporting zone, which will be incorporated in the assessment.
	SSSIs	There is an inconsistent within this section in the names and their status.	Agree – Proposed change: Criteria to be amended.
	SSSIs	NPPF refers to consideration of impact on SSSIs individually and in combination. Impact from a potential allocation cannot be considered in isolation.	Noted – No further action: In-combination impacts will be considered during future stages of the Site Allocations DPD (as noted in the report)
	Transport	Site should not be considered in isolation. Cumulative impact should be considered.	Agree – No change required: The Mid Sussex Transport Study will consider sites in combination with each other to ensure cumulative impact is assessed.
	Deliverability	Does not include any assessment of availability, progress or timescale. Is this to form a later stage?	Agree – Proposed change: The criteria relating to deliverability is to be amended to clarify.

		NPPF quote in section 12 of table refers to just first 5 years. Methodology does not refer to site allocations for whole plan period. Clarification required.	Agree – Proposed change: The criteria relating to deliverability is to be amended to clarify.
		Useful to have definition of ‘developable’ and ‘deliverable’	Agree – Proposed change: The criteria relating to deliverability is to be amended to clarify.
		How will ‘reasonable prospect’ be assessed	Agree – No change required: This is explained to the supporting text to criteria.
		No reference to viability in criteria (NPPF para 67)	Disagree – No further action: There is reference to viability in the deliverability criteria.
	Other	Existing use – should identify if previously developed or greenfield. Consider existing use/impact of loss	Disagree – No further action: The District will not be able to meet its housing requirement on previously developed sites, therefore not appropriate to include a criteria.
		Adjoining uses – compatibility of residential use with adjoining	Disagree – No further action: This can be dealt with through on site mitigation.
		Neighbourhood Plan – why is this last in the process. Should be at an earlier stage	Disagree – No further action: The site allocations DPD is a strategic policy document. In accordance with NPPF the policies of the District Plan take precedence.
		Distribution of site allocations – should take into account existing commitments and completions	Disagree – No further action: The council’s monitoring report will update the Housing Land Supply position annually. The site allocations DPD will continue to be prepared against the residual figure in the District Plan policy DP4 and DP6 which takes commitments and completions into account.
		Land promoters input – how will this be scrutinised. Will it be made available to review at next stage of consultation with parishes in early 2019.	Agree – No change required: Information supplied will be taken into account when undertaking the site assessments. The outcomes of all the site assessment work will be shared with Parishes in early 2019.
		Land owners engagement – where they have not been engaged in the process, how will this be taken into account?	Noted – No further action: Site will be assessed against the criterion based on the information that we hold, the Council will proactively seek information from landowners where required. However, sites are unlikely to be taken forward if there has been no involvement from landowner or agent acting on behalf of landowner as it will be difficult for the Council to demonstrate the site is deliverable.

**Mid Sussex District Council
Site Allocations DPD – Site Assessment
Deliverability Questionnaire**

Site Address	SHELAA reference (if known)

Question 1

Is this site currently vacant or in use?

Vacant	
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In use	Current use:	Anticipated end date of current use:

Question 2

Is this site in the control of a housebuilder?

Yes	Which housebuilder?

No	What are the arrangements for bringing the site forward? If there is an option agreement on the site, when does this agreement expire?

Question 3

What is your anticipated timeline for the planning application process? If any steps have already been passed or are not relevant please advise.

Milestone	Anticipated date – MM/YY
Submission of pre-application	
Outline application submission	
Outline application decision	
Reserved matters/ full applications submission	
Reserved matters/ full application decision	
S106 signed	
Discharge of conditions	
Marketing	
Start on site	
First Completions	
Anticipated development end date	

Question 4

Please provide an annual build rate trajectory of net completions for this site.

Year	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26	2026/27	2027/28	2028/29	2029/20	2030/31
Completions											

Question 5

Are there any outstanding constraints preventing this site from being started within 5 years of adoption of the Site Allocation Document (2020)?

Yes	
No	

If yes, please give details

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Question 6

What infrastructure would be required to support this development, over and above what would normally be sought from S106 contributions? Please identify both on site and off site provision.

	On site	Off Site
Education		
Open space		
Play areas		
Highway works		
Health		
Sewerage infrastructure		
Green Infrastructure		

Other		
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Please return to Planning Policy Team, MSDC.
LDFconsultation@midsussex.gov.uk

November 2018

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AIR QUALITY

REPORT OF: Tom Clark, Head of Regulatory Services.
Contact Officer: Yvonne Leddy Business Unit Leader Environmental Health and Building Control
Email: yvonne@midsussex.gov.uk Tel: 01444 477300
Wards Affected: ALL
Key Decision: No
Report to: Scrutiny Committee for Community, Housing and Planning
21st November 2018

Purpose of Report

1. To inform Members about our Annual Air Quality Progress report and recognise the Air Quality programme across the District.

Recommendations

The Committee is recommended to endorse the approach of the Council on Air Quality.

Background

2. Statutory responsibility for monitoring and assessing air quality sits with the Council under Part IV of the Environment Act 1995. Areas where pollutants exceed, or are likely to exceed, Government health based air quality objectives are declared as Air Quality Management Areas (AQMAs) and we are required to produce an air quality Action plan (AQAP) to demonstrate how we will improve air quality in the AQMA. Councils are also required to produce an Annual Status Report (ASR) for the Department of Environment, Food and Rural Affairs (Defra) for their approval.
3. Where air quality problems resulting in AQMAs are related to traffic, which is the case for all AQMAs in West Sussex, West Sussex County Council as the highway authority, has a statutory responsibility to work with the relevant District or Borough Council to develop and deliver the action plans for these AQMAs.
4. The Annual Status Report (ASR) report provides an overview of air quality in Mid Sussex. It contains details of monitored pollutants and incorporates information on changes or potential changes to the environment due to new processes or developments. This allows us to identify potential impacts on air quality which we need to consider and mitigate. The report also includes the actions we are taking to address air pollution in the district.
5. Mid Sussex District Council's Annual Status Report for 2017 was approved by Defra on the 19th October 2018 and will be available to view on the MSDC website <https://www.midsussex.gov.uk/environment/air-quality/>.
6. As air pollutants do not recognise boundaries we work in partnership with our colleagues in the other districts, boroughs and Counties to deliver air quality. The group is Sussex wide and is known as the Sussex Air Quality Partnership and includes representatives from Public Health.

7. In Mid Sussex District we have good air quality but we do have one Air Quality Management Area (AQMA). In 2012 the Council declared an Air Quality Management Area at the Stonepound Crossroads, Hassocks, due to levels of Nitrogen Dioxide NO₂ exceeding the legal limit (Objective 40ug/m³). The Council has as required, produced an Action Plan listing a number of measures we think necessary to improve and reduce the pollutant levels. Early indication is that the Action Plan is working because air quality is improving. A Members Air Quality Steering Group supported by the relevant officers from the district and county which has been established meets annually to audit and direct the Action Plan.

Brief background to Air Quality Pollutants

8. There are a variety of different pollutants, but the main ones of concern are nitrogen oxides (NO_x), particularly nitrogen dioxide (NO₂) and particulate matter (PM). Particulate matter is often referred to by size, so you may see references to PM₁₀, PM_{2.5} or PM_{0.1}.⁶ Examples of particulate matter include dust, dirt, soot, smoke and drops of liquid.
9. National and European objectives define levels based on the known effect these pollutants have on human health. Objectives are set in law and, where an AQMA has been designated, local authorities have a statutory obligation to work towards meeting them.
10. However, no threshold below which particulate matter would not pose a risk has been identified, so the approach for this is generally accepted to be a reduction in background concentrations to ensure the best health outcomes for the widest geographic range of people.
11. There is consistent evidence demonstrating clear adverse effects of exposure to air pollutants on health outcomes across all population groups. Poor air quality is linked with an increased risk of developing chronic conditions (e.g. chronic obstructive pulmonary disease), poor birth outcomes, lung cancer, respiratory disease and others.
12. The Public Health Outcomes Framework (PHOF) includes an indicator which quantifies the contribution of exposure to particulate matter on mortality. In 2015 the fraction of mortality attributable to anthropogenic PM_{2.5} was 4.2% for West Sussex. This compares to an estimated fraction of 4.7% for England, and ranges from 4.1% for Mid Sussex, Arun, Chichester, Horsham District Councils, and 4.8% for Worthing Borough Council.
13. The figures for mortality due to air pollution are estimates of mortality attributable to a risk factor. Outdoor air pollution is a major public Health issue costing the UK economy £20bn a year and contributing to over 25,000 deaths a year.⁴⁴ It is important to understand that long-term exposure to air pollution is not thought to be the sole cause of deaths. Rather, it is considered to be a contributory factor.
14. The health problems resulting from exposure to air pollution have a high cost to society and business, our health services and people who suffer from illness and premature death. These vulnerabilities are heightened among those living in the most deprived communities.

15. Pollutants:

- Nitrogen dioxide (NO₂) -Road transport is responsible for some 80% of NO₂ concentrations at the roadside, with diesel vehicles of greatest concern at a local level. This is due in part to improvements in real world emissions testing showing that laboratory test-based emission standards have not delivered expected reductions under real world driving conditions.
- Particulate matter of the different sizes of particulate matter reported on, PM_{2.5} has the strongest epidemiological link to health outcomes as the particles can be inhaled deep into the lungs. The very smallest particles, ultra-fine PM_{0.1} once inhaled are able to pass directly into the bloodstream. Unlike NO₂ where concentrations are high immediately adjacent to the source, particulate matter has a much wider geographical extent and guidance suggests we can use monitoring from up to 50 miles away as a reference. Due to the large distances that PM can travel, it is harder to control at a local level.
- One of the highest sources of particulate matter is domestic coal and wood burning. There has been an increase in recent years in the number of wood burning stoves which the Government are looking at restricting. The other major mobile source of particulate matter is road transport, which produces particles when fuels are burned or lubricants are used up in the engine, when tyres and brakes wear and from road dust. PM_{2.5} is also produced from reactions between other gaseous pollutants forming secondary particles.
- Ozone-Low level ozone is not emitted directly by car engines or by industrial operations, but is formed on warm summer days by the reaction of sunlight on air containing a mixture of airborne pollutants, including nitrogen oxides. Traffic is the main source of these pollutants. Ozone travels long distances and can reach high concentrations a long way from the original sources of pollution. It is particularly important for our rural communities as the conditions that break ozone down in urban areas are less prevalent in rural areas. Ozone also has impacts on incidence of respiratory symptoms.

Annual Status Report

16. The Council's Annual Status Report for 2017 was approved by Defra in October. The next report will focus on air quality in the district in 2018 which will be submitted in June 2019. The report format is prescribed by Defra and Councils must not deviate from this.
17. The 2017 report states that air quality monitoring and modelling carried out by the Council indicated that despite good air quality within most of the District, the air quality objectives for Nitrogen Dioxide (NO₂) were not being met in the Stonepound Crossroads area of Hassocks. Therefore, in March 2012 an Air Quality Management Area (AQMA) was declared at Stonepound Crossroads Hassocks and remains in place.
18. It confirms that the main source of air pollution in the district is road traffic emissions mostly from major roads, notably the increased use by HGV traffic on the A2300 link from the A23 and the A273 north and south of Hassocks.

19. The Council's Monitoring results in 2017 show a decrease in the Nitrogen Dioxide (NO₂) levels across the district compared to those recorded in 2016. The long-term trend, despite an increase in 2016, appears to be downwards. This we attribute to the improved technology in transportation e.g. vehicles with lower emissions and cleaner fuels. Appendix 1.
20. In 2017 we undertook non automatic (passive) monitoring of NO₂ at 25 sites. The monitoring sites are reviewed annually and in September 2018 at the request of West Sussex County Council we added an additional site at the primary school in Balcombe.
21. The Council has been monitoring air quality at sites across the District since 1996. Sites will be monitored over a number of years in order to obtain relevant results which can be relied upon and identify trends. The sites were chosen where we have information on road traffic use and where we have relevant exposure receptors e.g. homes, schools, hospitals etc.

Air Quality Management Area

22. Within the AQMA at Stonepound Crossroads in Hassocks the main pollutant (NO₂) is from road traffic emissions, in particular, the increased use by HGV traffic of the A2300 link from the A23, and the A273 north and south of Hassocks. Exceedances are due to the topography and volume of road traffic at the junction. Since the AQMA was declared in 2012 there has been an overall reduction in measured NO₂.
23. As part of the AQMA we have drawn up an Air Quality Action Plan (AQAP) which focuses on a range of measures designed to limit the exceedance of the NO₂ air quality objective of 40ug/m³.
24. Table 1 provides an overview of the actions endorsed by the Steering group to date and the work yet to be completed:

Table 1

1	Traffic light sequencing operating at optimum level	Completed
2	Cut Engine, Cut Pollution" signs erected	Completed
3	Linking residents and schools to Air Alert and Cold alert service available- which informs residents if there is likely to be poor air quality	Completed
4	District Plan now adopted including policies on Transport and Pollution	Completed
5	Signage to encourage use of the A2300 as alternative route	Completed
6	Working with Planning to ensure maximum mitigation measures implemented for all new developments in the vicinity of the AQMA	Ongoing
7	Car sharing is promoted through the Green Travel Pages on the MSDC intranet.	Ongoing

8	Working through the Mid Sussex Wellbeing Hub on initiatives aimed at respiratory illnesses	Ongoing
9	Mid Sussex District Plan includes reference to supporting additional cycle ways and bridleways, including routes to Clayton and Hurstpierpoint	Completed
10	Section 106 funds were allocated from the Sustainable Transport Fund to successfully upgrade slow electric vehicle chargers to fast chargers in MSDC car parks.	Completed
11	Commencement of improvements to new cycling and walking routes from Hassocks Station to the South Downs Way via Lodge Lane.	Due to start next year
12	The County Council continues to work with Sustrans to consider a prioritisation approach to the delivery of cycle route infrastructure across the county	Ongoing
13	New strategy for EV charging to be identified in liaison with Planning Officers, Wellbeing and other council officers.	Ongoing
14	Widening and improvements to the A2300 road.	Due to be delivered by 2021

Mid Sussex's priorities to promote good air quality in the coming year

25. The adoption of the District Plan has enabled the Council to adopt policies on transportation and pollution. This will enable us to effectively use the planning regime to ensure appropriate mitigation measures are used for all new development. This can be a challenge as there is a need to find the right balance between the need for new housing and the impact that the related traffic increase will have on existing pollution levels, particularly for forthcoming developments in the vicinity of the AQMA.
26. Promoting sustainable transport across all sectors of businesses, schools, home owners etc, with improved cycle routes and infrastructure to encourage people out of their cars. Sussex Air Quality Partnership has made a successful bid for Defra funding for an anti-idling project to be run throughout Sussex, targeting schools and businesses close to pollution hotspots, including the two schools in Hassocks.
27. Working with our colleagues across the County to deliver a joined up approach to improving Air quality. In October 2018 West Sussex County Council and the District and Boroughs came together to form a Member led Inter-Authority Air Quality Group with an aim to develop and agree an Annual Action Plan and monitor progress and impacts of air quality actions across the County. The main focus will be transportation and wellbeing.

Policy Context

28. Since 1995 local authorities are required to regularly review and assess air quality in their areas, and to determine whether the air quality objectives set by the Government are likely to be achieved. Where exceedances are considered likely the local authority must declare an Air Quality Management Area (AQMA) and prepare an Air Quality Action Plan (AQAP), setting out the measures it intends to put in place in pursuit of the objectives.

Financial Implications

29. None identified

Risk Implications

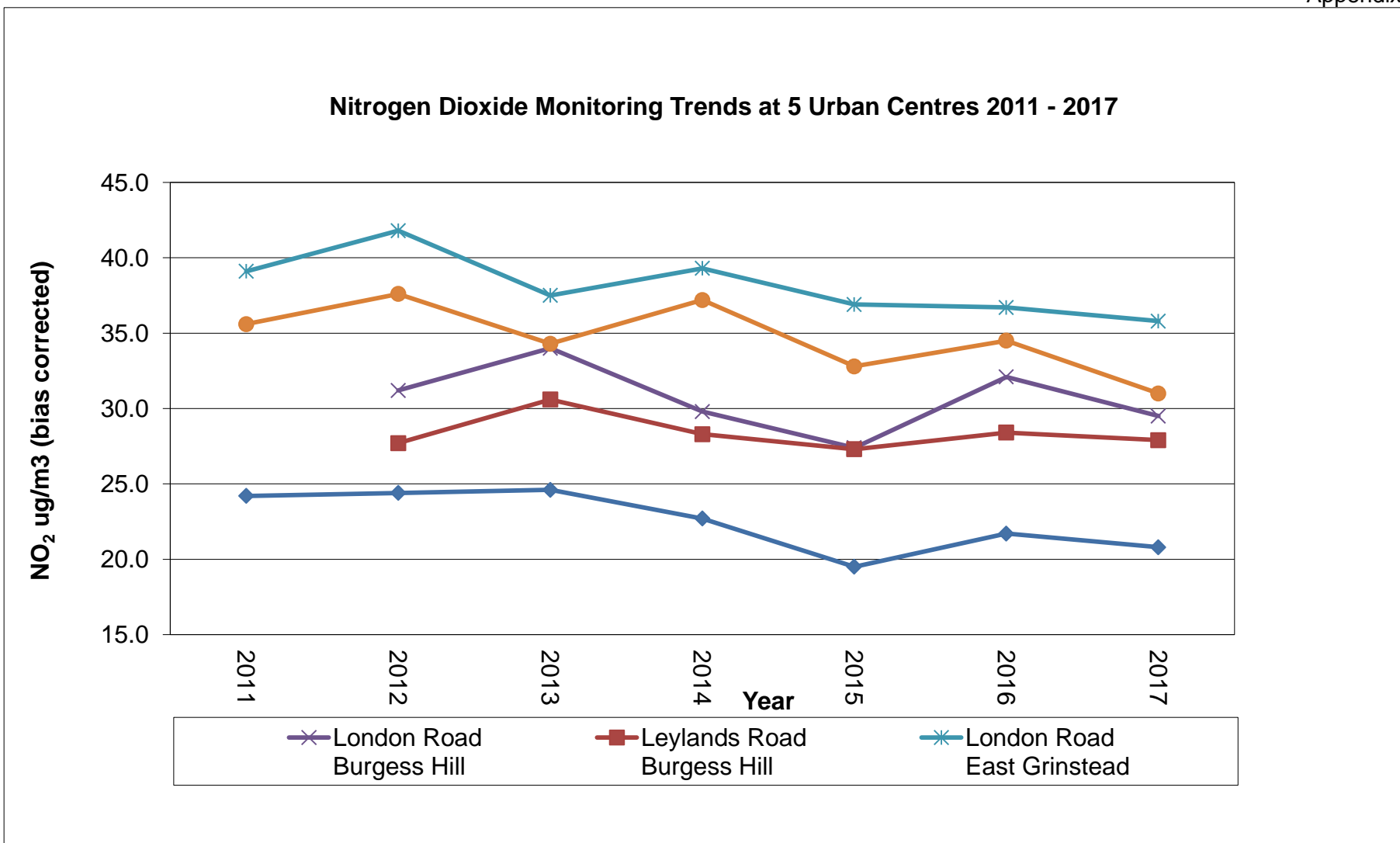
30. We are legally required to produce an Annual Status Report on the air quality in the district. Failure to do so would see a formal challenge from Defra and/or our residents.

Equality and Customer Service implications

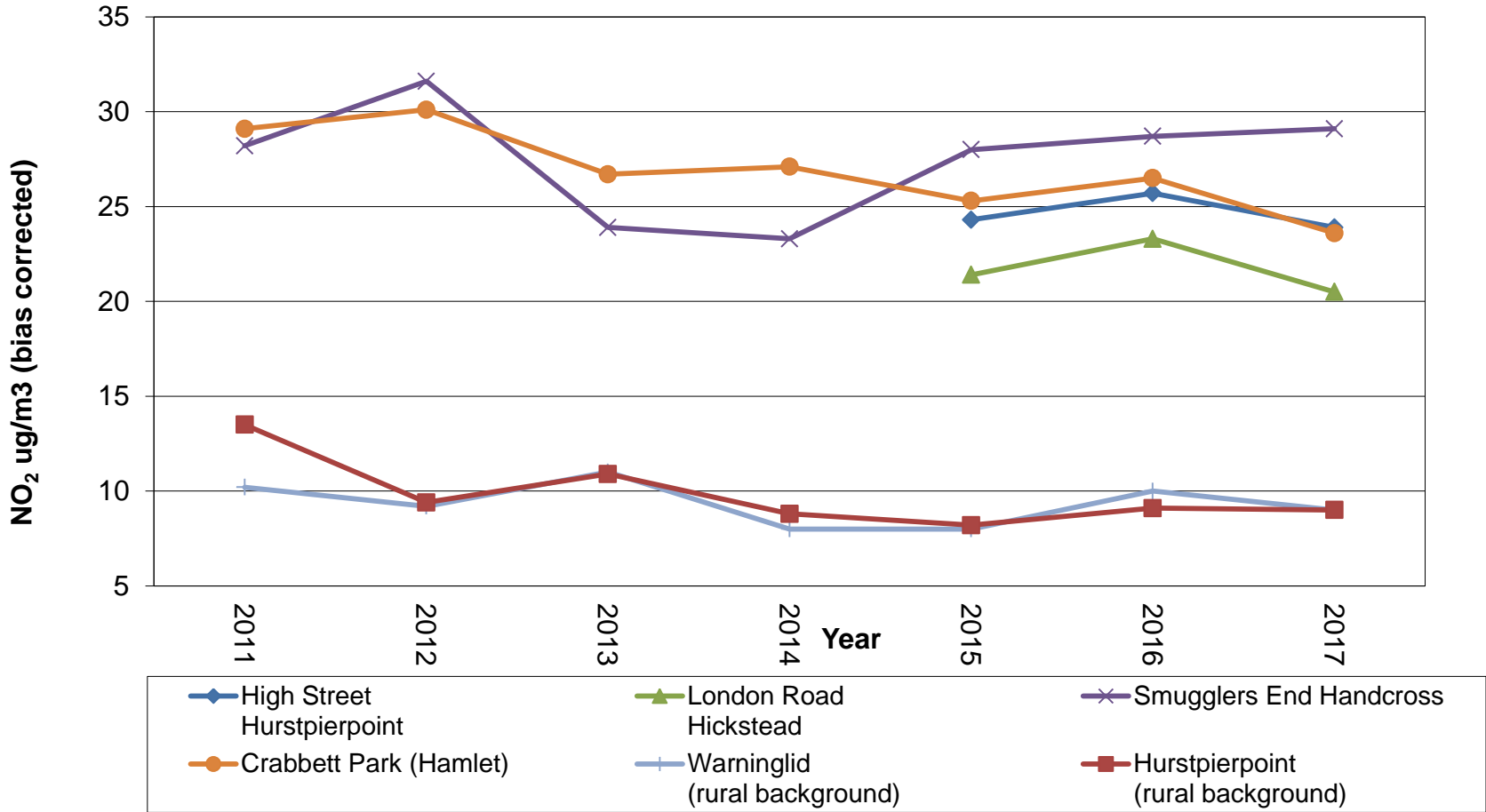
30. None identified as air quality affects all our residents and our monitoring reflects the entire district.

Background Papers

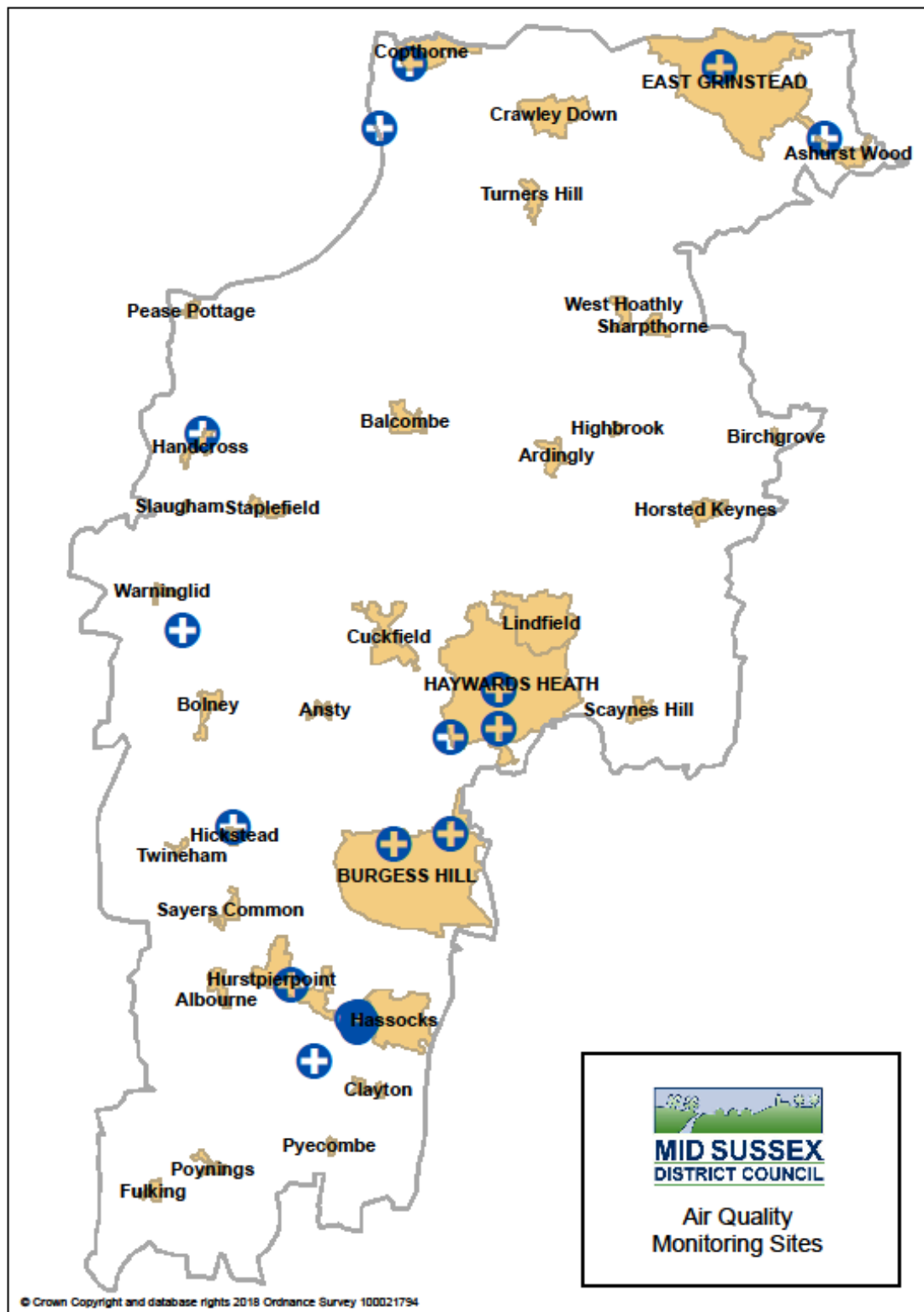
- Appendix 1 - Nitrogen Dioxide levels in the urban and rural areas
Appendix 2 - Map of Monitoring Locations across Mid Sussex District



Nitrogen Dioxide Monitoring Trends at 3 Villages 1 Hamlet and 2 Rural Background Sites 2011 - 2017



Appendix 2
Map of Monitoring Locations across Mid Sussex District



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PRIVATE SECTOR HOUSING ENFORCEMENT POLICY

REPORT OF: Tom Clark, Head of Regulatory Services.
Contact Officer: Yvonne Leddy Business Unit Leader Environmental Health and Building Control
Email: yvonneleddy@midsussex.gov.uk Tel: 01444 477300
Wards Affected: ALL
Key Decision: No
Report to: Scrutiny Committee for Community, Housing and Planning
21st November 2018

Purpose of Report

1. To seek the Committees view on the Environmental Health's approach to improving and enforcing housing standards in the District.

Recommendations

The Committee is recommended to endorse the Private Sector Housing Enforcement Policy contained in Appendix 1 and recommend it is considered for approval by Council.

Background

2. The Council, as a local housing authority, has a legal duty under Section 3 of the Housing Act 2004 to keep housing conditions in its area under review with a view to identifying any action that may need to be taken.
3. Private housing plays a significant part in the housing provision within Mid Sussex and we recognise that the majority of this housing is in good condition and well managed, however, nationally the conditions in the private rented sector tend to be less satisfactory than any other occupancy type. We have a responsibility to deal with unsatisfactory housing that presents health and safety hazards to the occupiers.
4. This enforcement policy outlines the approach of the Environmental Health to securing that standards are met, seeks to ensure that good practice is maintained, and all properties let as residential dwellings and properties under registered provider control, throughout Mid Sussex are of good quality and are well managed.
5. The policy summarises the types of enforcement and legislation most commonly applied by the Housing Standards Team, ranging from verbal warnings, statutory notices, and legal action including prosecution. It is not an exhaustive list and is not intended to be a definitive interpretation of the legislation, nor provide a full statement of the law. Instead, the policy clearly sets out our approach to enforcement and is designed to be both fair to responsible landlords but capable of dealing with uninformed or rogue landlords in order to maintain and improve conditions within this sector.
6. The type of enforcement taken will vary according to the legislation being applied. In some cases, taking enforcement action is a statutory duty, provided certain criteria are met. In other cases, officers have the ability to use informal action as a first option when appropriate through working with landlords and residents and others offering advice, information and assistance to aid them to reach compliance with housing related legislation.

7. Where an informal approach fails to achieve the desired result, or a failure to comply is of a serious nature, officers will use the full range of enforcement options available to them under the relevant legislation to achieve compliance to protect those at risk. In the most serious contraventions possible action will include prosecution.
8. The type of enforcement action pursued is always considered on a case by case basis. Following consideration of the specific circumstances of the particular case the most appropriate enforcement option will be applied accordingly. In every case enforcement seeks to:
 - Promote and achieve sustained compliance with the law
 - Ensure that landlords take action to deal immediately with serious risks
 - Ensure that landlords who breach legislative requirements are held to account
9. In recent years' changes to legislation have granted local authorities the power to enforce penalty charges as a tool to tackle non-compliance in some cases, and as an alternative to prosecution under the following legislation:
 - the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc) (England) Order 2014 – this required, from 1 October 2014, all letting agents and property managers to join one of three government-approved redress schemes, with local authorities able to enforce fines of up to £5000 for those who do not comply.
 - Housing and Planning Act 2016: it allows local authorities to impose a civil penalty of up to £30,000 for certain offences, including overcrowding, failure to licence and HMO or breach of improvement notices etc. The level of civil penalty to be imposed has to be determined on a case by case basis.
 - Smoke and CO Alarm Regulations: which require landlords to install smoke alarms on every floor of their property, and test them at the start of every tenancy, and to install carbon monoxide alarms in high risk rooms. These penalty charges are already in use by the Housing Standards Team having previously been approved by the Cabinet Member on 20th March 2017. They have been included in this policy to ensure transparency of all powers and penalty charges issued by this team in a singular reference tool.
 - Housing Act 2004: it allows the Council to impose a civil penalty as an alternative to prosecution for offences such
 - ✓ as failure to comply with an improvement notice;
 - ✓ offences in relation to licensing of Houses in Multiple Occupation;
 - ✓ contravention of an overcrowding notice;
 - ✓ failure to comply with managements regulations in respect to Houses in Multiple Occupation;

10. The Government under the Housing and Planning Act 2016 have also provided the Council with further tools to deal with rogue landlords. We can now use the national database of rogue landlords and property agents with convictions of certain offences and Banning orders for the most serious and prolific offenders, preventing them from letting and / or managing rented properties

Policy Context

11. The Council as a local housing authority has a legal duty under Section 3 of the Housing Act 2004 to keep housing conditions in its area under review with a view to identifying any action that may need to be taken. This function is undertaken by the Housing Services and Environmental Health in Mid Sussex District Council

Financial Implications

12. None identified

Equality and Customer Service implications

- 13 It is recognised that poor housing contributes to poor health and quality of life. This enforcement policy seeks to improve housing conditions for all tenants.

Background Papers

Appendix 1 - Private Sector Housing Enforcement Policy

PRIVATE SECTOR HOUSING ENFORCEMENT POLICY

1. Introduction

Mid Sussex District Council's Housing Standards Team is committed to improving standards in private sector housing, ensuring that all privately rented accommodation is well managed, properly maintained, safe and habitable.

- 1.1 Although Mid Sussex has some excellent landlords and letting agents, the Council has a vital role to play in tackling criminal, rogue and irresponsible landlords and preventing them from profiting from their non-compliance with the law.
- 1.2 In order to regulate private sector housing, the Council's Housing Standards Team will conduct pro-active and re-active property inspections, routinely respond to requests for visits and investigate complaints of disrepair together with other teams from within the Council, including Housing Needs, Housing Benefits and Planning. The team will request information, carry out inspections, process licence applications, bring empty properties back into use, encourage and promote good practice, provide owners and landlords with advice and information, investigate possible offences and, where appropriate, take enforcement action and prosecute offenders.

2. Aims and Principles of the Enforcement Policy

- 2.1 The overall aim of the Housing Standards Team is to raise standards in the private sector housing stock. This benefits the health and wellbeing of Mid Sussex residents and helps maintain the housing stock for future generations.
- 2.2 The principles of the Private Sector Housing Enforcement Policy are to ensure that:
 - Tenants of private landlords and registered providers of social housing live in homes that are free of unacceptable hazards and risks to their health and safety;
 - All Houses in Multiple Occupation are safe, well managed and all relevant Management Regulations are adhered to;
 - All licensable Houses in Multiple Occupation are licensed and all licensing conditions are met
 - The Council meets its statutory obligations in relation to private housing.
- 2.3 This Enforcement Policy provides an overview of the broad principles and processes with which the Council will seek to comply when taking action to ensure that all private sector housing in the district is healthy, well managed and safe. It should be read in conjunction with other strategies and policies.

- 2.4 When discharging its duties in relation to private sector housing, the Council will follow the principles of good enforcement set out in the following:
- Regulators Compliance Code
 - Criminal Procedure and Investigations Act 1996 (CPIA) and associated Code
 - Police & Criminal Evidence Act 1984 (PACE) and associated Codes
 - The Enforcement Concordat
 - Housing Act 2004
 - Regulation of Investigatory Powers Act 2000
 - Housing and Planning Act 2016
 - Mid Sussex District Council Environmental Health Enforcement Policy
 - Legislation and statutory guidance relating to each service area
 - Procedures and guidance notes within each team

4. Principles underpinning Enforcement Action

4.1 This Enforcement Policy helps to promote efficient and effective approaches to regulatory inspection and enforcement, which improve regulatory outcomes without imposing unnecessary burdens. This is in accordance with the Regulators' Code.

4.2 The Private Sector Housing Team's enforcement activity will be:

- **Proportionate** – Enforcement action will be proportionate and reflect the nature, scale and seriousness of any breach or non-compliance.
- **Fair and objective** – Enforcement action will be based on the individual circumstances of the case, taking all available facts into account. Officers will carry out investigations with a balanced and open mind.
- **Transparent** – Enforcement action will be undertaken in accordance with clearly defined policies and procedures that are readily available. All communications will be easy to understand, with clear reasons being given for any enforcement action taken.
- **Consistent** – Enforcement action will be undertaken and monitored within the Private Sector Housing Team to ensure consistency in the interpretation and enforcement of legislation, work with other regulatory agencies and to share and develop good practice.
- **Accountable** – Enforcement action will be undertaken in a responsible manner that has a clear purpose. Where appropriate, the Private Sector Housing Team will work closely with landlords, tenants and other stakeholders that have an interest in private sector housing.

4.3 While it is understood that it is primarily the responsibility of individuals and businesses to ensure compliance with relevant legislation, the Council will help them, where possible, to understand their legal responsibilities. The aim of the

Council is to secure compliance with the legislation, which it will do by making the most efficient use of the Council's resources.

5. ENFORCEMENT OPTIONS

- 5.1 The officers will strive to ensure that all enforcement decisions are consistent, balanced, fair, and relate to common standards that ensure that the public and others are adequately protected.
- 5.2 In order to achieve and maintain consistency of enforcement, officers will follow all official guidance and codes of practice.
- 5.3 In coming to any enforcement decisions consideration will be given to the following factors:
- The seriousness of the deficiencies identified in the dwelling
 - The past history of compliance
 - The confidence in management and the degree of wilfulness involved
 - The consequences of non-compliance
 - The existence of statutory duties or discretionary powers
 - The likely effectiveness of the various enforcement options
- 5.4 In the event of a contravention being detected then the enforcement options available to the Council include:
- To take no action;
 - To take informal action;
 - To take formal action;
 - Simple caution;
 - To issue a Civil Penalty Notice;
 - To prosecute;
 - Execution of work required by statutory notice where the recipient has not complied (Works in Default)
 - Rent Repayment Orders
 - Banning Orders for the most serious and prolific offenders
- 5.5 Enforcement options may escalate up through the list so that informal action may lead to formal action, etc. dependent upon the success or otherwise of interventions, but this staged escalation will not be appropriate in each case and an intervention at the higher end of the enforcement spectrum may be necessary. In some cases a combination of enforcement options may be appropriate.
- 5.6 Enforcement options specific to the Housing Standards Team function are detailed in Appendix 1-3 below.

6. THE HOUSING HEALTH AND SAFETY RATING SYSTEM (HHSRS)

- 6.1 The HHSRS is set out in Part 1 of the Housing Act 2004. It is a method of assessing how likely it is that the condition of a property will cause a hazard to the health of the occupants over a 12 month period. There are two categories of hazards:
- 6.2 **Category 1 hazards** represent a serious danger to health and the Council has a duty to take appropriate action to see these hazards reduced.
- 6.3 **Category 2 hazards** represent a lesser danger and, although it has no duty to take direct action, the Council has power to reduce category 2 hazards through appropriate action.
- 6.4 Much of this enforcement policy relates to our enforcement work under the Housing Act 2004. The Housing Standards Team uses other legislation as appropriate and most of these are listed later in this document.

7. INSPECTION AND COMPLIANCE VISITS

- 7.1 Dwellings are inspected both reactively (in response to a request or complaint) and proactively based on risk and intelligence. Where there is reason to believe a hazard may exist but access is denied or prior warning would defeat the purpose of the inspection, the Council can apply to the Magistrates Court to obtain a warrant to enter a property without prior notice and using force if necessary. The inspection may be limited to that part of the property where the Officer has reason to believe there may be a problem but may extend to the whole of the property, common parts and any gardens, garages and yards.
- 7.2 Once a property has been inspected and assessed, Officers will calculate the hazards found and consider what action to take. The actions can be broken down into 'informal' and 'formal' action (see below).
- 7.3 Before considering any action in respect of a tenanted property, the tenant/s will normally be expected to have first contacted their landlord or managing agent about the problem in writing. This applies to both private and social housing tenants. Legislation covering landlord and tenant issues requires that tenants notify their landlords of any problems with the property. This is because landlords can only carry out their obligations under the legislation once they have been made aware of a problem. Copies of correspondence between landlord and tenant, unless confidential, may be required by the Housing Standards team before any action is taken.
- 7.4 There are some circumstances in which this prior contact may not be appropriate, for example:
- Where the matter appears to present an imminent risk to the health and safety of the occupants;
 - Where there is a history of harassment, threatened eviction or poor management.

- Where the tenant is old and frail or otherwise vulnerable;
- Where the tenant's first language is not English and this is likely to cause difficulty in communicating with the landlord;
- Where the tenant could not for some other reason be expected to contact their landlord/managing agent.

In these (or other similar) situations, Council officers may proceed directly with enforcement action.

8. INFORMAL ACTION

- 8.1 Where the Housing Standards Team is made aware that hazards exist at a premises, the team will attempt to resolve this informally where possible. Informal action will include verbal advice and advisory letters given by Officers.
- 8.2 The Team will attempt to make contact with the person(s) responsible for remedying actionable defects to notify them of and invite them to attend any inspection. If it is not possible to contact the relevant person by telephone or email then a letter will be sent to any known address for that person.
- 8.3 The Team will aim to write to the owner, managing agent or landlord within 14 days of the inspection outlining the nature of the problem/s identified. The letter will provide confirmation of the remedial action to be taken to remedy the hazard or defect and will propose a reasonable timescale for works to be completed by. If suitable alternative remedies are proposed by the owner, managing agent, or landlord, they will be considered. Every effort will be made to mutually agree a way forward.
- 8.4 Action taken by the owner or landlord will be monitored and if necessary follow up letters, emails and telephone calls will be used in an effort to ensure the remedial works are carried out informally.

9. FORMAL ACTION

- 9.1 It is not always possible to adopt an informal approach, especially where legislation requires formal action to be taken straight away or the owner, agent or other person/s responsible are not co-operating with the Housing Standards Team informally. There will be times when officers consider that the risk to the occupant is high enough to warrant formal action without an informal stage. Factors include whether the current occupants are vulnerable or where the property poses an imminent risk to health or safety.
- 9.2 Formal action will usually involve the service of a statutory notice. Most notices served require the recipient to commence and complete remedial works within specified time limits. In deciding whether to move into formal action involving the service of statutory notices, the property will be assessed for formal action according to:
- the number and type of category 1 and 2 hazards
 - the vulnerability and personal circumstances of the current occupiers

- In the case of HMOs, whether they are licensable or not, the number of households in residence, any overcrowding, poor management and/or risk from fire.
- 9.3 Under the Housing Acts, the following enforcement actions are available to the Council when considering the most appropriate course of action:
- Serve an Improvement Notice or Suspended Improvement Notice;
 - Make a Prohibition Order or Suspended Prohibition Order;
 - Serve a Hazard Awareness Notice;
 - Make a Demolition Order;
 - Declare a Clearance Area;
 - Make an Interim or Final Empty Dwelling Management Order
 - Take Emergency Remedial Action (Category 1 Hazards only);
 - Make an Emergency Prohibition Order; (Category 1 Hazards only);
 - Serve an Overcrowding Notice.
- 9.4 Officers will use the Housing Health and Safety Rating System Enforcement Guidance (published by the ODPM, February 2006) https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/7853/safetyratingsystem.pdf to determine the most appropriate course of action from the above list. They will adhere to the relevant consultation requirements set out in the legislation to take into account the views of occupiers, owners and other stakeholders.
- 9.5 Notices and Orders served under the Housing Act 2004 contain a 'Statement of Reasons' which will set out the reasons why one type of enforcement action was taken rather than another. The officer will be willing to discuss the works specified in the notice; the reason for serving the notice; and any alternative remedy the recipient may propose.
- 9.6 Not more than one course of action can be taken at a time for the same hazard (unless it is an emergency action) but alternative action can follow if one of the actions taken has proved unsuccessful. Emergency procedures cannot be used for category 2 hazards.
- 9.7 Where a Notice is served and there is a change in ownership of the property, the notice can be enforced against the new owner or recipient. However, any outstanding liabilities such as fines or costs remain with the original owner or recipient of the notice.
- 9.8 There are statutory rights of appeal against Notices, Orders and associated decisions made by the Council. Appeals against enforcement action are made to the First Tier Tribunal (FTT). The FTT may confirm, quash or vary a Notice, Order or decision. Details of these rights and information on making an appeal are contained in the Notices/ Orders.
- 9.9 Charges will be made for any formal enforcement action that the Council takes.

10 EMERGENCY MEASURES

- 10.1 Where the Council is satisfied that a Category One hazard poses an imminent risk of serious harm to the health or safety of occupants or visitors of a premises, emergency measures can be taken. Emergency measures include Emergency Remedial Action or service of an Emergency Prohibition Order.

11 SANCTIONS FOR NON COMPLIANCE WITH NOTICES

- 11.1 If a Notice or an Order is complied with or amendments are required to the Notice as a result of new information, a 'Revocation Notice' will be served confirming that the original Notice or Order has been withdrawn. However, if the Notice is not complied with, the following sanctions will usually be considered:

- Formal caution
- Civil Penalty Notice
- Rent Repayment Order
- Prosecution
- Carrying out the works in default;
- Carry out works in default and issue a civil penalty, prosecution or formal caution

12. SIMPLE CAUTIONS

- 12.1 Guidance has been provided by the Ministry of Justice – Simple Cautions for Adult Offenders (the latest version is dated 13 April 2015). A Simple Caution (once known as a formal or police caution) is a formal warning that may be given to persons aged 18 or over who agree to it and admit to committing an offence. The Simple Caution scheme is designed to provide a means of dealing with low-level, mainly first-time, offending without a prosecution. Simple cautioning is not to be used as an alternative to a weak prosecution case.
- 12.2 A prosecution will only take place if it is in the public interest and there is sufficient evidence (see section 11 below) to support that course of action. In a case where there is sufficient evidence to warrant a prosecution but the public interest would not benefit from such a course of action, then a Simple Caution will be considered as an alternative.
- 12.3 In deciding whether to offer a Simple Caution the Full Code Test as set out in the Code for Crown Prosecutions must be applied.
- 12.4 Such cases should be fully considered by the case officer who will present the case to the Business Unit Leader of Environmental Health and Building Control for the authority to issue a Simple Caution.
- 12.5 The Cautioning Officer will be the Business Unit Leader of Environmental Health and Building Control and the cautioning procedure in the Ministry of Justice guidance will be followed.

- 12.6 Where appropriate the issue of a simple caution will be notified to a home authority, originating authority, lead authority or primary authority.
- 12.7 If an offender refuses to accept a formal caution, the delegated officer will refer the matter to the Head of Regulatory Services who may pursue a prosecution, taking into account the relevant guidance and the Council's Constitution.

13. CIVIL PENALTY NOTICES

- 13.1 Local authorities are able to impose a civil penalty as an alternative to prosecution for the following offences under the Housing Act 2004:

- Failure to comply with an Improvement Notice (section 30);
- Offences in relation to licensing of Houses in Multiple Occupation (section 72);
- Offences in relation to licensing of houses under Part 3 of the Act (section 95);
- Offences of contravention of an overcrowding notice (section 139)
- Failure to comply with management regulations in respect of Houses in Multiple Occupation (section 234)

- 13.2 Income received from a civil penalty notice can be retained by the Council provided that it is used to further the local authority's statutory functions in relation to their enforcement activities covering the private rented sector, as specified in Regulations.

- 13.3 The level of civil penalty to be imposed has to be determined on a case-by-case basis up to a maximum of £30,000 and the following factors must be considered to help ensure that the civil penalty is set at an appropriate level:

- **Severity of the offence.** The more serious the offence, the higher the penalty should be.
- **Culpability and track record of the offender.** A higher penalty will be appropriate where the offender has a history of failing to comply with their obligations and/or their actions were deliberate and/or they knew, or ought to have known, that they were in breach of their legal responsibilities. Landlords are running a business and should be expected to be aware of their legal obligations.
- **The harm caused to the tenant.** This is a very important factor when determining the level of penalty. The greater the harm or the potential for harm (this may be as perceived by the tenant), the higher the amount should be when imposing a civil penalty.
- **Punishment of the offender.** A civil penalty should not be regarded as an easy or lesser option compared to prosecution. While the penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending, it is important that it is set at a high enough level to help ensure that it has a real economic impact on the offender and demonstrates the consequences of not complying with their responsibilities.
- **Deter the offender from repeating the offence.** The ultimate goal is to prevent any further offending and help ensure that the landlord fully complies with all of their legal responsibilities in future. The level of the penalty should

therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.

- **Deter others from committing similar offences.** While the fact that someone has received a civil penalty will not be in the public domain, it is possible that other landlords in the local area will become aware through informal channels when someone has received a civil penalty. An important part of deterrence is the realisation that (a) the local housing authority is proactive in levying civil penalties where the need to do so exists and (b) that the level of civil penalty will be set at a high enough level to both punish the offender and deter repeat offending.
- **Remove any financial benefit the offender may have obtained as a result of committing the offence.** The guiding principle here should be to ensure that the offender does not benefit as a result of committing an offence, i.e. it should not be cheaper to offend than to ensure a property is well maintained and properly managed.

13.4 Civil penalties can only be used as an alternative to prosecution. Although only one civil penalty can be issued (as an alternative to prosecution) for each of the first 4 offences listed above, a civil penalty can be issued for **each** separate breach of the HMO Management Regulations.

13.5 Where the Council is in a position to prosecute a letting agent and landlord for failing to obtain a licence for a licensable HMO, it has the option of imposing a (civil) financial penalty on the letting agent and the landlord as an alternative to prosecution. Where the letting / managing agent and landlord have committed the same offence, the Council can impose a civil penalty on both of them at different levels, depending on the circumstances of the case.

13.6 If the Council believes that it has a reasonable prospect of a conviction in a particular case, **it will always consider a civil penalty in the first instance** and only by exception will it seek alternative measures such as prosecution or formal cautions.

13.7 Where a civil penalty is imposed and an appeal is subsequently made to the First-tier Tribunal, the Council will need to be able to demonstrate *beyond reasonable doubt* that the offence had been committed.

14. RENT REPAYMENT ORDERS

14.1 The Housing Act 2004 introduced rent repayment orders (RROs) to cover situations where the landlord of a property had failed to obtain a licence for a property that was required to be licensed, specifically offences in relation to licensing of Houses in Multiple Occupation (section 72(1)) and offences in relation to licensing of houses under Part 3 of the Act (section 95(1)).

14.2 Rent repayment orders have now been extended through Chapter 4 of Part 2 of the Housing and Planning Act 2016 to cover the following offences:

- Failure to comply with an Improvement Notice (section 30 Housing Act 2004);
- Failure to comply with a Prohibition Order (section 32 Housing Act 2004);

- Breach of a Banning Order (section 21 Housing and Planning Act 2016);
 - Using violence to secure entry to a property (section 6 Criminal Law Act 1977);
 - Illegal eviction or harassment of the occupiers of a property (section 1 Protection from Eviction Act 1977).
- 14.3 Income received from a rent repayment order can be retained by the Council provided that it is used to further the local authority's statutory functions in relation to their enforcement activities covering the private rented sector, as specified in Regulations.
- 14.4 An application for an RRO is made to the First-Tier Tribunal and can be applied for when the landlord has committed an offence, whether or not a landlord has been convicted of one of the offences listed above.
- 14.5 Both local housing authorities and tenants have the power to apply for RROs and the maximum amount of rent that can be recovered is capped at 12 months.
- 14.6 If a local housing authority becomes aware that a person who is a landlord has been convicted of any of the relevant offences, and the offence was committed in their area, it must consider applying for an RRO.
- 14.7 The Council will apply for an RRO where:
- A landlord has been successfully prosecuted for one of the relevant offences and at least one of the tenants affected was in receipt of housing benefit or universal credit.
 - An RRO is likely to present a greater pecuniary penalty and deterrent than prosecution and at least one of the tenants affected was in receipt of housing benefit or universal credit.
 - A fixed penalty notice has been issued and at least one of the tenants affected was in receipt of housing benefit or universal credit.
- 14.8 The Council will assist tenants who are not in receipt of housing benefit or universal credit to apply for an RRO in the circumstances above by providing statements and advice.
- 14.9 Where an application for an RRO is made and the landlord has not been convicted of the offence for which the RRO application is being made, the First-tier Tribunal will need to be satisfied beyond reasonable doubt that the landlord has committed the offence i.e. a criminal standard of proof is required.
- 14.10 Where a landlord has been convicted of the offence to which the RRO relates, the First-tier Tribunal must order that the maximum amount of rent is repaid (capped at a maximum of 12 months).
- 14.11 Where a landlord has not been convicted of the offence to which the RRO application relates, the following factors should be taken into account when considering how much rent a local housing authority should seek to recover:
- RROs should have a real economic impact on the offender and demonstrate the consequences of not complying with their responsibilities. We will consider the conduct of the landlord and tenant, the financial circumstances of the

landlord and whether the landlord has previously been convicted of similar offences;

- **Deter the offender from repeating the offence.** The level of the penalty should be set at a high enough level such that it is likely to deter the offender from repeating the offence;
- **Dissuade others from committing similar offences.** RROs are imposed by the First-tier Tribunal and so the fact someone has received a rent repayment order will be in the public domain. Robust and proportionate use of RROs is likely to help ensure others comply with their responsibilities.
- **Remove any financial benefit the offender may have obtained as a result of committing the offence.** This is an important element of RROs: the landlord is forced to repay rent, and thereby loses much, if not all, of the benefit that accrued to them by not complying with their responsibilities.

14.12 In deciding whether to apply for an RRO, the Council must have regard to 'Rent repayment orders under the Housing and Planning Act 2016 - Guidance for Local Housing Authorities'. This process applies whether or not the landlord has been convicted of the offence:

- 14.13 Before applying for an RRO, the Council must give the landlord a notice of intended proceedings;
- A notice of intended proceedings must be served within 12 months of the date on which the landlord committed the offence to which it relates;
 - A notice of intended proceedings must inform the landlord that the Council is proposing to apply for an RRO and explain why;
 - State the amount that the Council is seeking to recover;
 - Invite the landlord to make representations within a period specified in the notice which must be at least 28 days.
 - The Council must consider any representations made within the notice period;
 - The Council must not apply to the First-tier Tribunal for an RRO until the period specified in the notice of intended proceedings has expired;
 - An application for an RRO can be made to the First-tier Tribunal once the notice has been made and the time for representations has passed.

14.14 Where the landlord fails to pay a RRO, the Council will refer the case to the county court for an Order of that Court. If necessary, the Council will use county court bailiffs to enforce the order and recover the debt.

15. PROSECUTION

15.1 The Councils recognise that the decision to prosecute is significant and could have far reaching consequences for all involved including defendants, victims and witnesses.

15.2 It will be for the case officer to decide whether prosecution is appropriate in any individual case, but the case will be discussed with the Business Unit Leader of Environmental Health and Building Control prior to referring any case to the Legal Team. The case officer will then produce a case file and briefing note for the Legal

Team, who will decide whether the case meets the requirements of the Code of Practice for Crown Prosecutors.

- 15.3 It follows that a prosecution will only be progressed when the case has passed both the evidential test and the public interest test. The decision to proceed with a prosecution rests with the Business Unit Leader of Environmental Health and Building Control.

The Evidential Stage

- 15.4 For any prosecution to proceed, the Council must be satisfied that there is enough evidence to provide a 'realistic prospect of conviction' against each defendant on each charge.
- 15.5 A realistic prospect of conviction is an objective test that means that a jury or bench of magistrates, properly directed in accordance with the law, is more likely than not to convict the defendant of the charge alleged.

The Public Interest Stage

- 15.6 The public interest must be considered in each case where there is enough evidence to provide a realistic prospect of conviction. The Council will balance factors for and against prosecution carefully and fairly.
- 15.7 Public interest factors that can affect the decision to prosecute usually depend on the seriousness of the offence or the circumstances of the defendant. A prosecution will usually take place unless there are public interest factors tending against prosecution which clearly outweigh those tending in favour, or it appears more appropriate in all the circumstances of the case to divert the person from prosecution.
- 15.8 There may be circumstances where, as well as prosecution, it will also be appropriate to serve a statutory notice to enforce the remedy.
- 15.9 On final completion of prosecution cases, officers must inform other interested parties of the outcome of the case as necessary. In particular, any complainants or victims will be informed. The outcome of the case will be reviewed with the relevant Business Unit Leader of Environmental Health and Building Control to discuss any necessary future action.

Banning Orders

- 15.10 In certain circumstances and for the most serious offenders, the Council may apply for a Banning Order. These were introduced under the Housing and Planning Act 2016 and the provisions came into force on 6 April 2018. A Banning Order bans a person from letting a property in England and/or engaging in letting agency or property management work, if they have been convicted of a banning order offence.

The minimum period for a banning order is 12 months but there is no statutory maximum period.

15.11 Housing related offences regarded as Banning Order offences include:

- Illegally evicting or harassing a residential occupier in contravention of the Protection from Eviction Act 1977 or the Criminal Law Act 1977
- Any of the following offences under the Housing Act 2004;
- Failure to comply with an Improvement Notice (Section 30)
- Offences in relation to licensing of HMOs (Section 72)
- Allowing a HMO that is not subject to licensing to become overcrowded (Section 139)
- Failure to comply with management regulations in respect of HMOs (Section 234)
- Failure to comply with a Prohibition or Emergency Prohibition Order (Section 20 and 21)
- An offence under the Health and Safety at Work etc. Act 1974 where a person contravenes Section 36 of the Gas Safety (Installation and Use) Regulations 1998
- An offence under Section 32 of the Regulatory Reform (Fire Safety) Order 2005

16 WORKS IN DEFAULT

- 16.1 The Council has been given powers under the Housing Act 2004 and other legislation to carry out works in default where a person has been required to do works by formal Notice or Order, but has failed to either start works or make adequate progress.
- 16.2 The Council will only undertake works in default for emergency works to make the property safe.

17 HOUSES IN MULTIPLE OCCUPATION

- 17.1 As HMOs are higher risk than single family homes, the conditions, facilities and management are more closely regulated. Some HMOs are subject to mandatory HMO licensing.
- 17.2 Under the Housing and Planning Act 2016, HMO licences are required for all HMOs that are occupied by 5 or more persons forming more than one household who are sharing facilities from October 2018.
- 17.3 Prospective HMO licence-holders must complete an application form, supply various documents and pay their licence fee. Inspections are usually undertaken as part of the application process but may happen at any time during the lifetime of the licence. Licences are issued by the local authority and conditions may be attached to the licence (including the maximum permitted number of occupants and households that can occupy the property). Works may be required to meet minimum standards prior

to the licence being issued. Licences are issued for a five-year period and a new licence must be applied for before the end of that period.

- 17.4 The HMO licensing regime includes arrangements for assessing the suitability of the premises for the number of occupants, including the adequacy of the amenities. It also provides for the assessment of the fitness of a person to be the licence holder and the potential management arrangements of the premises.
- 17.5 It is a criminal offence if a person controlling or managing an HMO does not have the required licence. Failure to comply with any condition attached to a licence is also an offence under section 72 of the Housing Act 2004. In cases where a licensable HMO property is found to be operating without a licence the Council will take legal action.

Management Regulations

- 17.6 All identified hazards and breaches of the relevant HMO Management Regulations in any HMO, whether licensable or not, will be dealt with in accordance with the enforcement approach set out in the main body of this policy.

Redress Scheme

- 17.7 The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014 introduced a requirement for letting agents and property managers to belong to an approved redress scheme. The redress scheme must be approved by Government or designated as a Government administered redress scheme.
- 17.8 Where the Council is aware of an offence, it is required to take enforcement action relating to activities undertaken within the district and may serve a Notice on the perpetrator requiring the payment of a monetary penalty of an amount determined by the Council.
- 17.9 The expectation in Government guidance is that a monetary penalty of £5,000 should be considered the norm and the penalty must not exceed this amount. A lower penalty should only be charged if the Council is satisfied there are extenuating circumstances.
- 17.10 Where a Notice is served requiring a monetary penalty, there is a right to appeal to the First-tier Tribunal, and the Notice will be suspended until the appeal is determined or withdrawn.
- 17.11 Further details of the redress scheme is contained in Appendix 2

18 OTHER LEGISLATION ENFORCED BY ENVIRONMENTAL HEALTH SECTION FOR PRIVATE SECTOR HOUSING.

- 18.1 *The Smoke and Carbon Monoxide Alarm (England) Regulations 2015*

Since the 1st October 2015 all landlords are required to have at least one smoke alarm installed on every storey of their rental property which is used as living accommodation, and a carbon monoxide alarm in any room used as living accommodation where solid fuel is used.

The Regulations allow the Council to issue a Penalty Charge Notice where a relevant landlord has failed to take reasonable steps to comply with a remedial notice. Such Notice will allow 28 days to:

1. Fit one or more smoke alarms in an occupied rented property
2. Fit a carbon monoxide detector to a room with a solid fuel burning combustion appliance
3. Take steps to check that each smoke and carbon monoxide alarm required by Regulations is working correctly at the start of the tenancy.

Statement of Principles supporting Penalty Charge Notices issued under The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 is attached in Appendix 3.

18.2 *Environmental Protection Act 1990*

The Environmental Protection Act 1990 defines statutory nuisance, and gives the Council power to serve an Abatement Notice requiring the owner to remedy a building that is so far defective as to be prejudicial to the health of its occupier or a nuisance. Examples of such nuisances could include rainwater penetration through defective roof or windows, rising or penetrating dampness and condensation, defective (rotten) timber flooring, elements exhibiting structural failure e.g. ceilings, and dangerous fixtures and fittings.

18.3 *Public Health Act 1936*

Though much of this Act has been repealed or its provisions resurrected in other legislation, it still provides the Council with power to require by notice the repair of defective sanitary facilities and the clearance, cleansing and, if necessary, fumigation of premises that are filthy and verminous. It also extends statutory nuisance provisions, (now in the Environmental Protection Act) to tents, vans, sheds (agricultural/migrant worker type accommodation) or canal boats used as dwellings.

18.4 *Public Health Act 1961*

This Act still provides the Council with power to require by notice the unblocking of stopped-up drains or minor repairs to private drains. At the request of an owner, the Council may undertake the repair of a private drain and recover its costs from the owner.

18.5 *Local Government (Miscellaneous Provisions) Act 1976*

This Act gives the Council powers to require details of the ownership of buildings and land, to intervene to bring about the restoration of disconnected services (electricity, gas, or water), and secure the unblocking of stopped up private drains in shared use.

18.6 *Local Government (Miscellaneous Provisions) Act 1982*

This Act gives the Council power to require the making secure, by boarding up or otherwise, of empty buildings to prevent unauthorised entry and/or where the building is likely to become a danger to the public.

18.7 *Building Act 1984*

Although primarily concerned with ensuring the safety of new buildings through the application of Building Regulations, the Building Act 1984 includes powers for the Council to adopt an accelerated procedure for dealing with defects in buildings that amount to statutory nuisances (see EPA 1990 above), to require major repairs to drainage systems and to deal with ruinous or dilapidated buildings including empty homes.

18.8 *Prevention of Damage by Pests Act 1949*

The housing standards team can serve Notice where steps should be taken for the destruction of rats or mice on the land or to keep the land free from rats and mice. The team may serve notice on the owner or occupier of the land or property requiring works to clear, proof or treat the land from existing or likely pest infestations.

18.9 *Caravan Sites and Control of Development Act 1960*

This Act enables the Environmental Health Section to prevent land being used as a caravan site without a license and to ensure the conditions and amenities on any site are provided and maintained in good condition.

18.10 *Mobile Homes Act 2013*

This Act enables the Council to set and enforce site license conditions and take action to protect tenants against eviction and harassment.

19. COMPLAINTS AGAINST THE SERVICE

- 19.1 If any person believes that they have not received fair or consistent treatment as outlined in this Policy, they can access the Councils' Complaints Procedure. The matter will be considered and a decision made as to whether the Enforcement Policy has been breached in this instance and the complainant will be given a reply in writing explaining the decision. This is without prejudice to any formal appeal mechanism.

PRIVATE SECTOR HOUSING - GENERAL

The general principles which will guide enforcement officers to the appropriate option are set out below.

'No Action'

Housing Standards Team has a duty to investigate complaints about deficiencies in dwellings, or alleged statutory nuisance. Where it appears to the officer that the problems have arisen through the lifestyle or actions of the tenant or similar, then advice will be given to the complainant and it may be appropriate that no further action is taken.

Informal Action

The Housing Act 2004 requires that at least 24 hours notification of intention to enter a dwelling must be served on all interested parties prior to an inspection being carried out to validate any consequent formal action that may be taken. In certain circumstances if the matter is urgent or defeat the object, such as investigating HMO licensing or management offences, immediate access can be justified. This requirement means that landlords would be notified of any enquiries made by tenants and the tenants could be subject to pressure from landlords or even eviction. It is therefore desirable that tenants be afforded the option of receiving informal advice from this team without this pressure to allow them to make informed choices about further actions. This can include cases where condensation and associated mould growth is being caused by the incorrect use of available heating and ventilation.

Tenants are advised prior to visit that should a serious category 1 hazard be discovered during an informal advisory visit that the visiting officer must contact the landlord/owner to request that action be taken

Advice will be given to tenants both verbally and in writing regarding any deficiencies found, responsibilities for remediation and possible consequences of intervention.

If appropriate, and at the tenant's request, the landlord will be notified of any deficiencies within the dwelling and invited to provide details of any actions they may intend to take. The landlord will, if necessary, be informed that the environmental health service retain the option to carry out a formal inspection under the Housing Act 2004.

Formal Action

Local authorities are obliged to carry out a formal inspection if they have reason to believe that a category 1 hazard, as assessed under the Housing Health and Safety Rating System (HHSRS), is likely to exist in a dwelling. If either initial information, or an informal inspection indicates that a category 1 hazard exists, or if the informal approach has not resulted in the mitigation of deficiencies within a dwelling, the officer will arrange for this formal assessment.

Notice of Intention to carry out an inspection.

The owner, landlord, managing or letting agent, the tenant and other interested persons must be notified of the intention to carry out an inspection of a dwelling at a specified time

and date. Failure to notify relevant persons may invalidate any subsequent formal action under the Housing Act 2004.

Assessment under HHSRS

Following the assessment of the dwelling under the HHSRS, the officer has a number of options available to them to mitigate any Category 1 (band A-C) or Category 2 (bands D+) Hazards identified. The Housing Act 2004 requires that each option is considered and that the reasons for the use of any one option are explained and justified.

The Council is required to take action where it has identified category 1 hazards and has discretion to take action where category 2 hazards are identified. In general, the Council will take action if high category 2 hazards (bands D & E) are identified, dependent on the class of hazard. However, if only minor deficiencies which score band F or below using the HHSRS are identified in a dwelling, this will not normally result in formal action, as the deficiencies are of low risk.

If category 1 hazards are identified, the landlord, or person responsible for rectifying the deficiencies, will normally be notified that the Housing Standards Team is required to take enforcement action and will be offered the opportunity to comment on works required to mitigate the hazards and specify likely timescales for these works.

The Housing Standards Team charge for the service of Housing Act notices apart from Hazard Awareness Notices. The case officer will notify the relevant person in advance of the likely charges. The charge will be based upon the time and resources used by the Housing Standards Team in identifying the hazards, determining the appropriate action and serving the Notice, but will be a minimum of £150.

The officer will take the appropriate formal action based upon their consideration of the options available under the Housing Act 2004. The contents of any formal notice will take into consideration works already completed and the timescales indicated by the recipient, where they are considered reasonable in the opinion of the officer.

Officers will follow the Environmental Health procedure on serving of formal notices. Officers are responsible for ensuring that their Notices are correctly drafted and will arrange for said Notices to be checked for accuracy by the Team Leader prior to service. Officers will ensure that copies of the Notices are served on all relevant persons.

Failure to comply with the requirement of a Statutory Notice will normally result in prosecution or a civil penalty notice. Some statutory notices may require works-in-default, with costs being recovered from the relevant person.

Emergency Action

Where Officers are satisfied that a category 1 hazard poses an imminent risk of serious harm to the health or safety of occupants or visitors of premises, emergency measures can be taken. Emergency measures include Emergency Remedial Action or service of an Emergency Prohibition Order.

Civil Penalties

Civil penalties were introduced through the Housing and Planning Act 2016. Local housing authorities have the power to impose a civil penalty as an alternative to prosecution for the following offences under the Housing Act 2004:

- Failure to comply with an Improvement Notice (section 30)
- Offences in relation to licensing of Houses in Multiple Occupation (section 72);
- Offences in relation to licensing of houses under Part 3 of the Act (section 95);
- Offences of contravention of an overcrowding notice (section 139)
- Failure to comply with management regulations in respect of Houses in Multiple Occupation (section 234)

The level of civil penalty to be imposed has to be determined on a case-by-case basis up to a maximum of £30,000.

Housing Standards Team will consider the following factors to help ensure that the civil penalty is set at an appropriate level:

- a) Severity of the offence.
- b) Culpability and track record of the offender.
- c) The harm caused to the tenant.
- d) Punishment of the offender.
- e) Deter the offender from repeating the offence.
- f) Deter others from committing similar offences.
- g) Remove any financial benefit the offender may have obtained as a result of committing the offence.

Rent Repayment Orders

An application for a rent repayment order (RRO) can be made in respect of the following offences:

- Failure to comply with an Improvement Notice (section 30 Housing Act 2004);
- Failure to comply with a Prohibition Order (section 32 Housing Act 2004);
- Failure to obtain a licence for a licensable HMO (section 72(1) or house (Part 3, section 95(1) Housing Act 2004).
- Breach of a banning order (section 21 Housing and Planning Act 2016);
- Using violence to secure entry to a property (section 6 Criminal Law Act 1977);
and
- Illegal eviction or harassment of the occupiers of a property (section 1 Protection from Eviction Act 1977).

An application for an RRO is made to the First-Tier Tribunal and can be applied for when the landlord has committed an offence, whether or not a landlord has been convicted of one of the offences listed above.

Both local housing authorities and tenants have the power to apply for RROs and the maximum amount of rent that can be recovered is capped at 12 months. The Council will assist tenants who are not in receipt of housing benefit or universal credit to apply for an RRO in the circumstances above by providing statements and advice.

Where an application for an RRO is made and the landlord has not been convicted of the offence for which the RRO application is being made, the First-tier Tribunal will need to be satisfied beyond reasonable doubt that the landlord has committed the offence i.e. A criminal standard of proof is required.

Where a landlord has been convicted of the offence to which the RRO relates, the First-tier Tribunal must order that the maximum amount of rent is repaid (capped at a maximum of 12 months).

Where a landlord has not been convicted of the offence to which the RRO application relates, the following factors should be taken into account when considering how much rent a local housing authority should seek to recover:

- Punishment of the offender;
- Deter the offender from repeating the offence;
- Dissuade others from committing similar offences;
- Remove any financial benefit the offender may have obtained as a result of committing the offence.

Prosecution

Prosecution will, in general, be restricted to a minority of circumstances where there is a blatant disregard for the law. Prosecutions will be related to risk and not used as a punitive response to minor breaches.

The circumstances where prosecution is appropriate should include one or more of the following:

- Where there is a blatant disregard for the law such that health or safety has been put at risk.
- Where there is a failure to comply in full or in part with the requirements of a statutory notice
- Where a particular contravention has the potential to cause harm.

It will be for the case officer to decide whether prosecution is appropriate in any individual case, but the case will be discussed with the Business Unit Leader of Environmental Health and Building Control prior to referring any case to the Legal Team. The case officer will then produce a case file and briefing note for the Legal Team, who will decide whether the case meets the requirements of the Code of Practice for Crown Prosecutors.

Works in Default

If there is a breach of an improvement notice under the Housing Act 2004, or some Notices under other legislation, the local authority has the option to carry out works in default and to recover the costs from the recipient of the notice.

This option may be considered when an individual lacks the resources or ability to comply with the Notice, or where concurrent prosecutions are not considered appropriate. Any costs incurred by the local authority will be recovered through sundry debtors, including registering as a charge on the property as necessary.

Interim Management Orders

Local authorities are under a duty to make an Interim Management Order (IMO) in some circumstances where an HMO or Part 3 house which is required to be licensed but is unlicensed. They also have the power to make IMOs and Special IMOs for other categories of house.

This option will be considered when we are statutorily required to do so or where this will be the most appropriate and cost effective means of improving the health and safety of the occupants.

Banning Orders

For the most serious offenders, the Council will consider whether to apply for a Banning Order. These were introduced under the Housing and Planning Act 2016 and the provisions came into force on 6 April 2018. A Banning Order bans a person from letting a property in England and/or engaging in letting agency or property management work, if they have been convicted of a banning order offence. The minimum period for a banning order is 12 months but there is no statutory maximum period.

Enforcement Procedure in respect of The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014

The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014 makes it a legal requirement for all lettings agents and property managers in England to join a Government-approved redress scheme.

Mid Sussex District Council (the Council) is the enforcing authority for this Order within the district. The authority to enforce the Order shall be delegated to the Business Unit Leader of Environmental Health and Building Control.

The Council can impose a fine of up to £5,000 where it is satisfied, *on the balance of probability*, that someone is engaged in letting or management work and is required to be a member of a redress scheme, but has not joined.

Government guidance on the enforcement of the Order states that the expectation is that a £5,000 fine should be considered the norm and that a lower fine should only be charged if the enforcing authority is satisfied that there are extenuating circumstances.

The procedure for issuing a fine is as follows;

Step 1: Notice of Intent

The Council will give written notice of their intention to impose a penalty. This will set out:

- (i) the reasons for the penalty;
- (ii) the amount of the penalty; and
- (ii) that there is a 28 day period to make written representations or objections, starting from the day after the date on which the notice of intent was sent.

This written notice will be served within 6 months of the date on which the Council has gathered sufficient evidence and satisfied any internal requirements that a fine is appropriate.

The Council may at any time withdraw the notice of intent or reduce the amount specified in the notice at any time by giving notice in writing.

Step 2: Representations and Objections

The person whom the notice of intent is served on has 28 days starting from the day after the date the notice of intent was sent to make written representations and objections to the enforcement authority in relation to the proposed fine.

Step 3: Final Notice

At the end of the 28 day period the Council will decide, having taken into account any representations received, whether to impose the fine.

The Council will consider all representations on their own merit. In particular the following may be considered relevant in deciding the final level of fine issued:

1. Internal failed preventative measures – in cases of national agents that have other branches registered but due to internal processes failing local office is unregistered.
2. Good attitude and cooperation with the Council – in cases where the agent has cooperated fully with the Council in investigating the breach of the Order.
3. Immediate and voluntary remediation – when the breach was brought to the attention of the agent they immediately joined a relevant scheme.
4. No previous history of non-compliance with other housing legislation if this is a first breach of any housing related legislation.
5. Any relevant personal circumstances.
6. Undue financial hardship – if the fine would cause the agent undue financial hardship such that it might not be able to continue to operate.

Following the final consideration of the fine the Council will give at least 28 days for payment to be made. When imposing a fine, the Council will issue a final notice in writing which explains:

- (i) why the fine is being imposed;
- (ii) the amount to be paid;
- (iii) how payment may be made;
- (iv) the consequences of failing to pay;
- (v) that there is a right to appeal against the penalty to the First-tier Tribunal and that any appeal must be made within 28 days after the imposition of the fine.

The Council may withdraw the final notice or reduce the amount specified in the notice at any time by giving notice in writing.

Step 4: Appeals

If an appeal is lodged the fine cannot be enforced until the appeal is disposed of. Appeals can be made on the grounds that:

- (i) the decision to impose a fine was based on a factual error or was wrong in law;
- (ii) the amount of the fine is unreasonable; or
- (iii) that the decision was unreasonable for any other reason.

The First-tier Tribunal may agree with the Council's notice to issue a penalty or may decide to quash or vary the notice and fine.

Appeals will be heard by the General Regulatory Chamber, further details on the appeals procedure can be found at the following link:

<http://hmctsformfinder.justice.gov.uk/courtfinder/forms/policy-makers-guidance-eng.pdf>

Step 5: Recovery of the penalty

If the lettings agent or property manager does not pay the fine within the 28 day period the Council will recover the fine with the permission of the court as if payable under a court order. Where proceedings are necessary for the recovery of the fine, a certificate signed by the Council's chief finance officer stating that the amount due has not been received by a

date stated on the certificate will be taken as conclusive evidence that the fine has not been paid.

Statement of Principles supporting Penalty Charge Notices issued under The Smoke and Carbon Monoxide Alarm (England) Regulations 2015

Regulation 13

This statement is required under Regulation 13 of The Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (the Regulations) and relates to matters that Mid Sussex District Council (the Council) must have regard to in determining the amount of any penalty charge issued under the Regulation 8 of the same Regulations.

The Regulations allow the Council to issue Penalty Charge Notices where a relevant landlord has failed to take reasonable steps to comply with a remedial notice. Such notices allow 28 days to:

1. Fit one or more smoke alarms in an occupied rented property
2. Fit a carbon monoxide detector to a room with a solid fuel burning combustion appliance
3. Take steps to check that each smoke and carbon monoxide alarm required by Regulations is working correctly at the start of the tenancy.

In determining the amount of a penalty charge the Council takes into account the following principles:-

1. Financial Penalty

Landlords issued with a penalty charge notice have been given 28 days to comply with statutory provisions that they should already have undertaken. It is not enough to recover the cost of completing the works as this in itself does not deter inaction that puts tenants' lives at risk. The financial penalty should be set at an amount to ensure that those few landlords that fail to comply with the law are sufficiently penalised.

The amount of financial penalty is set at £5,000.

This amount is modified by the mitigating provisions noted below.

2. Mitigating Factors

The Council agrees to reduce the amount of the financial penalty element of the Penalty Charge in the following circumstances:

a) Early Payment

Where a relevant landlord issued with a penalty charge notice makes payment within 14 days of the service date, the penalty charge will be reduced by 50%

b) Discretion by Head of Regulatory Services

A landlord may write to the Head of Regulatory Services within 28 days of the date the Penalty Charge Notice is served requesting a review. Such a request should include such information as appropriate as to why he/she should not be required to pay the Penalty Charge. The Head of Regulatory Services may confirm, vary or withdraw the penalty charge notice.

SCRUTINY COMMITTEE FOR COMMUNITY, HOUSING AND PLANNING WORK PROGRAMME 2018/19

REPORT OF: Tom Clark, Head of Regulatory Services
Contact Officer: Alison Hammond, Member Services Officer
Email: alison.hammond@midsussex.gov.uk Tel: 01444 477227
Wards Affected: All
Key Decision: No

Purpose of Report

1. For the Scrutiny Committee for Community, Housing and Planning to note its Work Programme for 2018/19.

Summary

2. Members are asked to note the attached Work Programme. The Work Programme will be reviewed as the final piece of business at each meeting, enabling additional business to be agreed as required.

Recommendations

3. **The Committee are recommended to note the Committee's Work Programme as set out at paragraph 5 of this report.**
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Background

4. It is usual for Committees to agree their Work Programme at the first meeting of a new Council year and review it at each subsequent meeting to allow for the scrutiny of emerging issues during the year.

The Work Programme

5. The Committee's Work Programme for 2018/19 is set out below:

Meeting date	Item	Reason for Inclusion
29 January 2019	Environmental Enforcement Powers (Title TBC)	Report also presented to the Scrutiny Committee for Customer Service and Service Delivery on 23 January as joint remit.
6 March 2019	Conservation Area Assessments: Public Consultation	For approval to proceed after the elections.

Policy Context

6. The Work Programme should ideally reflect the key priorities of the Council, as defined in the Corporate Plan and Budget.

Financial Implications

7. None.

Risk Management Implications

8. None.

Background Papers

None.