

South Hams Council



Title:	Agenda																														
Date:	Thursday, 22nd September, 2022																														
Time:	2.00 pm																														
Venue:	Council Chamber - Follaton House																														
Full Members:	<p style="text-align: center;">Chairman Cllr Austen</p> <p style="text-align: center;">Vice Chairman Cllr Taylor</p> <p><i>Members:</i></p> <table style="width: 100%; border: none;"> <tr> <td style="width: 33%;">Cllr Abbott</td> <td style="width: 33%;">Cllr Long</td> </tr> <tr> <td>Cllr Baldry</td> <td>Cllr McKay</td> </tr> <tr> <td>Cllr Bastone</td> <td>Cllr O'Callaghan</td> </tr> <tr> <td>Cllr Birch</td> <td>Cllr Pannell</td> </tr> <tr> <td>Cllr Brazil</td> <td>Cllr Pearce</td> </tr> <tr> <td>Cllr Brown</td> <td>Cllr Pennington</td> </tr> <tr> <td>Cllr Chown</td> <td>Cllr Pringle</td> </tr> <tr> <td>Cllr Foss</td> <td>Cllr Reeve</td> </tr> <tr> <td>Cllr Hawkins</td> <td>Cllr Rose</td> </tr> <tr> <td>Cllr Hodgson</td> <td>Cllr Rowe</td> </tr> <tr> <td>Cllr Holway</td> <td>Cllr Smerdon</td> </tr> <tr> <td>Cllr Hopwood</td> <td>Cllr Spencer</td> </tr> <tr> <td>Cllr Jackson</td> <td>Cllr Sweett</td> </tr> <tr> <td>Cllr Jones</td> <td>Cllr Thomas</td> </tr> <tr> <td>Cllr Kemp</td> <td></td> </tr> </table>	Cllr Abbott	Cllr Long	Cllr Baldry	Cllr McKay	Cllr Bastone	Cllr O'Callaghan	Cllr Birch	Cllr Pannell	Cllr Brazil	Cllr Pearce	Cllr Brown	Cllr Pennington	Cllr Chown	Cllr Pringle	Cllr Foss	Cllr Reeve	Cllr Hawkins	Cllr Rose	Cllr Hodgson	Cllr Rowe	Cllr Holway	Cllr Smerdon	Cllr Hopwood	Cllr Spencer	Cllr Jackson	Cllr Sweett	Cllr Jones	Cllr Thomas	Cllr Kemp	
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Cllr Kemp																															
Interests – Declaration and Restriction on Participation:	Members are reminded of their responsibility to declare any disclosable pecuniary interest not entered in the Authority's register or local non pecuniary interest which they have in any item of business on the agenda (subject to the exception for sensitive information) and to leave the meeting prior to discussion and voting on an item in which they have a disclosable pecuniary interest.																														
Committee administrator:	Democratic.Services@swdevon.gov.uk																														

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| 1. Minutes | 1 - 12 |
| to approve as a correct record the minutes of the meeting of the Council held on 14 July 2022; | |
| 2. Urgent Business | |
| the Chairman to announce if any item not on the agenda should be considered on the basis that he considers it as a matter of urgency (any such item to be dealt with under 'Business Brought forward by the Chairman'); | |
| 3. Exempt Information | |
| to consider whether the consideration of any item of business would be likely to disclose exempt information and if so the category of such exempt information; | |
| 4. Declarations of Interest | |
| In accordance with the Code of Conduct, Members are invited to declare any Disclosable Pecuniary Interests, Other Registerable Interests and Non-Registerable Interests including the nature and extent of such interests they may have in any items to be considered at this meeting; | |
| 5. Business Brought Forward by the Chairman | |
| to consider business (if any) brought forward by the Chairman; | |
| 6. Waste and Recycling Services Update | 13 - 28 |
| 7. Climate Emergency Planning Statement | 29 - 104 |
| 8. Plymouth and South Devon Freeport - Approval of the making of a Compulsory Purchase Order(s) for the Language Freeport (the "Scheme") | 105 - 290 |
| 9. Six Month Member Meeting Attendance Rule | |
| To follow | |
| 10. Reports of Bodies | |
| to receive and as may be necessary approve the minutes and recommendations of the under-mentioned Bodies. | |
| (* Indicates minutes containing recommendations to Council). | |
| (a) Licensing Committee - 21 June 2022 | 291 - 294 |

(b) Audit & Governance Committee - 30 June 2022	295 - 300
(c) Development Management Committee - 6 July 2022	301 - 310
(d) Special Executive - 12 July 2022	311 - 314
(e) Development Management Committee - 27 July 2022	315 - 322
11. Public Question Time	323 - 324

12. Questions

to consider the following question(s) (if any) received in accordance with Council Procedure Rules.

13. Notice of Motion

to consider the following motions received (if any) in accordance with Council Procedure Rules

a. From Cllr Hopwood and Cllr Baldry

“This Council is concerned about the effect the cost of living is having on the residents of South Hams and notes that domestic electricity and gas prices are predicted to rise even further in October this year and although capped at £2,500 this is still beyond the affordability of many of our residents. Increased energy costs will impact prices of many other products and services. This Council notes that HM Government is expected to announce £150 billion package of intervention measures targeted to the most vulnerable households to alleviate the impact of energy prices. In addition, it continues to deliver the Levelling Up initiative to provide opportunities for all, both locally and nationally. Within South Hams, this Council continues to deliver key services through Better Lives for All to identify and target those most vulnerable and at risk.

This Council resolves to:

- 1. Write to the Prime Minister to make sure she realises the serious impact the Cost of Living crisis is having on residents of not only the South Hams but the United Kingdom.*
- 2. Work closely with HM Government to deliver South Hams share of the £500m Household Support Fund on a timely basis.*
- 3. Continue to develop and support Better Lives for All to identify and help those most in need or at greatest risk of hardship to ensure they are fully aware of the help and assistance that is available and to ensure they receive that assistance.”*

b. From Cllr Brazil and Cllr Thomas

“The precarious financial position of Devon County Council means that Central Government may have to intervene. If this does occur, local government reorganisation in Devon is most likely to follow. Given this scenario, this Council looks to safeguard its assets for the benefit of our local communities.”

Agenda Item 1

MINUTES OF THE MEETING OF THE SOUTH HAMS DISTRICT COUNCIL HELD IN THE COUNCIL CHAMBER, FOLLATON HOUSE, TOTNES ON THURSDAY 14 JULY 2022

MEMBERS

* Cllr L Austen – Chairman

* Cllr B Taylor – Vice-Chairman

* Cllr V Abbott	* Cllr M Long
* Cllr K J Baldry	* Cllr J McKay
* Cllr H D Bastone	∅ Cllr D M O'Callaghan
* Cllr J P Birch	* Cllr G Pannell
* Cllr J Brazil	* Cllr J A Pearce
* Cllr D Brown	* Cllr J T Pennington
* Cllr M Chown	* Cllr K Pringle
* Cllr R Foss	* Cllr H Reeve
* Cllr J D Hawkins	∅ Cllr J Rose**
* Cllr J M Hodgson	* Cllr R Rowe
* Cllr T R Holway	* Cllr P C Smerdon
* Cllr N A Hopwood	* Cllr B Spencer
* Cllr S Jackson	* Cllr J Sweett
* Cllr L Jones	* Cllr D Thomas
∅ Cllr K Kemp	

* Denotes attendance

∅ Denotes apology for absence

** Denotes in attendance via Teams (in a non-voting capacity)

Officers in attendance and participating:

For all items: Senior Leadership Team; Monitoring Officer; Democratic Services Manager; Head of Waste and Environmental Services; Head of Strategy and Projects (via Teams)

21/22 MINUTES

The minutes of the Annual Council meeting held on 19 May 2022 and the Special Council meeting held on 8 June 2022 were both confirmed as a true and correct record.

22/22 URGENT BUSINESS

The Chairman informed that he had agreed that one item of urgent business would be considered at this meeting that related to the Waste and Recycling Services Contract. This item had been deemed urgent in light of the associated time constraints and an exempt report had been circulated to Members in advance of this meeting.

The Chairman proceeded to advise that it was his intention for this matter to be considered at agenda item 5: 'Business Brought Forward by the Chairman' (Minute 24/22 below refers).

23/22

DECLARATIONS OF INTEREST

Members were invited to declare any interests in the items of business to be considered during the course of the meeting but there were none made.

24/22

BUSINESS BROUGHT FORWARD BY THE CHAIRMAN

As highlighted above (Minute 22/22 refers), the Chairman reminded those in attendance that he had agreed for an urgent item to be raised at this meeting titled: 'Waste and Recycling Services Contract Update'.

In light of the item being considered to be exempt, it was then **PROPOSED** and **SECONDED** and when put to the vote declared **CARRIED** that:

RESOLVED

In accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting during consideration of the following item of business as the likely disclosure of exempt information as defined in paragraph 3 of Schedule 12A to the Act is involved.

Consideration was then given to an exempt report that provided an update on the status of the Waste and Recycling Services Contract. It was noted that a version of this report had also been considered by the Executive at its special meeting held on 12 July 2022 (Minute E.27/22 refers). At this meeting, the Executive had unanimously recommended approval of each of the report recommendations.

In the ensuing discussion, an amendment was **PROPOSED** and **SECONDED** as follows:

1. That Council be **RECOMMENDED** that, *subject to the agreement of Full Council at its meeting held on 22 September 2022:*
 - (a) *It terminates the contract with FCC by mutual agreement, resulting in the transfer of all services currently provided under the contract back to the Council with effect from 3 October 2022.*
3. *That the Section 151 Officer be requested to bring a report to Council in September 2022 on the ongoing revenue costs of delivering the service in-house (after the transitional period and the impact on the Council's Medium Term Financial Strategy (MTFS));*
4. *That Leading Counsel's advice be obtained on the merits of reaching a mutual agreement with FCC as opposed to terminating the contract together with all its consequences.*

During debate on the amendment, it was confirmed that, irrespective of the vote, the Section 151 Officer would still be providing a report to the Council meeting to be held on 22 September 2022.

Following a lengthy debate, in accordance with Council Procedure Rule 17.5, a recorded vote was then called for on the amendment. The voting on the amendment was recorded as follows:

For the motion (4): Cllrs Abbott, Birch, McKay and Pannell

Against the motion (18): Cllrs Austen, Baldry, Bastone, Brown, Chown, Foss, Hawkins, Holway, Hopwood, Jones, Pearce, Pennington, Pringle, Reeve, Rowe, Smerdon, Spencer and Taylor

Abstentions (6): Cllrs Brazil, Hodgson, Jackson, Long, Sweett and Thomas

Absent (3): Cllrs Kemp, O'Callaghan and Rose

and the vote on the amendment was therefore declared **LOST**.

Upon the conclusion of the extensive debate, Members expressed a wish to re-admit the public and press to the meeting in advance of the vote on the motion being taken.

As a result, it was then:

RESOLVED

That the public and press be re-admitted to the meeting.

It was then:

RESOLVED

1. That it be agreed that:

- a. with effect from 3 October 2022, the Waste and Recycling Services Contract be terminated by mutual agreement, resulting in the transfer of all services currently provided under the contract back to the Council;
- b. authority be delegated to the Head of Paid Service (Chief Executive) and Director of Customer Services Delivery, in consultation with the Leader of the Council and lead Executive Member for Waste and Recycling Services, to:
 - (i) conclude the negotiations based on the outline of draft settlement terms (as set out in Appendix A of the published exempt agenda report) and to finalise the settlement agreement and any other necessary arrangements;
 - (ii) formulate and implement a mobilisation plan for the Council's delivery of the service; and
 - (iii) keep the Waste Working Group informed on progress;

- c. the value of the 2021/22 deductions be transferred to the Sustainable Waste Management Earmarked Reserve, as part of the closure of the 2021/22 accounts, in order to contribute to anticipated set up costs of bringing the service back in house (as outlined in section 4 of the report presented to the Executive meeting held on 12 July 2022);
 - d. all additional payments from the waste contractor in 2022/23 be allocated to contributing to the anticipated set up costs of bringing the service back in house (as outlined in section 4 of the report presented to the Executive meeting held on 12 July 2022);
 - e. the use of the Business Rate Retention Reserve be approved to fund the anticipated revenue costs during the transition period (as outlined in section 4 of the report presented to the Executive meeting held on 12 July 2022);
 - f. a budget for one-off set up costs be allocated (as outlined in Section 4 of the report presented to the Executive meeting held on 12 July 2022);
2. That authority be delegated to the Director of Customer Service Delivery, in consultation with the Leader, Lead Executive Member for Waste and Recycling Services and the S151 Officer to grant an exemption from the Council's Contract Procedure Rules (procurement rules) for:
- i) technical and professional services; and
 - ii) plant and equipment (such as extra vehicles);

(NB. This was due to the critically short timescales for bringing the service back in-house and the need for continuity with the Council's existing suppliers in these service areas.

Resolution 2 is conditional upon these goods and services not having already been procured under the terms of a framework agreement and being below the UK threshold for the purposes of the Public Contracts Regulations 2015).

25/22

COUNCIL CONSTITUTION

The Council considered a report that concluded the full revision of the Council Constitution (Minutes 36/21 and 8/22 also refer) and provided the proposed changes to the content and format of the final four chapters of the Constitution document.

Included in this report were updated drafts of the following parts of the Council Constitution:

- Chapter 4 (Access to Information Procedure Rules);

- Chapter 5 (Other Procedure Rules); and
- Chapter 6 (Codes and Protocols).
- Chapter 7 (Scheme of Members' Allowances – subject to separate review)

The Leader proceeded to outline the proposed changes that were contained within the document and advised that this marked the conclusion of the review that had begun a year ago.

In the ensuing debate, an amendment to the recommendation was **PROPOSED** and **SECONDED** as follows:

*That Council adopts Chapters 4, 5, 6 and 7 as set out in Appendix A to this report as part of the Council Constitution with the current equivalent provisions being replaced **subject to a meeting being held between the Monitoring Officer and Leaders of the Political Groups to further consider and report back to the Council meeting of September 2022 on:***

- *Removal of the provision for a joint O&S/DM Committee meeting to discuss the draft budget setting process*
- *Reference to the West Devon Hub Committee and Overview & Scrutiny Committee and*
- *The proposed increases contained within the revised Financial Procedure Rules.*

In support of his amendment, the proposer felt that it was detrimental for all non-Executive Members to lose the opportunity to discuss fully the draft annual Budget Proposals. In addition, the Member also expressed concern at references to West Devon Borough Council appearing in the draft South Hams District Council Constitution and the proposed substantial increases in the financial thresholds that could be delegated to officers. Such were the extent of these concerns, that the Member felt that a further meeting with Group Leaders was necessary prior to further consideration at the next Council meeting to be held on 22 September 2022.

In discussion, the following points were raised:

- i) It was felt that Members had numerous opportunities to engage with the annual budget setting process, particularly since the rules had changed in May 2022 (Minute 08/22 refers) regarding Members being able to sit on either of the Executive, Development Management or Overview and Scrutiny Committees. Furthermore, there was now the ability for Substitute Members to be appointed to serve on both the Development Management and Overview and Scrutiny Committees;
- ii) The Monitoring Officer advised that although South Hams District and West Devon Borough Councils were entirely separate local authorities, a Shared Service Agreement supported them both and many of the respective procedures were therefore the same. However, it was confirmed that, before publication, an explanatory paragraph would be inserted at the beginning of any Chapter of the Constitution which contained reference to West Devon so as to avoid confusion;

- iii) Some Members echoed the concerns raised by the proposer of the amendment in respect of the proposed increases in thresholds for officer delegations that would be in place should the revised Financial Procedure Rules be adopted.

When put to the vote, the amendment was declared **LOST**.

It was then:

RESOLVED

That Chapters 4, 5, 6 and 7 (as set out in Appendix A of the presented report) be adopted as part of the Council Constitution with the current equivalent provisions being replaced with immediate effect.

26/22

FUSION SOLAR INVESTMENT PROPOSAL

Consideration was given to a report that sought approval for a change to the funding proposals to facilitate the investment in and installation of solar panels on the Council's four leisure centres

In discussion, there was widespread support for the proposals although one Member voiced her disappointment that the local not for profit supplier 'TRESOC' had not been selected to undertake the installation. In response, the reasons for the chosen way forward were explained. Nonetheless, the Member still remained unhappy and felt that greater weighting in the procurement approach to decision-making should have been applied to the use of a local organisation.

It was then:

RESOLVED

- 1) That a change be approved to the funding proposals to facilitate the investment in and installation of solar panels on the Council's four leisure centres such that:
 - i) The Council funds the acquisition of the solar panels direct as part of its Capital Programme for 2022/23 (instead of making a loan to Fusion to do the same) and approves a capital budget of £500,000 for solar panel investment on the Council's leisure centres, funded by either Public Works Loan Board borrowing or internal borrowing depending on prevailing interest rates.
 - ii) A separate management agreement is drawn up between the Council and Fusion, to the benefit of the Council, so that the Council annually receives an income payment from Fusion of the same amount of the repayments that the Council would have received from Fusion from the loan repayment.

- 2) That an exemption to the Council Procurement Rules be granted such that it can rely upon the procurement that Fusion have undertaken to get a contractor ready to install the panels for the price agreed; and
- 3) That approval be delegated to the Section 151 Officer, in consultation with the Leader, the lead Executive Member for Climate Change and the Director of Place and Enterprise, to agree any necessary contract amendments, the management agreement between Fusion and the Council referred to in resolution part 1ii) above and the structure of the borrowing referred to in resolution part 1i) above as part of the Council's overall Capital Programme.

27/22

APPOINTMENTS: LICENSING COMMITTEE SUBSTITUTE MEMBERS AND THE SIX-MONTH MEMBER MEETING ATTENDANCE RULE

The Council considered a report that sought approval for the appointment of Substitute Members to the Licensing Committee and the waiver of the six-month attendance rule for a Member on grounds of ill health.

In discussion, it was acknowledged that there had been recent difficulties in ensuring a quorum for Licencing Committee meetings that were called at short notice and the appointment of appropriately trained Substitute Members was welcomed in an attempt to offset these difficulties.

It was then:

RESOLVED

1. That, subject to being in receipt of the required training, Cllrs V Abbott, K Baldry, J Birch, J Brazil, R Foss, S Jackson, J McKay and B Taylor be appointed as Licensing Committee Substitute Members for the remainder of the 2022/23 Municipal Year;
2. That the six-month attendance rule provided for within Section 85(1) of the Local Government Act 1972 for Councillor Kate Kemp due to ill health be waived; and
3. That the permitted non-attendance time period for Councillor Kate Kemp be extended up to and including Thursday, 22 September 2022.

28/22

REPORTS OF BODIES

That the minutes and recommendations of the undermentioned bodies be received and approved subject to any amendments listed below:-

(a) Development Management Committee - 25 May 2022

(b) Executive - 26 May 2022

E.06/22 Housing Crisis Update – Strengthening Housing Delivery

RESOLVED

That an annual revenue cost pressure of £44,700 (SHDC share) be built into the budget process for 2023/24 onwards, and a one-off expenditure of £150,780 be funded from the 2021/22 Government Homeless Prevention grant. (NB. This funding will double the resource in the housing delivery team and drive forward the ambitions of the Council in tackling the Housing Crisis).

(c) Development Management Committee - 1 June 2022

(d) Licensing Committee - 8 June 2022

(e) Executive - 7 July 2022

E.20/22 Totnes Leisure Centre – Grant Of Reversionary Lease

RESOLVED

That a reversionary lease be granted to Tadpool for a period from March 2029 to March 2043.

E.24/22 Urgent Business – Freeport: Land Assembly At Langage

RESOLVED

That the principle of the use of a Compulsory Purchase Order process be approved in accordance with the details set out within the published exempt agenda report;

29/22

PUBLIC QUESTIONS

The Chairman informed the Meeting that no Public Questions had been received for consideration at this Meeting.

30/22

QUESTIONS ON NOTICE

It was noted that two Questions on Notice had been received in accordance with Council Procedure Rule 8.

a) From Cllr Birch to Cllr Pearce, Leader of the Council

‘The Executive report of 2 December 2021 on the formation of the Waste Working Group stated at 3.5 that the WWG “will consider options and formulate its recommendations which will be reported back to the Executive”.

Why has this not occurred?

b) From Cllr Birch to Cllr Pearce, Leader of the Council

At the recent Full Council meeting FCC stated on several occasions that it was unable to answer questions as it was “in discussions with the Council”.

- 1. What is the purpose of the discussions?*
- 2. When will there be a report to Members on the discussions?’*

In light of the decisions taken by the Council earlier in the meeting regarding the Waste and Recycling Services Contract (Minute 24/22 above refers) Cllr Birch formally withdrew both questions at this point.

31/22

MOTIONS ON NOTICE

It was noted that two Motions on Notice had been received in accordance with Council Procedure Rule 10.1:

a) From Cllr Bastone and Cllr Foss

‘Those of us concerned about the A379 at the Slapton Line, and with that we refer to the parishes between Dartmouth in the east and Kingsbridge in the west, have grave concerns regarding the Slapton Line Partnership, the lack of progress towards an alternative route and the complete lack of action of those authorities responsible for making the required progress.

However, many residents feel that a fundamental aim should be the retention of the A379 at Slapton Line for as long as is possible. At least until a suitable alternative road route is found for the affected communities.

We therefore move that the Council uses its voice and power to include the following in the aims of the Slapton Line Partnership:

Work to be undertaken to maximise the protection and retention of the A379 across the Slapton line at least until a suitable alternative road route is built to connect the affected communities and maintain the flow of vehicular traffic.

And that;

This Council supports the social and economic needs of the local communities affected by the maintenance of the Slapton Line, between Dartmouth in the east and Kingsbridge in the west and insist that they must be balanced against and given equal weight to the environmental outcome stipulated, without any real public consultation, by the AONB and the unelected quangos such the Environment Agency and Natural England, unless and until a suitable road route behind the Ley between Strete and Torcross or Stokenham is properly sorted out by Devon County Council to allow the flow of vehicular traffic to continue if the vehicular route in front of the Ley is lost’.

In introducing the Motion, the proposer and seconder both stated their dismay at the decisions being taken in respect of the potential loss of both a key transport link but also the Ley and associated unique ecology.

In discussion, there was widespread support expressed for the Motion with particular reference being made to the history of the area, the memorial relating to World War Two, it being a Site of Special Scientific Interest and the impact upon tourism, finance and commerce along with the difficulties for residents if and when the main A379 route were to be lost.

It was then:

RESOLVED

Those of us concerned about the A379 at the Slapton Line, and with that we refer to the parishes between Dartmouth in the east and Kingsbridge in the west, have grave concerns regarding the Slapton Line Partnership, the lack of progress towards an alternative route and the complete lack of action of those authorities responsible for making the required progress.

However, many residents feel that a fundamental aim should be the retention of the A379 at Slapton Line for as long as is possible. At least until a suitable alternative road route is found for the affected communities.

We therefore move that the Council uses its voice and power to include the following in the aims of the Slapton Line Partnership:

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And that;

This Council supports the social and economic needs of the local communities affected by the maintenance of the Slapton Line, between Dartmouth in the east and Kingsbridge in the west and insist that they must be balanced against and given equal weight to the environmental outcome stipulated, without any real public consultation, by the AONB and the unelected quangos such the Environment Agency and Natural England, unless and until a suitable road route behind the Ley between Strete and Torcross or Stokenham is properly sorted out by Devon County Council to allow the flow of vehicular traffic to continue if the vehicular route in front of the Ley is lost.

b) From Cllr Brazil and Cllr Baldry

‘This Council supports a pay increase of at least £2,000 for all our key workers. This includes staff here at South Hams.

We call on the Local Government Association to make urgent representations to central government to fund the pay claims and write to the Chancellor and Secretary of State to call for a pay increase for public sector workers to be funded with new money from Central Government.’

In introducing the Motion, the proposer and seconder both informed that, following informal discussions since the agenda had been published, they had accepted an amendment and their substantive Motion now read as follows:

‘This Council supports a pay increase for all our keyworkers. This includes staff here at South Hams.

*We call on the Local Government Association to make urgent representations to central government to fund the **negotiated** pay claims and write to the Chancellor and Secretary of State to call for a **realistic** pay increase for public sector workers to be funded with new money from Central Government.’*

In the ensuing debate, support was expressed for the Motion, citing support for all key workers and, more specifically in terms of Council staff, the response displayed to the Covid pandemic and, more recently, the assistance that had been given to our Ukrainian guests.

It was then:

RESOLVED

This Council supports a pay increase for all our keyworkers. This includes staff here at South Hams.

We call on the Local Government Association to make urgent representations to central government to fund the negotiated pay claims and write to the Chancellor and Secretary of State to call for a realistic pay increase for public sector workers to be funded with new money from Central Government.’

(Meeting commenced at 2.00 pm and concluded at 5.10 pm)

Chairman

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Agenda Item 6

Report to: **COUNCIL**

Date: **22 September 2022**

Title: **Waste and Recycling Services Update**

Portfolio Area: **Leader – Cllr Pearce**
Lead Member for waste and recycling services – Cllr Baldry

Wards Affected: **All**

Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken: **26 September 2022**

Author: **Andy Bates** Role: **Head of Paid Service / Chief Executive**

Steve Mullineaux **Director, Customer Service Delivery**

Contact: **Email: Steve.mullineaux@swdevon.gov.uk**

RECOMMENDATIONS:

That the Waste Working Group RECOMMENDS the Executive to:

- 1. Endorse the actions being taken by the project team to ensure a safe transfer of the service on 03 October 2022;**
- 2. Endorse the approach to the service transition phase;**
- 3. Consider the information in section 5 of the report regarding the garden waste collection service and recommend to Council to implement a chargeable garden waste service from March 2023.**

That the Executive RESOLVES to:

- 4. Requests that a further report be brought back to the December Executive on the progress of the transition period and the costs incurred to date on the service transfer;**
- 5. Notes the organisational changes made by the Head of Paid Service and endorse the further changes required to ensure that the Waste and Operations team and the wider organisation, has the capacity and skills required to deliver the Council's key services and corporate priorities.**

- 6. Approves the use of the £120,000 from the Revenue Grants Earmarked Reserve to fund the Council's share of the 2-year fixed term senior role outlined in paragraph 6.3.2**

That the Executive RECOMMENDS to Council:

- 7. To end the current free non-statutory Garden Waste collection service from Monday 31 October to ensure that there are sufficient resources and capacity to deliver the statutory waste and recycling collections services; and**
- 8. To introduce a chargeable, fortnightly Garden Waste collection from early spring 2023 at a charge of £49 per bin per household subscription.**

1. Executive summary

- 1.1 This report follows the recommendations and decisions taken by the Executive on 12 July 2022 (minute E.27/22 refers).
- 1.2 A further meeting of the Council's cross-party Waste Working Group on 25 August 2022 reviewed progress on the service transfer and evaluated the information presented by officers.
- 1.3 In considering the options, the Waste Working Group has been clear that the service provided to residents:
- i. Does not deteriorate further
 - ii. That any service change results in minimum disruption to residents
 - iii. That the existing workforce is reassured over the change in management and control.
 - iv. Enables the Council to deliver a consistent collection service following transfer as soon as possible.
 - v. Improve the service and increase recycling rates in the South Hams.
- 1.4 Section 4 of the report explains the significant work that the project team are undertaking to ensure a safe transfer of the service. It should be noted that the outgoing contractor is fully supporting the transition.
- 1.5 Section 5 considers the options for reducing the overall cost pressures by charging for a garden waste collection service.
- 1.6 Section 6 explains the organisational changes that are being made to ensure the Council has the skills and capacity to deliver its key services and corporate priorities.
- 1.7 The financial implications are summarised in this report. There is a separate report on the Executive agenda on the Medium-Term Financial Strategy (MTFS).
- 1.8 Members will be aware that a version of this report is also on the agenda for consideration at the Executive meeting to be held on

Wednesday, 21 September. Whilst the conclusions arising from the Executive meeting will be verbally reported to the Full Council meeting, it is important to note that it is only parts 7 and 8 of the recommendation that require the consideration (and determination) of the Council.

2. Background

- 2.1. At its meeting on 12 July 2022, the Executive agreed and recommended to Council that the Council (Minute E.27/22 refers):
 - a. agrees to terminate the contract by mutual agreement, resulting in the transfer of all services currently provided under the contract back to the Council with effect from 3 October 2022;
 - b. delegates authority to the Head of Paid Service (Chief Executive) and Director of Customer Services Delivery, in consultation with the Leader and Lead Member for waste and recycling services, to:
 - i. conclude the negotiations based on the outline of draft settlement terms set out in Appendix A of the report to finalise the settlement agreement and any other necessary agreements.
 - ii. to formulate and implement a mobilisation plan for the Council's delivery of the service; and
 - iii. keep the Waste Working Group informed on progress.
 - c. transfers the value of the 2021/22 deductions to the sustainable waste management earmarked reserve, as part of the closure of the 2021/22 accounts, in order to contribute to anticipated set up costs of bringing the service back in house as outlined in section 4 of the report.
 - d. allocates all additional payments from the waste contractor in 2022/23, to contributing to the anticipated set up costs of bringing the service back in house as outlined in section 4 of the report.
 - e. approves the use of the business rate retention reserve to fund the anticipated revenue costs during the transition period as outlined in section 4 of the report.
 - f. allocates a budget for one-off set up costs, as outlined in Section 4
- 2.2. Council subsequently approved these recommendations at its meeting on 14 July 2022.
- 2.3. At the meeting on 12 July 2022, the Executive noted that the Lead Member would bring a further report to the Executive in September 2022 setting out an operational plan designed to stabilise the

service and the changes required to reduce the current operating costs in the medium term.

- 2.4. The Executive noted the intention for the Head of Paid Service to make the necessary organisational changes to enable a seamless handover of the service.
- 2.5. At the same meeting, the Executive requested the Section 151 Officer to bring a further report to the Executive in September 2022 on the ongoing revenue costs of delivering the service in-house (after the transitional period) and the impact on the Council's MTFS.
- 2.6. The Council has now formally agreed the Heads of Terms agreement and the Director, Customer Service Delivery and Head of Paid Service are working with the contractor on finalising the deed of variation and settlement agreement.
- 2.7. The service will transfer back to the Council on Monday 03 October 2022.
- 2.8. The key priorities are:
 - a. The safe transfer from FCC to the Council on day one.
 - b. A period of stabilisation to ensure that residents receive a reliable service. (Known as the transitional period of up to 9 months)
 - c. To improve recycling collections within the District. (Known as the improvement phase which will last up to 18 months).
- 2.9. The Council has recruited a dedicated project manager and has a project team covering all aspects of the project including internal and external expertise in waste and fleet management, IT, health and safety, HR, assets and finance. The Project team report to the Council's senior leadership team (SLT) on weekly basis.
- 2.10. Some members will be aware that in September 2017, the Council received a presentation to consider the introduction of a charged for garden waste service as part of the plans to align waste services across Devon (all but one of the other Districts having already introduced charged for services) but at that time decided not to bring forward a formal proposal. As a result, residents within the District have continued to receive a free service whilst other Districts in Devon have been operating a paid for service.

3. Service Transfer

- 3.1 As stated in paragraph 2.4 the key priority of the service transfer is to ensure that the Council can meet its statutory obligations, ensuring the service is operating safely and securely for the benefit of residents and staff.

- 3.2 Members and indeed the public need to recognise that service disruption will continue, there will be no overnight fix of all the service problems. The Council will inherit the same issues that the contractor has experienced for over 18 months, particularly around availability and retention of suitably qualified drivers and staff. Whilst incidents of criticism of the workforce have been low, the significant press, social media and Council debate on the issues will have no doubt have left a proportion of the workforce demoralised and disenfranchised.
- 3.3 Engaging with the workforce and rebuilding their trust and confidence in the council is equally important as the priorities stated in paragraph 3.1.
- 3.4 To ensure this, the Council is working closely with FCC across all aspects of the transition covering the following main areas:
- a. TUPE transfer and retention of the current FCC workforce
 - i. Initial introductory meetings with the Council management team took place on 23 August 2022.
 - ii. The Council has provided FCC staff with an email address, text and whatsapp number to enable the staff to ask any questions.
 - iii. An all-staff welcome meeting is arranged for Saturday 17 September 2022.
 - iv. FCC staff have received a pay award for 2022/23. The Council has been liaising with our neighbouring LA's (Local Authorities) and is reviewing pay rates, terms and conditions to ensure that we can offer a package comparable with other LA's to ensure that we retain staff on day 1.
 - v. Compiling a staff charter i.e. we will do 'xxxx', we expect you to do 'yyyy'.
 - vi. Identifying and putting in place contracts with the temporary staffing agencies to ensure the continuity of employment of any agency staff currently employed by FCC.
 - b. Health and safety
 - i. The Council is reviewing all the existing risk assessments and is preparing revised Safe Operating Procedures to help ensure smooth and safe transition of the service.
 - ii. New Personal Protection Equipment (PPE) has been procured and all transferred staff will have PPE with the South Hams logo on day 1.
 - c. Seeking the regulatory licences required to operate the services. These include:
 - i. Transport operator licence
 - ii. Transfer of environmental permits

- iii. Insurance
- d. IT systems, infrastructure and data
 - i. We have successfully procured the same IT systems currently used including the back office and customer portal systems.
 - ii. New equipment to continue vehicle tracking and fleet management and the associated software
 - iii. Mobile phones and the IT and connections required for both depots
 - iv. A data cleanse of all the collection round data is being carried out by the team.
- e. Transport, fleet and infrastructure
 - i. The Road Haulage Association will carry out an independent vehicle condition inspection and any repairs required will, where possible, be completed before the service transfer by FCC or funding provided by FCC.
 - ii. Work is underway to ensure that enough lease vehicles are available to continue the operation on service transfer.
 - iii. The Councils Asset's team will be carrying out a joint inspection of both Depots. FCC will carry out or fund any repairs required.
 - iv. Work is underway with FCC and the landowner to reassign the lease of the additional land at Ivybridge that is used for parking some of the waste collection fleet.
- f. 3rd party supplier contracts. The team have been evaluating and procuring suppliers required to operate the service. Some examples of these are shown below :
 - i. Recyclate haulage
 - ii. Fuel
 - iii. Fleet maintenance and tyres
 - iv. Fire Prevention and alarms
 - v. Consumables such as toilet cleaning materials
 - vi. Utilities
- g. Communications. The project team are developing a clear and simple communications plan that will explain to households, town and parish councils, Members, staff and the incoming FCC staff, the Council's transition plan. This will involve all media streams and include frequently asked questions..

4. Transition plan

- 4.1. Over the last 18 months service performance has been consistently below the standards set out within the contract and the contractor has incurred significant additional costs. The

Council is aware of significant monthly expenditure above the budgeted costs. Predominantly these costs are made up of:

- additional resources (staffing and vehicles)
- inflationary costs (fuel and wages)

- 4.2. When the service transfers back on 03 October 2022, the Council will inherit all these additional operating costs. In July 2022, Executive and Council agreed to fund these costs from reserves during a transition period of 9 months.
- 4.3. The key goals of the transition phase are to:
 - Improve the consistency of the service
 - Improve the efficiency of the service
 - Reduce the operating costs of the service
 - Improve the overall resilience of the service
- 4.4. To achieve this the Council is reviewing the existing data and has commissioned a round review through a specialist provider, Integrated Skills. During September they will model a range of options that will be assessed against the goals outlined above.
- 4.5. To complement this work and utilise local knowledge, officers have started to and continue to engage with Members, and have contacted Town and Parish Councils to collate known problems such as consistent missed areas, multiple rounds in the same areas etc.
- 4.6. It is anticipated that both pieces of work will be completed by the end of the first week of October, enabling the engagement of the drivers and crews to input their operational knowledge.
- 4.7. It is anticipated that any changes to the collection rounds will be made during the first 3 weeks of November. This will allow for any communication to affected residents.
- 4.8. Whilst it will be extremely unlikely that any whole district round changes will occur at this point, there will be options for incremental improvements that can be planned, communicated and implemented between day 1 and the summer of 2023.
- 4.9. Throughout the summer, FCC have been unable to deliver a consistent and reliable non-statutory garden waste collection service due to significant resource constraints, in particular HGV and LGV driver shortages. The Council will inherit these same constraints on 03 October. It is imperative that the Council can maintain a safe and reliable statutory service (residual, recycling & clinical waste collections) at this time.
- 4.10. To enable to achieve the actions set out in paragraphs 4.2 to 4.9 it is recommended that the non-statutory garden waste collection service is ceased from 31 October 2022.

- 4.11. Officers will be exploring a whole range of other options to improve the efficiency of the overall service, including:
- a separate food waste collection
 - alternative arrangements for extremely rural areas
 - alternatives for the Devon Aligned Service (DAS) where it is operational effective and/or the costs are excessive
 - 3 weekly collections
- 4.12. The Council will be reviewing its policies in relation to the service. It is important that the service should operate under the following guiding principles:

For the Resident that means

- Clear and consistent
- Equitable and fair

For the Council that means

- Affordable and efficient

5. Garden Waste Options

5.1. Current Position

5.1.1. The Government intends to introduce changes through the Environment Act will have a bearing on the range of materials which Councils will be required to collect, the timing of the introduction of which, will have operational and financial implications for the Council.

5.1.2. Residents have experienced significant disruption to garden waste collections over recent months due to driver shortages and most residents have only received a collection every 4 or even 6 weeks since the reintroduction of the garden waste collection service on 28 March 2022. Currently the contractor is maintaining a 4-weekly service for the majority of residents.

5.1.3. Several other Councils have stopped garden waste collections, including Plymouth City Council, where the decision has been taken to suspend garden waste services with immediate effect, citing in-year financial pressures as the reason.

5.1.4. When the Council takes control of the service on 03 October, it will not be possible to improve on this and as a discretionary service it is likely that it will suffer further disruption over the next few months as the Council looks to improve the statutory services.

5.1.5. The Council's expert independent technical advisors have recommended the suspension of the garden waste collection service on transfer, to provide greater resilience to the core statutory waste and recycling service.

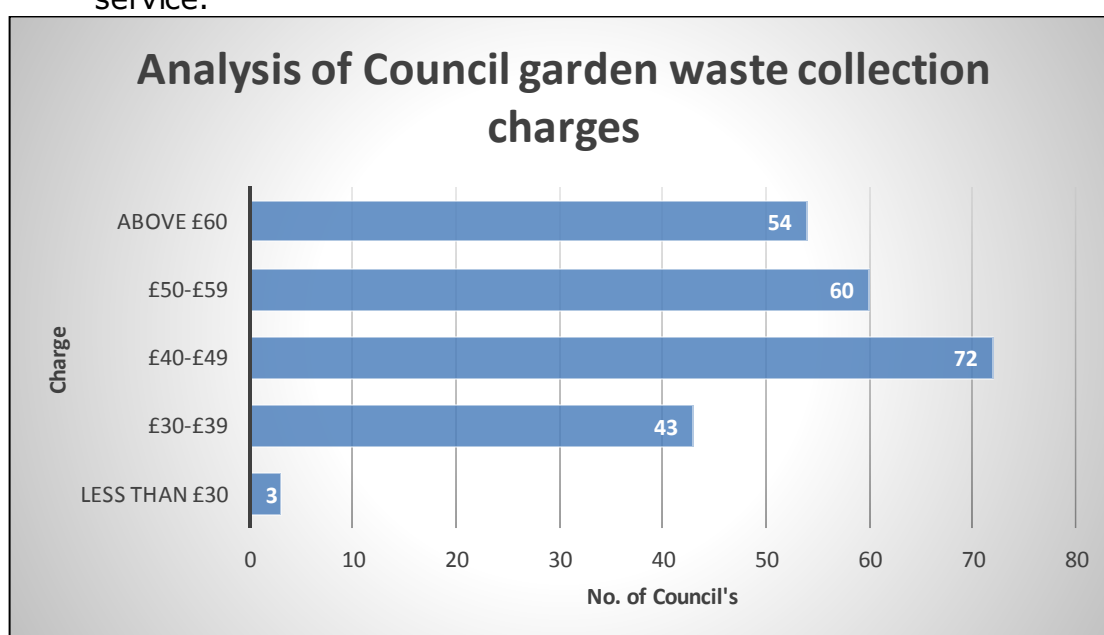
5.2. Future Arrangements

5.2.1. In July 2022, during the debate in the Executive and Council meetings, Members agreed to a fundamental review of the discretionary garden waste service and indicated their support in principle for a paid for garden waste collection service (in line with other Devon authorities).

5.2.2. The table below shows the current year (2022/2023) subscription costs and the take up of services in Devon.

Council	Service offered	Cost	% take up
East Devon	11 month Fortnightly (Not over Christmas)	£48 per bin	25-30%
Exeter	11 month Fortnightly (Not over Christmas)	Up to £51.50	61%
Mid Devon	12 month Fortnightly	Up to £50	32%
North Devon	Fortnightly (Feb to Nov) Monthly (Dec & Jan)	£45 per bin	55%
Teignbridge	11 month Fortnightly (Not over Christmas)	£50 per bin	37%
Torridge	11 month Fortnightly (Not over Christmas)	£45 per bin	34%
West Devon	11 month Fortnightly (Not over Christmas)	£40 for 4 sacks	24%

5.2.3. The table below shows the analysis of the charges Councils apply across the country for a garden waste collection service.



Source www.local.gov.uk (where Councils have provided this information). It should be noted that these are the current year (2022-2023) charges and do not reflect the increasing inflationary costs such as fuel and wages.

- 5.2.4. The waste hierarchy states that we should all
- Reduce
 - Reuse
 - Recycle
- 5.2.5. The Council's overall aims align with the above waste hierarchy and we want to encourage households and businesses to reduce residual waste and increase recycling. However, the collection and disposal of all waste streams waste has significant environmental impacts and residents are unable to influence these for residual and recycling waste streams due to the treatment and processing of this waste.
- 5.2.6. The Waste Framework Directive sets out the basic principles and definitions relating to waste management. The Directive lays down some basic principles, one of which is the 'proximity principle', which suggests that waste should generally be disposed of as near to its place of origin as possible. This principle also involves recognition that the transportation of wastes can have a significant environmental impact.
- 5.2.7. Residents and the Council can make a significant reduction by home composting or using community composting facilities.
- 5.2.8. The environmental impact of collecting garden waste is estimated (based on 2020-21 fuel usage data) as being between 120 and 150 tonnes of CO2 emissions and represents approximately 2-3% of the Council's carbon emissions.
- 5.2.9. In March 2022, the Executive and Council approved the creation of a community composting scheme with funding of £200,000 to enable the creation of additional community composting groups. Officers will continue to promote the take up of these services.
- 5.2.10. Charging for a garden waste collection service will enable Residents to choose how they dispose of their garden waste:

Option	Environmental impact	Cost to Resident
Home composting	None	None
Disposal at a community composting site	Limited	Limited - travel costs to local composting site

Disposal at a recycling centre	Some	Travel costs to recycling centre
Collection by South Hams District Council	High	Approximately £2 per collection (based on a biweekly collection)
Collection by independent contractor	High	£10 - £20 per collection

5.2.11. The benefits of a chargeable garden waste collection service include:

- Reduces the overall environmental impact
- Reduced cost to the Council of providing a non-statutory discretionary service
- Residents have a choice - only those that want the service pay for it. i.e. reduced cross subsidisation by council tax payers
- With limited availability of HGV drivers, it enables the Council to prioritise statutory services (residual, recycling, street cleaning services)
- Manage resources effectively – we only collect only where needed

5.2.12. Based on the information in paragraphs 5.2.2 and 5.2.3 it would be reasonable to assume that a fortnightly service operating for 11 months per year (with a break from mid-December to mid-January), would result in 25-30% of households opting to take up the service. Based on a charge of £49 per bin per household this would contribute £563,000-£676,000 to the costs of running the service.

5.2.13. The only other viable option to enable the Council to meet the budget pressures is to discontinue the service.

6. Impact on wider Council resources

6.1. As set out in the previous reports to Executive (12 July 2022) and Council (14 July 2022) (paragraph 3.9 of the reports refers), bringing the service under the Council's direct control will have wide ranging implications across the Council which have necessitated a number of organisational changes these include:

- The appointment of an Assistant Director to lead the Council's strategy, people management, organisational development and communications services.
- Realigning Directors' responsibilities including for Environmental Health and HR

6.2. With the transfer of the waste service, further changes are now required to strengthen management, leadership and capacity within the Service Delivery Directorate.

6.3. Whilst the TUPE data is not yet finalised it is anticipated that over 150 staff will transfer from the contractor to the Council, increasing the total staffing establishment by over 40%. Prior to the outsourcing of the service, a Director had the sole responsibility for the waste and street cleansing services. Rather than increase the number of directors in SLT, it is proposed that:

6.3.1. The role of Head of Waste (reporting to the Director, Customer Service Delivery) is upgraded to Assistant Director, Waste and Operations with responsibility for all front-line services including: Localities, Toilets, Carparking, Grounds and Property Maintenance. This will provide management oversight and a single focus on all waste and street scene services. There will be a realignment of roles within this area.

6.3.2. In addition, to drive improved customer service and operational efficiency, we need to exploit technology to continue to modernise the way in which we work and to reduce our operating costs. We plan to do this by putting in place a temporary 2-year fixed term senior role. This will be funded from the Revenue Grant Earmarked reserve at a total one-off cost of £120,000.

6.4. The organisational changes set out above will be achieved without increasing the overall size of the existing senior management structure.

7. Financial Implications of bringing the waste service back in-house

7.1. At Council on 14 July 2022, it was agreed that the Section 151 Officer would bring a report to Council in September 2022 on the ongoing revenue costs of delivering the service in-house (after the transitional period and the impact on the Council's MTFS).

7.2. Based on the advice from our technical advisor, it is anticipated that the on-going revenue costs of delivering the service will be in the region of £1.25m per annum higher than the current budgeted contracted cost. This figure was stated in the Executive report of 12 July 2022 and this is still the best estimate of what the additional cost will be once in steady state and the new rounds have bedded down. Therefore, an annual cost pressure of £1.25m has been built into the MTFS for 2023/24 onwards. As the Council is taking the service back in October 2022, the increased cost in 2022/23 will be reported as part of the overall budget monitoring report for 2022/23.

- 7.3. The MTFS sets out that after building in this extra cost pressure of £1.25m per year for waste, the budget gap for 2023/24 is projected to be £374,616 which is 3.3% of the projected Net Budget of the Council of £11.47m for 2023/24. The Council is awaiting details of a government technical consultation on the principles of a two-year finance settlement which will give more clarity and assurance on the assumptions within the MTFS.
- 7.4. During the transitional phase of the first nine months (October 2022 to June 2023), it is anticipated that current operating costs will be £350,000 per higher than the current contract costs. In July 2022, Members approved the use of £3million of the business rates retention reserve, to fund the anticipated transitional costs of bringing the service back in house. The £3million has been calculated as being 9 months (transitional phase) at an additional £350,000 per month.
- 7.5. Officers estimated that one-off set-up costs will be between £1.25m - £1.5m, these costs include:
- Project management, temporary additional staffing and backfilling within the current establishment.
 - External technical consultants e.g. to re-design the collection rounds
 - Legal costs in relation to the agreement with FCC
 - External one-off costs i.e. IT, PPE,
 - Additional vehicles (to be determined), alongside a comprehensive vehicle forward plan
- 7.6. The one-off set up costs will be financed from a contribution from the contractor towards the Council's set up costs and funding in the Council's Waste Earmarked Reserve which has a current balance of £1.065 million at 31 March 2022. This Earmarked Reserve contains the additional income from increased recycling credits and dry recycling income and it also holds the value of the 2021/22 contractual performance deductions, in order to contribute to the anticipated set up costs of bringing the service back in house in October 2022 and capital outlay.

8. Next Steps

- 8.1. As per paragraph 4.10, Executive is asked to recommend to Council that the non-statutory garden waste collection service is ceased from 31 October 2022.
- 8.2. The Executive is asked to recommend to Council to implement chargeable, fortnightly Garden Waste collection from early spring 2023 at a charge of £49 per bin per household subscription.
- 8.3. The Executive notes the organisational changes made by the Head of Paid Service and endorses the further changes required to ensure that the Waste and Operations team and the wider

organisation, has the capacity and skills required to deliver the Council's key services and corporate priorities.

- 8.4. The Executive approves the use of the £120,000 from the Revenue Grants Reserve to fund the 60% of the 2-year fixed term senior role outlined in paragraph 6.3.2.
- 8.5. Based on the decisions above requests officers bring back a further report to the Executive in December that will cover service progress, costs and further decisions required.

9. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	Given the financial implications to the Council of the decisions to cease the garden waste collection and the introduction of a charged-for service, the final decisions are matters for the full Council acting on a recommendation from the Executive.
Financial implications to include reference to value for money	Y	The financial implications of bringing the waste service back in house in October 2022 are set out in Section 7 of the report. In addition, the Executive is asked to approve the use of the £120,000 from the Revenue Grants Earmarked Reserve to fund the Council's share of the 2-year fixed term senior role outlined in paragraph 6.3.2. This post will be shared with West Devon Borough Council on a 60% (SHDC)/40% (WDBC) basis.
Risk	Y	There are operational risks with bringing the service back in-house, but these are mitigated by a clear mobilisation plan supported by appropriate technical and professional expertise and additional resources outlined above. There is a risk of not being able to bring operating costs in line with available budgetary resources in the medium term.
Supporting Corporate Strategy	Y	Quality Council Services Natural Environment
Climate Change - Carbon / Biodiversity Impact	N	

Comprehensive Impact Assessment Implications		
Equality and Diversity	N	
Safeguarding	N	
Community Safety, Crime and Disorder	N	
Health, Safety and Wellbeing	N	
Other implications	N	

Supporting Information

Appendices:

None

Background Papers:

None

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Report to: **Council**
Date: **22 September 2022**
Title: **Climate Emergency Planning Statement**
Portfolio Area: **Joint Local Plan
Planning / Climate Emergency**

Wards Affected: **All**

Urgent Decision: **N** Approval and clearance obtained: **Y / N**

Date next steps can be taken: Following the approval of West Devon Borough Council and Plymouth City Council.

Author: **Chris Brook** Role: **Director – Place and Enterprise**

Contact: **Email: chris.brook@swdevon.gov.uk**

RECOMMENDATIONS:

That, subject to Plymouth City Council and West Devon Borough Council agreeing likewise:

- 1. That the Plymouth and South West Devon Climate Emergency Planning Statement (Appendix 1 refers) is formally adopted as an interim policy statement, pending completion of the next review of the Plymouth and South West Devon Joint Local Plan; and**
- 2. That the Climate Emergency Compliance Forms (Appendix 2 refers) inclusion in the Local Validation Lists is approved.**

1 Executive summary

- 1.1 The report seeks Full Council approval of the Plymouth and South West Devon Climate Emergency Planning Statement.
- 1.2 The Plymouth and South West Devon Climate Emergency Planning Statement has been produced in collaboration with Plymouth City Council and West Devon Borough Council. Since the adoption of the Plymouth and South West Devon Joint Local

Plan in March 2019 each Council has declared a Climate Emergency.

- 1.3 In March 2019 South Hams District Council declared a climate emergency and committed to net zero by at least 2050. Consequently, urgent action is required to make sure new development appropriately mitigates for and adapts to climate change. This will help ensure new buildings that do not need retrofitting as soon as they are built and meets the objectives of the corporate strategy.
- 1.4 The Plymouth and South West Devon Climate Emergency Planning Statement is prepared as a response to the climate emergency. It puts in place interim policy and guidance pending the next review of the Plymouth and South West Devon Joint Local Plan (JLP). This allows us to go further than our adopted policies and guidance because of the urgent need to act now.
- 1.5 Once adopted it will set out seven new mitigation measures and six new adaptation measures applicable to new development. These cover a range of issues that complement the new Building Regulations that come into force on 18 June 2022. The new measures should ensure that new homes and buildings are developed to high environmental standards and do not need retrofitting as soon as they are built. Ensuring thermally efficient buildings and maximising the use of renewable energy is particularly important now given the very high energy prices.

2. Background

- 2.1 The Plymouth and South West Devon Joint Local Plan (JLP) was adopted by Plymouth City Council, South Hams District Council and West Devon Borough Council in March 2019, before the climate emergency declarations. The Plymouth and South West Devon Supplementary Planning Document (SPD) amplifies adopted policy and was adopted in July 2020.
- 2.2 The JLP Partnership Board provides governance of the JLP and is made up of 2 cabinet members from Plymouth City Council, South Hams District Council and West Devon Borough Council. In December 2021 the Board agreed that urgent action was required to address the climate and biodiversity emergencies and that more should be done to go further than our current policies.
- 2.3 The JLP is not due for review until 2024 and must be undertaken according to regulations. This is a lengthy process and there are no options for quick updates and refreshes of local plans. However, use of an interim policy statement enables a local planning authority to proactively address an issue where there is a pressing need to take a different planning policy approach. This does not have the status of a statutory development plan would therefore carries less weight in the decision making process than local plans.

However, it is an important material consideration in planning decision making.

- 2.4 The Board agreed that an interim policy statement should be prepared. A draft, entitled 'Plymouth and South West Devon Climate Emergency Planning Policy and Guidance' was presented to the Annual General Meeting in February 2022 and approved for a minimum 6 week consultation.

Consultation

- 2.5 Public consultation ran from 3 March 2022 to 5pm on 19 April 2022 in line with the agreed principles set out in the Statement of Community Involvement. It sought comments on the draft Plymouth and South West Devon Climate Emergency Planning Policy and Guidance document as well as the detailed mitigation and adaptation measures set out in a series of factsheets. Specific questions were asked seeking views and detailed information on a range of issues. A Sustainability and Equalities Impact Assessment was undertaken as part of the process and was also published.
- 2.6 Over 1,800 comments were received from 128 individuals and organisations and a Consultation Report has been prepared providing more detail and is provided as a background paper. These comments were taken into account in finalising the planning statement.
- 2.7 The JLP Partnership Board has been fully briefed on the measures included within the Plymouth and South West Devon Climate Emergency Planning Statement, together with the Consultation Report and Climate Emergency Compliance Form and on 18 July 2022 agreed it should be progressed to the Full Council meetings of each Authority.

3. Outcomes/outputs

- 3.1 The use of the Plymouth and South West Devon Climate Emergency Planning Statement offers the ability to trial these interim policies in advance of including them within the full Joint Local Plan review. It should be used to deliver more climate resilient development that can mitigate against and adapt to the effects of climate change.
- 3.2 It will apply only to new planning applications submitted after 30 September 2022 and following that date applications should comply with the new requirements. Its use will be monitored through the development management process, in terms of permissions granted or refused on these grounds and any subsequent planning appeals.

4. Options available and consideration of risk

- 4.1 Alternatives considered include waiting for the formal review of the Plymouth and South West Devon Joint Local Plan to introduce new requirements and going much further by introducing full Future

Homes/Building Standard requirements. Both these options were rejected because they either do not recognise the significance of the issue and importance of ensuring new buildings are fit for the future, or they go too far which at this stage cannot be justified (and therefore would fail at any planning appeal).

- 4.2 As part of the preparation of the Plymouth and South West Devon Climate Emergency Planning Statement a Sustainability and Equalities Impact Assessment has been undertaken. This considered the new requirements for new development and recognised that there are variations in how communities respond to the risks of climate change and there are impacts on developers. It concluded that in terms of Equalities Impact Assessment, it does not have any direct negative impacts on different groups, it seeks to ensure that new development delivers positive benefits and responds appropriately to the Climate Emergency we are facing.

5. Structure and content of the Plymouth and South West Devon Climate Emergency Planning Statement

- 5.1 The Plymouth and South West Devon Climate Emergency Planning Statement is attached at Appendix A. It sets out the justification and how it will be used as well as detailing exactly what the new mitigation and adaptation requirements are. It is intended to be used by development management officers in decision making as well as by all members of the community, as well as those directly involved in the development industry.

- 5.2 It has been divided into the following sections:

- Introduction
- Why is this planning statement need and what is its status
- How the planning statement relates to local planning policy and guidance
- What the planning statement does and how it works
- How the planning statement will be delivered
- Appendices

- 5.3 Appendix 2 and 3 set out the new mitigation and adaptation requirements as follows:

Appendix 2 Mitigation Measures:

M1: Onsite renewable energy generation

M2: Energy Storage

M3: Low and zero carbon space and water heating systems M4:

Resilient and low carbon building materials

M5: Demolition and Rebuild

M6: Electric Vehicle Charging points

M7: Active and sustainable travel

Appendix 3 Adaptation Measures

A1: Passive Solar Design

A2: Protecting our soil resource

- A3: Protecting and enhancing tree cover
- A4: Protecting and enhancing gardens, green spaces and greenfield sites
- A5: Delivering sustainable drainage, surface water management and restricting urban creep
- A6: Delivering biodiversity net gain and habitat improvements

- 5.4 For ease of use, it has been primarily designed as an interactive web based tool, which will direct people to the detailed mitigation measures required for residential and commercial development and the adaptation requirements for all development types. The interactive webtool is being developed and will be made live on the website once this Climate Emergency Planning Statement has been adopted.
- 5.5 Once adopted across all three JLP authorities the Plymouth and South West Devon Climate Emergency Planning Statement will come into force and be a material consideration in the determination of all new planning applications submitted after 30 September 2022.
- 5.6 It will apply only to new planning applications submitted after 30 September 2022 and will not be retrospectively applied to any planning applications already in the system at that point. Changes are being made to the Local Validation Lists that will require all applications to complete a Climate Emergency Compliance Form in order to be validated. This will also be agreed by Full Council.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance		The proposal to adopt interim planning policy is sound and legal, and the correct governance route has been followed, including the relevant consultation strategy.
Financial implications to include reference to value for money		<p>There are no significant financial implications.</p> <p>The primary resource issue will be for Development Management Team assessing planning applications against the new criteria. This is being mitigated by developing a webtool to help applicants know exactly what is required and signpost good practice.</p> <p>In addition, the JLP team will provide training to upskill officers, and build capacity within the DM teams. Policy officers will be available to assist with climate change planning issues.</p>

		The JLP team can also make a whole carbon life cycle tool available for developers at no cost until March 2023 to encourage the better understanding of embodied carbon within development schemes.
Risk		<p>The main risks relate to the “planning” weight given to these new requirements. This introduces additional requirements into the planning system that do not have the status of the development but are important material considerations.</p> <p>As a result, Development Management Officers will have an additional consideration that they have to apply. This will place an additional burden on both the decision makers, but also applicants, which will require extra skills and resources. There may be a financial cost associated with this.</p> <p>Training is being provided to help upskill development management officers in all areas relating to climate change. In addition the rolling Development Management Committee training programme will also include a session on climate emergency policy and this new planning statement.</p> <p>During the period in advance of the formal Joint Local Plan Review these requirements will be monitored and reviewed and additional evidence will be gathered to ensure robust policies are include within any revised policies.</p>
Supporting Corporate Strategy		<p>Adapting and mitigating; climate change and increasing biodiversity – The Plymouth and South West Devon Climate Emergency Planning Statement will help reduce carbon emissions and achieve 10% biodiversity net gain in new developments.</p> <p>Improving homes - The Plymouth and South West Devon Climate Emergency Planning Statement will improve the quality of housing and mean more new homes exceed the minimum energy efficiency standards.</p>
Climate Change - Carbon / Biodiversity Impact		<p>The Plymouth and South West Devon Climate Emergency Planning Statement introduces measures for new development to reduce the carbon footprint so this should have a positive impact on both carbon emissions and biodiversity.</p> <p>This will achieved be through the requirement for new development to meet the most up to date building regulations and to go further achieving</p>

		20% improvement through onsite renewables, no new gas boilers, space for battery storage, use of resilient and low carbon building materials, priority for reuse and retrofit EV charging, active and sustainable travel, passive solar design protecting the soil resource, enhancing tree cover and green spaces, managing surface water and delivering 10% biodiversity net gain.
Comprehensive Impact Assessment Implications		
Equality and Diversity		A Sustainability and Equalities Impact Assessment has been undertaken to assess equality and diversity implications.
Safeguarding		N/A
Community Safety, Crime and Disorder		N/A
Health, Safety and Wellbeing		Improvements in health and wellbeing arising from these new planning measures
Other implications		None

Supporting Information

Appendices:

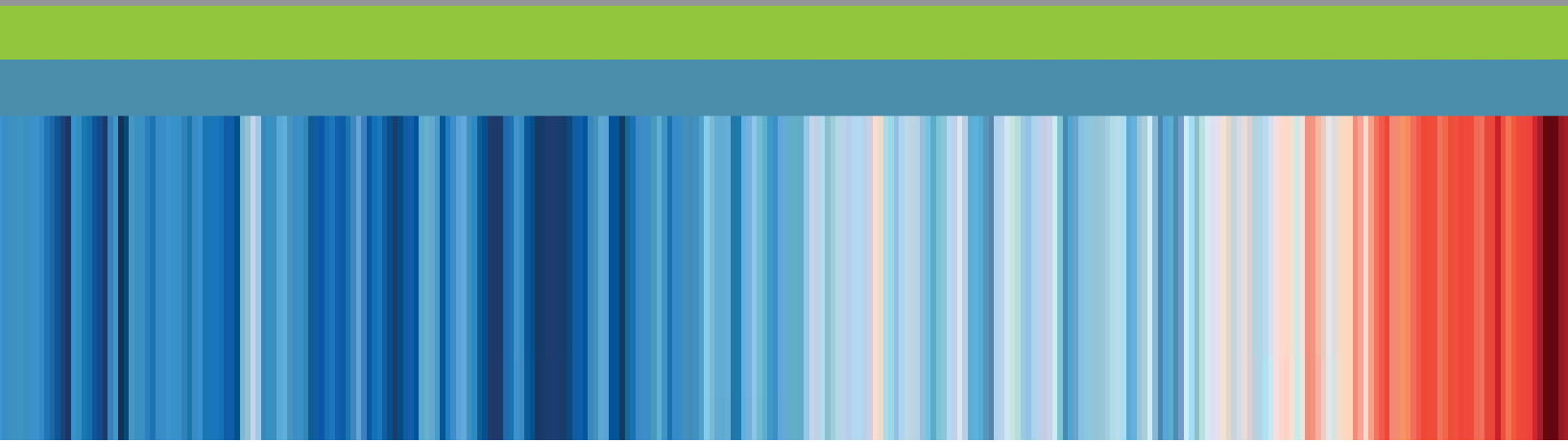
- 1 - Climate Emergency Planning Statement
- 2 - Climate Emergency Compliance Form

Background Papers:

Climate Emergency Planning Statement Consultation Report

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PLYMOUTH AND SOUTH WEST DEVON CLIMATE EMERGENCY PLANNING STATEMENT



**ADOPTION DRAFT
SEPTEMBER 2022**



Plymouth and South West Devon Climate Emergency Planning Statement

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1 Introduction

1.1 The growing effects of climate change are having a significant impact on communities and there is clear evidence that we need to take action now. The way we use the planning system, together with Building Regulations, can make a major contribution to tackling climate change. It can help shape new developments and existing places in ways that minimise carbon emissions and positively support community resilience to climate impacts, such as increasing temperatures, rising sea levels, increased rainfall and extreme weather events.

1.2 This Climate Emergency Planning Statement responds directly to the Climate Emergency declarations issued across Plymouth and South West Devon and identifies exactly what all new development should do to meet the challenge of climate change. It builds on existing planning policies set out within the Plymouth and South West Devon Joint Local Plan and its supplementary planning document, embraces new standards and proposes new requirements. The mitigation and adaptation measures set out in this planning statement relate only to new development that requires planning permission. We recognise that there is work to be done to existing homes to ensure they are resilient to climate change, but retrofitting is a key issue that will need to be addressed outside the planning process.

1.3 This planning statement is deliberately ambitious and challenges the ‘business as normal’ approach. It intentionally suggests measures that look to the future, and encourages development that goes further than current Building Regulations. This includes providing for energy storage, understanding embodied carbon, using low and zero carbon space and water heating systems and requiring resilient and low carbon building materials.

1.4 The mitigation (preventing/reducing carbon emissions) and adaptation (adjusting to current/future effects of climate change) measures are set out in detail in Appendices 2 and 3, however they are best viewed using the interactive online tool on the website **here**. It explains what is expected and signposts to good practice and useful guidance about how it can be included within designs.

1.5 Consultation on the draft document took place for 7 weeks between 3 March 2022 and 19 April 2022. Over 1,800 comments were made by 128 individuals and organisations and a range of views were expressed. Detail is available in the consultation report **here**. These comments have been taken into account in finalising the document. The measures contained in the planning statement balance the need for early action with the constraints of what can be required now. This begins a discussion about climate emergency planning policy that will continue and evolve as the Joint Local Plan is reviewed.

1.6 A glossary of all the terms used is set out in Appendix 5.

2 Why is this planning statement needed and what is its status

2.1 The Plymouth and South West Devon Joint Local Plan (JLP) provides a sound policy basis for the Local Planning Authorities to begin to tackle the impacts of climate change. However, we recognise that the knowledge, evidence and expertise surrounding climate change and its impacts is continually evolving. In the last 3 years following the adoption of the JLP, there have been a number of significant changes that have elevated the importance of addressing the climate challenge. This includes commitments made at the United Nations Climate Change Conference COP26 (Glasgow Autumn 2021), changes to national legislation and policy and relevant planning appeal decisions (summarised in Appendix 1).

2.2 Each council made Climate Emergency declarations in 2019⁽¹⁾ committing themselves to aiming for net zero by 2030, with further detail on how they intend to achieve this set out in climate emergency action plans⁽²⁾. South Hams District Council and West Devon Borough Council have also declared biodiversity emergencies. Taken together, these changes create an increased urgency for more radical action.

2.3 This planning statement does not change the status of the JLP, which remains the adopted development plan for the area and the starting point for decision making. This planning statement has the status of an interim policy statement and guidance and therefore must be taken into account when determining a planning application. This is a recognised approach, as set out in the National Planning Policy Guidance in relation to First Homes. ⁽³⁾, that enables us to put in place interim policy pending the next review of the JLP. As such, it is a new material consideration in the development management process.

1 Plymouth City Council Full Council 18 March 2019, South Hams District Council Executive 6 June 2019, West Devon Borough Council full council 21 May 2019

2 South Hams: [Action Plan and Activity | SH Climate Change \(southhams.gov.uk\)](https://www.southhams.gov.uk/action-plan-and-activity-sh-climate-change), Plymouth: [Climate Emergency Action Plan 202](https://www.plymouth.gov.uk/climate-emergency-action-plan-202), West Devon: [Action Plan and Activity | WD Climate Change \(westdevon.gov.uk\)](https://www.westdevon.gov.uk/action-plan-and-activity-wd-climate-change)

3 NPPG Paragraph: 009 Reference ID: 70-009-20210524.

3 How the planning statement relates to local planning policy and guidance

3.1 All new development is assessed against local planning policy and guidance as set out in the:

- Plymouth and South West Devon Joint Local Plan adopted in March 2019; and the
- Plymouth and South West Devon Supplementary Planning Document (SPD) adopted in June 2020.

3.2 The new measures within this planning statement are consistent with the adopted strategic objectives and policies within the JLP, and expand on the additional guidance in the adopted SPD. These documents work together in the pursuit of sustainable development in the JLP area.

3.3 JLP Strategic Objective SO11 Delivering high quality development already expects development to respond positively to the challenges of climate change, reducing carbon emissions and creating communities that are more resilient. Alongside this the strategic policies set the framework for growth based on the delivery of sustainable development:

- SPT1 Delivering sustainable development
- SPT2 Sustainable linked neighbourhoods and sustainable rural communities
- SPT9 Strategic principles for transport planning and strategy
- SPT10 Balanced transport strategy for growth and healthy and sustainable communities.

3.4 Collectively the JLP policies seek to deliver sustainable development of the right quality in the right location. This planning statement uses and reinforces the existing policies in the JLP that seek to deliver development which positively responds to the climate challenge. These policies collectively provide the hooks for this new planning statement.

3.5 Policy 'DEV32 Delivering low carbon development' already sets out a very progressive approach and is used alongside other adopted policies and allocations to achieve climate change mitigation, adaptation and resilience. Whilst applications are considered against the JLP as a whole the following policies are of particular relevance:

- PLY6 Improving Plymouth's city centre
- PLY20 Managing and enhancing Plymouth's waterfront
- PLY37 Strategic Infrastructure measures for the City Centre and Waterfront Growth Area
- DEV1 Protecting health and amenity
- DEV2 Air, water, soil, noise, land and light
- DEV10 Delivering high quality housing
- DEV15 Supporting the rural economy
- DEV16 Providing retail and town centre uses in appropriate locations
- DEV20 Place shaping and the quality of the built environment
- DEV23 Landscape character
- DEV25 Nationally protected landscapes
- DEV26 Protecting and enhancing biodiversity and geological conservation

- DEV28 Trees, woodlands and hedgerows
- DEV29 Specific provisions relating to transport
- DEV33 Renewable and low carbon energy (including heat)
- DEV34 Community energy
- DEV35 Managing flood risk and water quality impacts
- DEV36 Coastal Change Management Areas

3.6 To support the JLP policies the SPD contains considerable detailed planning guidance explaining how the policies work and what is required to comply with them. In relation to policy 'DEV32 Delivering low carbon development' the SPD sets out the application requirements, promotes the reuse and recycling of building materials, explains the dangers of overheating, seeks the delivery of on site renewable energy generation to achieve regulated carbon emissions levels of 20% less than that required by the Building Regulation part L ⁽⁴⁾, identifies exactly what Energy Statements and Solar Masterplans should cover, explains the energy hierarchy and signposts to useful resources.

3.7 There are also numerous other parts of the SPD that are highly relevant to delivering a positive response to the climate challenge. This includes requirements for travel plans and electric vehicle charging as well as delivering resilient development with biodiversity net gain, sustainable drainage systems, flood management, district heat networks, green space, trees, woodlands and hedgerows.

4 [Conservation of fuel and power: Approved Document L - GOV.UK \(www.gov.uk\)](http://www.gov.uk)

4 What the planning statement does and how it works

4.1 The requirements and guidance set out in this planning statement aim to deliver the following Strategic Objective.

CES01 Strategic Objective

Delivering positive measures to address the climate emergency

To deliver development that contributes less to and mitigates the impacts of, climate change and adapts to its current and future effects through:

- ***Ensuring resilience by providing positive benefits that reduce carbon***
- ***Increasing renewable energy generation***
- ***Improving energy efficiency***
- ***Using sustainable local materials and minimising embodied carbon***
- ***Prioritising the retrofitting of existing buildings and reuse of materials***
- ***Reducing reliance on fossil fuels***
- ***Embracing electric vehicles and their charging infrastructure***
- ***Increasing walking, cycling and public transport opportunities***
- ***Reducing waste and increasing recycling***
- ***Effective use of solar gain, solar cooling and shading***
- ***Delivering biodiversity net gain and using nature based solutions***
- ***Managing flood risk, improving sustainable drainage and minimising impermeable surfaces***

4.2 This planning statement sets out a range of new requirements for all types and scales of development. It is split into two parts; mitigation measures and adaptation measures which are detailed in Appendices 2 and 3.

4.3 A simple web based tool has been developed to help applicants understand what is required of new development to meet the expectations of the climate emergency and ensure it is fit for the future.

4.4 ***Click here for the user-friendly tool.***

4.5 All those seeking planning permission for new development should give proactive consideration to the implications of the climate emergency on their development at the beginning of the scoping and design stage. By working with developers, the opportunity exists to reduce the contribution to climate change from development and maximise climate change mitigation, adaptation and resilience. We want to achieve this by incorporating measures that reduce the impact, such as the emission of greenhouse gases, and adjust to the current and future effects of climate change.

4.6 In most instances, the requirements are consistent with the emerging Future Homes/Building Standard⁽⁵⁾ that have now been incorporated into Building Regulations and came into force for applications made on or after 15 June 2022. Applications made prior to June 15, will be assessed against the previous standards providing substantial building work has begun before 15 June 2023 on all aspects of the application. This planning statement twin tracks these improved standards so they can also be properly considered in the planning system to ensure issues such as orientation are considered at the right stage of the process. However, given the scale of the emergency and the need for urgent action it also introduces some additional requirements, summarised below and set out in detail in Appendices 2 and 3.

4.7 We welcome and encourage proposals from developers that want to go further and be more ambitious, for example delivering carbon negative buildings.

Mitigation measures

4.8 The primary aim of the mitigation measures is to reduce the amount of carbon emitted through the development process. The proposals set an intentionally high bar in terms of demonstrating how carbon reduction permeates all aspects of a development scheme. The mitigation measures are set out in detail in Appendix 2 and include:

- The need for improved energy efficiency through ensuring the building minimises energy use, increasing on-site renewable energy generation, incorporating energy storage and maximising passive energy capture. This could help reduce the impact of volatile energy prices by promoting low and zero carbon space and water heating systems that do not use gas or oil boilers.
- Increased emphasis on sustainable, durable, recycled materials of UK or European origin in the construction process by introducing a hierarchy of acceptability and proof of provenance for roof slates and stone.
- Prioritising the re-use of buildings, rather than the demolition and replacement, and ensuring embodied carbon is a consideration in the planning process.
- Providing for Electric Vehicle charging facilities.
- Reducing the need to travel and avoiding development that locks in reliance on the private car, in favour of increasing sustainable transport options including the provision of adequate charging facilities for electric car and bikes as well as mobility hubs.

Adaptation Measures

4.9 Adaptation to the impacts and effects of climate change can often be overlooked in favour of mitigation measures to reduce the carbon impact of development. Effective adaptation is an important part of ensuring resilient development and delivering places that respond to the impacts of the climate emergency, in turn helps reduce carbon emissions.

5 [The Future Homes Standard: changes to Part L and Part F of the Building Regulations for new dwellings](#) and <https://www.gov.uk/government/consultations/the-future-buildings-standard>

4.10 The policies of the JLP and existing guidance in the SPD provides considerable detail on how development should include measures to ensure the building and its wider site is adaptable to climate change. In many instances, the solutions and opportunities are interconnected and the design should consider these holistically, using nature based solutions to maximise the benefits and deliver buildings and greenspace that positively mitigate and adapt to the challenge of climate change.

4.11 All development should consider how the development adapts to a changing climate. This means positively:

- Incorporating passive solar design
- Protecting our soil resource
- Protecting hedges and trees, especially mature trees that have significant value, and enhancing tree cover in the right places
- Protecting and enhancing gardens, green spaces and greenfield sites
- Delivering sustainable drainage and surface water management, reducing flood risk and urban creep
- Delivering at least 10% biodiversity net gain and habitat improvements

4.12 The inclusion of positive adaptation measures within development schemes will be a material consideration in the decision making process.

4.13 Biodiversity net gain is a key area where policy and practice is evolving with the introduction of provisions set out in the Environment Act. The JLP policy 'DEV26 Protecting and enhancing biodiversity and geological conservation' states that net gains in biodiversity will be sought from all major development proposals, and a 10% increase in biodiversity units will be compliant with this policy. This will be measured using the most up to date Biodiversity Metric. A proportionate approach will be taken for small-scale development. Additional detailed guidance on biodiversity net gain will be produced to assist developers and applicants with the use of the new biodiversity metrics, habitat banking and costs.

4.14 To complement the current policies and recognise the importance of adaptation measures on the environment a new Green Space Factor tool will be produced. This will ensure the multifunctional benefits of green and blue spaces are prioritised and recognise the role they play in maintaining our health and wellbeing. Further work is required to develop this tool, set appropriate thresholds and understand how it could be used to complement the approach on biodiversity net gain particularly on small sites. We will bring this forward separately as part of any biodiversity net gain guidance.

5 How the planning statement will be delivered

5.1 Planning applications submitted after the 30 September 2022 (when this planning statement is adopted) will need to meet the requirements set out in this planning statement and will have to complete a Climate Emergency Compliance Form to demonstrate how they will meet each of the mitigation requirements and deliver adaptation measures in their proposals. This will ensure applicants can explain exactly which document, plan, or drawing, demonstrates evidence of compliance. The measures could be included in:

- Energy Statement/Strategy
- Design and Access Statement
- Sustainability Statement
- Sustainable Travel Plan
- Energy Performance Certificate
- Standard Assessment Procedure (SAP) or
- specifically indicated on plans, drawings or other compliance reports.

5.2 The completion of the Climate Emergency Compliance Form will be included in the validation process and within the Local Validation Lists.

5.3 All mitigation and adaptation measures identified should be integrated into the design and layouts of developments and will be subject to control through building regulations and/or planning conditions. In some cases it will be necessary to secure delivery and management through the use of a S106 planning obligation. Developers and house builders should factor these requirements into their land purchases and will be expected to clearly demonstrate how they are being met, either through compliance with new building regulations or condition.

5.4 It is recognised that there may be some exceptional circumstances when it may not be possible to meet all the mitigation and adaptation requirements of this planning statement. Therefore if the requirements are not met in full proposals to mitigate the impact of non-compliance must be set out. In these cases, where it is demonstrably not possible to meet these requirements, a contribution to offset carbon emissions may be sought by the relevant Local Planning Authority, consistent with policy DEV32.3. Where a financial contribution commensurate with the direct carbon impact of the development is proposed, in line with policy DEL1 and paragraph 9.3 of the SPD, calculations should use the [GLA Carbon Offset Funds guidance](#) or updated version. All contributions will be secured by Section 106 agreements and allocated by the Local Planning Authorities to local offsetting schemes.

5.5 New development schemes are likely to be subject to additional costs, which could have an impact on development viability in some locations. However, the direction of travel towards low carbon and carbon neutral development has now been set for many years, and developers should be expected to factor these costs into their land valuation and profit expectations. The climate emergency is too important an issue for the entirety of humanity to continue with development that only serves to exacerbate the problem and leave significant retrofit costs for the future. The impact on viability will be considered on a case by case basis and difficult decisions about the balance of priorities may be necessary.

6 Appendix 1 Detailed justification for the Climate Emergency Planning Statement

National Policy and Legislation

6.1 The core purpose of the planning system is to create places which enable people to live happy and healthy lives, it is not possible to achieve this without considering the impact of climate change and addressing this through adaptation and mitigation. The UK has set ambitious targets for reducing greenhouse gas emissions and in all four UK nations there is law or policy requiring local planning authorities to consider and take action on mitigating and adapting to climate change. The planning system is set by and subject to a number of pieces of national legislation and regulation. This section identifies the most relevant legislation demonstrating the need for urgent action and justifying the priority to be given to climate change through this planning statement.

6.2 The Climate Change Act 2008 (amended in 2019) requires a 100% reduction in greenhouse gas emissions by 2050 (compared to 1990 levels). This is known as the net zero target. In June 2021 the Government adopted the sixth carbon budget⁽⁶⁾ that sets out a more ambitious target of 68% reduction by 2030.

6.3 The Planning and Compulsory Purchase Act 2004 sets out the current structure of the local planning framework for England and Wales, including the duty on plan-making to mitigate and adapt to climate change. Local planning authorities are bound by the legal duty set out in Section 19 of the Planning and Compulsory Purchase Act 2004, as amended by the Planning Act 2008, to ensure that, taken as whole, plan policy contributes to the mitigation of, and adaptation to, climate change.

6.4 The Flood and Water Management Act 2010 addresses the threats of flooding and water scarcity. Under the Flood Risk Regulations 2009, the Environment Agency is responsible for managing flood risk from main rivers, the sea, and reservoirs. Lead local flood authorities (LLFAs) are responsible for local sources of flood risk, in particular surface water run-off, groundwater, and ordinary watercourses. LLFAs are statutory consultees on major development. Local authorities are responsible for ensuring that requirements for preliminary flood risk assessments are met.

6.5 The Planning and Energy Act 2008 sets out powers for local authorities to require a proportion of the energy need related to new development to be sourced in the locality of the development, through renewable or low-carbon generation. It also sets out powers for local planning authorities to set energy efficiency standards that exceed the energy requirements of the Building Regulations. There has been much discussion about whether LPAs can continue to set their own requirements and in January 2021 the Government responded to the consultation on the Future Homes Standards by stating 'To provide some certainty in the immediate term, the Government will not amend the Planning & Energy Act 2008, which means that local planning authorities will retain powers to set local energy efficiency standards for new homes.'

6 The Carbon Budget Order 2021 (SI 2021/750)

6.6 The NPPF sets out the key national planning priorities for England. It was updated in 2021. It is non-statutory guidance, but is a powerful material consideration in plan-making and development management decisions. The NPPF is accompanied by online Planning Practice Guidance. Paragraph 152 of the NPPF underlines that the planning system should support the transition to a low-carbon future in a changing climate, taking full account of flood risk and coastal change. Paragraph 153 makes clear that local planning authorities are expected to adopt proactive strategies to mitigate and adapt to climate change, in line with the Climate Change Act 2008. Since compliance with national law and policy is central to the soundness test carried out on local development plans, compliance with the Climate Change Act is a clear obligation on both the Planning Inspectorate and local planning authorities.

6.7 The National Planning Policy Framework (NPPF)⁽⁷⁾ was amended in July 2021 to include reference to the United Nations Sustainable Development Goals. These are set out below.



6.8 This means there is a duty to deliver development that contributes positively to goal 11 Sustainable Cities and Communities, and goal 13 Climate Action. While more is needed to enshrine the climate emergency within the NPPF, paragraph 8 identifies the opportunity to secure net gain and requires a positive approach to ‘mitigating and adapting to climate change, including moving to a low carbon economy’. It also includes a chapter on meeting the challenge of climate change, flooding and coastal change, and within that is a requirement to help ‘shape places in ways that contribute to radical reductions in greenhouse gas emissions, minimise vulnerability and improve resilience’.

6.9 The Planning Practice Guidance (PPG) online resource provides vital additional and detailed guidance on aspects of the NPPF, and it is periodically updated to include interpretations of Ministerial Statements relevant to planning. The critical sections of PPG are on ‘Climate change’, ‘Renewable and low carbon energy’, and ‘Flood risk and coastal change’. Paragraph 011 of the ‘Climate change’ section directs planners to the Climate Change Committee for further information and guidance. In recent years, significant changes

7 NPPF 2021 para 8c

have been made to the viability test that is applied to plan policy and particular applications. Paragraph 002 of the PPG section on viability and plan making now states that ‘the price paid for land is not a relevant justification for failing to accord with relevant policies in the plan.’

6.10 On 14th July 2021 the Government published their Transport Decarbonisation Plan that sets out the pathway to net zero transport in the UK⁽⁸⁾.

6.11 The National Model Design Code⁽⁹⁾ published on 20th July 2021 requires codes to cover “sustainability including energy efficiency, net zero alignment and climate resilience”. This reflects the National Design Guide that sets out the ten characteristics of a well-designed place that need to positively address environmental issues affecting climate.

6.12 On 19th October 2021 the Government published its Net Zero Strategy: Building Back Greener and its Heat and Buildings Strategy⁽¹⁰⁾. This contained a raft of commitments including ensuring the reformed planning system supports efforts to combat climate change. Key elements include retiring the internal combustion engine by banning petrol and diesel cars from 2030, phasing out the installation of new and replacement gas boilers by 2035, introducing interim Future Homes Standards from June 2022 and reviewing the NPPF. The Government intends to publish an electric vehicle infrastructure strategy later this year and the latest announcement⁽¹¹⁾ sets out that all new homes and buildings will be required by law to install electric vehicle charging points from the middle of 2022.

6.13 The recent Housing, Communities and Local Government Select Committee Report⁽¹²⁾ requires action to deliver its Net Zero Strategy. This includes giving net zero a central role in the NPPF and bringing forward Future Homes Standard legislation as soon as possible. The Government response to this, published on 13th January 2022 commits to accelerating the legislation to introduce the full Future Homes Standard in 2024.

6.14 The Environment Act received royal assent on 9th November 2021. It provides increasing emphasis on the sustainable use of resources and the importance of nature in addressing the climate emergency. It sets out new requirements for waste, water, local nature recovery and expects all new developments to deliver a ten per cent biodiversity net gain managed for at least 30 years.

6.15 On 15th December 2021 the Government announced new building regulations⁽¹³⁾ that will help deliver net zero through a number of measures including requiring new homes to produce 30% less carbon emissions and bringing in more EV charging. These standards came into force on 15th June 2022.

8 <https://www.gov.uk/government/publications/transport-decarbonisation-plan>

9 [National Model Design Code: Part 1 - The Coding Process \(publishing.service.gov.uk\)](#)

10 M Government, [Net Zero Strategy: Building Back Greener](#). (October 2021); [HM Government, Heat and Buildings Strategy](#), (October 2021)

11 21st November 2021 <https://www.bbc.co.uk/news/business-59369715>

12 [Fifth Report published 29th October 2021 Local government and the path to net zero - Committees - UK Parliament](#)

13 [New homes to produce nearly a third less carbon - GOV.UK \(www.gov.uk\)](#)

6.16 On 17th January 2022 the Government published the UK Climate Change Risk Assessment 2022⁽¹⁴⁾ which identifies that even under low warming scenarios the UK will be subject to a range of significant and costly impacts unless significant further action is taken now. It states that ‘the evidence shows that we must do more to build climate change into any decisions that have long-term effects, such as in new housing or infrastructure, to avoid often costly remedial actions in the future’.

6.17 On 2nd February 2022 the Government published its Levelling Up White Paper⁽¹⁵⁾ which supports the decarbonisation agenda and recognises changes to the planning system are needed to support the transition to net zero.

6.18 On the 11th May 2022 the Government published the Levelling Up and Regeneration Bill. The Bill seeks to improve the planning process so it can

- deliver high quality design and beautiful places, and protect our heritage
- enable the right infrastructure to come forward where it is needed
- enhance local democracy and engagement
- foster better environmental outcomes
- allow neighbourhoods to shape their surroundings, as this is where the impact of planning is most immediately felt

6.19 The Bill will also enable further changes to come forward which will enhance the way that planning works, including full digitalisation of the system, improving planning processes and the preparation of National Development Management Policies. It is currently not clear what will be included within these policies but it is likely that they will contain guidelines to help deliver the Government's Net Zero Agenda.

Case law and recent planning appeals

6.20 Legal judgements made by judges in the courts and planning appeal decisions are made by planning inspectors and provide a useful interpretation of planning policy. They are increasingly recognising the climate emergency as a significant material consideration in decision making.

6.21 Climate change as a whole, and the impact of embodied carbon in particular, are clearly material planning considerations in light of the relevant case law on the meaning of “material planning considerations”: *R(Wright) v Resilient Energy Severndale Ltd and Forest of Dean Council* [2019] UKSC 53, [2019] 1 WLR 6562 at §§39-42 and *R(Samuel Smith Old Brewery) v North Yorkshire CC* [2020] UKSC 3, [2020] PTSR 221 at §§31-32. 8. The fact that a local authority has declared a climate emergency is also a material planning consideration, which was confirmed in 2020 by the Planning Inspectorate in a decision under section 78 of the Town and Country Planning Act 1990: appeal APP/Y2620/W/15/3134132 at §§86-89.

14 [UK Climate Change Risk Assessment 2022 \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

15 [Levelling Up White Paper \(publishing.service.gov.uk\)](https://publishing.service.gov.uk)

6.22 In April 2021 the Secretary of State recognised that ‘the scale and urgency of the climate change emergency is such that tackling climate change is a material consideration to which significant weight should be attached’⁽¹⁶⁾. In November 2021 in an appeal in Dartmouth the Inspector explicitly referred to the issue of climate change as one where planning policy may not be quite keeping pace with development elsewhere. In his decision letter⁽¹⁷⁾ he states ‘*My site visit took place on the third day of the Cop26 climate conference in Glasgow where the need for urgent action was once again made crystal clear by the Prime Minister. The recent initiatives such as those mentioned above are therefore a material consideration which I believe should carry some weight. It seems to me folly to build new houses now that will commit the owners to potentially expensive and disruptive alterations as the UK moves to decarbonise the heating of its housing stock.*’

Stakeholder and developer statements

6.23 The Department for Environment, Food and Rural Affairs is the lead department for domestic climate adaptation, but across government actions and policies are being implemented. Adaptation is also embedded in other key government commitments such as the 25 Year Environment Plan. The climate emergency requires everyone involved in the built environment to take responsibility for climate resilience and therefore all stakeholders and developers are increasingly setting out how they can adapt their plans and programmes in response. Set out below are a number of examples:

6.24 The Environment Agency’s strategy⁽¹⁸⁾ is about living better with a changing climate and designing today for tomorrow’s climate. Their aim is to create a net zero nation that is resilient to climate change.

6.25 Natural England’s vision for thriving nature for people and planet is at the heart of their action plan⁽¹⁹⁾. The natural environment can play an important role in tackling the climate crisis as healthy ecosystems take up and store a significant amount of carbon in soils, sediments and vegetation. The Carbon Storage by Habitat report provides detailed information and support for nature-based solutions for net zero⁽²⁰⁾.

6.26 National Highways have set out a plan⁽²¹⁾ to 2050 for net zero highways and are investing in energy storage systems to support electric vehicle (EV) drivers.

16 APP/V2255/W/19/3233606 Secretary of State decision. Appeal by Quinn Estates Ltd and Mulberry Estates (Sittingbourne) Ltd against Swale Borough Council.

17 APP/K1128/X/20/3252613, APP/K1128/W/20/3252623. Appeal by Mr David Holloway against South Hams District Council.

18 Living better with a changing climate - [Climate Adaptation and Reporting Third Round: Climate Emergency](#)

19 [Natural England action plan 2021 to 2022](#)

20 <http://publications.naturalengland.org.uk/publication/5419124441481216>

21 <https://nationalhighways.co.uk/netzerohighways/>

6.27 The Town and Country Planning Association (TCPA) and Royal Town Planning Institute (RTPI) explores ways local authorities and communities can make a real difference and conclude that ‘The threat of climate change is real, and time is running dangerously short. A resilient and sustainable future is achievable, but only if we act now’⁽²²⁾.

6.28 House builders and Commercial organisations are also committed to addressing climate change. Persimmon’s Annual report 2020⁽²³⁾ identifies climate change action and resilience as the single most important material issues to be addressed and have set targets aligned to the UN Sustainable Development Goals. This includes the ‘aim to be net zero carbon for our homes in use by 2030 and in our operations by 2040 and 50% of our homes will be built using timber frames from our off-site manufacturing facilities by 2025’.

6.29 Taylor Wimpey in their 2020 Annual Report⁽²⁴⁾ explicitly identify climate change as one of their priorities recognising it as ‘the most significant global environmental threat and we are determined to play our part in tackling it’. This has translated into setting targets and recognising the need to purchase land that factors in the new costs associated with the Future Homes Standard and EV charging regulations.

6.30 The Planning Practice Guidance is very clear that it is the responsibility of site promoters to engage in plan making, take into account any costs including their own profit expectations and risks, and ensure that proposals for development are fully compliant with up to date plan policies. Decisions on applications will be considered against the adopted and emerging policies. The price paid for land is not a relevant justification for failing to accord with policies in the plan. Landowners and site purchasers should consider this when agreeing land transactions⁽²⁵⁾.

22 TCPA/RTPI, The Climate Crisis – a guide for planning authorities on planning for climate change, October 2021 <https://www.tcpa.org.uk/planning-for-climate-change>

23 [persimmon_ar2020_web_bmarks-final.pdf](#)

24 [Annual Report and Accounts 2020](#) □ [Taylor Wimpey](#)

25 NPPG Paragraph: 002 Reference ID: 10-002-20190509

7 Appendix 2 Mitigation measures



M1 – Onsite renewable energy generation

7.1 For major and minor planning applications, adopted JLP policy DEV32.5 will apply in order to secure an equivalent 20% carbon saving through onsite renewable energy generation.

7.2 The baseline ‘target emissions rate’ (TER) will be calculated using the most up-to-date version of SAP10 (or other versions of SAP should SAP10 be superseded) to ensure that the latest carbon factors are used to create both a robust baseline for the proposal, and to calculate the most accurate carbon savings from renewable energy generation.

7.3 Extensions that benefit from favourable conditions to support roof mounted PV, and where the host building does not already generate renewable energy onsite, should include a rooftop PV system of a minimum installed capacity of 1kWp.

7.4 Generating renewable energy onsite improves energy resilience and reduces fuel prices for occupiers. Onsite energy generation will also help reduce energy demand from the national grid, allowing more energy to be used to support the transition to electric vehicles and heat pumps, both of which are important elements of the UK decarbonisation strategy.

7.5 Building Regulation Approved Document Part L has been updated in December 2021 and introduced in June 2022, and this introduces higher standards of thermal efficiency for buildings. As such, it is appropriate to ensure that the DEV32.5 20% carbon reduction requirement is only secured through onsite renewable energy generation, with no mechanism to count alternative savings through a fabric first approach, as this has already been incorporated into the 2021 Part L uplift.

7.6 Favourable conditions for extensions include no overshadowing of the proposed roof, with the roof having an easterly, southerly or westerly aspect. A 1kW system is likely to comprise of at least 4 PV panels.

7.7 Further information is available: [Approved Document Part L 2021](#), [Energy Saving Trust guide to solar panels](#) and [The Renewable Energy Hub](#)

M2 – Energy storage

7.8 New development proposals should identify on submitted floor plans an area close to the main circuit board that could accommodate a battery storage system capable of meeting at least 50% of the daily energy demand of the building, unless this is technically unfeasible, or incompatible with the technological requirements of a specific battery.

7.9 Battery storage enables buildings to better use energy that is generated onsite, or purchased at favourable tariffs overnight when demand is low. The use of battery storage as part of smart system has benefits on the grid, as it reduces demand at peak times, and allows users to be more resilient to power outages, as well as paying less for the energy they consume.

7.10 Batteries can be floor or wall mounted, and space needs to be identified that allows for suitable access and maintenance arrangements. Although a battery storage system does not need to be located next to a mains circuit board or solar PV inverter, it does make for a less intrusive installation process for the occupier.

7.11 If suitable space next to the mains circuit board cannot be accommodated, alternative spaces will be considered that are compatible with the technical requirements of a specific product or system.

7.12 Further information is available: [Energy Saving Trust guide to battery storage](#)

M3 – Low and zero carbon space and water heating systems

7.13 All minor and major development proposals should be served by low or zero carbon space and water heating and where relevant cooling systems, with an emphasis on ground, air and water source heat pumps. Other options for low carbon heating systems include solar thermal/ solar thermodynamic/ or solar PVT systems or biomass in rural areas.

7.14 Buildings served by district energy systems for heating and cooling will be considered to meet the requirements of the policy, providing the fuel used within the district energy network is low or zero carbon. Proposals that meet the prescribed characteristics in the SPD, and/or are in a defined area for district energy potential will need to connect to an existing heat network, where this exists, be future-proofed for connection to a future heat network or provide analysis and justification for why they cannot connect to a heat network.

7.15 In order to meet binding legislative carbon reduction targets, the UK needs to rapidly decarbonise all aspects of societal behaviour. Reducing reliance on fossil fuels is the single biggest action that will contribute to rapid decarbonisation. For many, this will result in the installation of a heat pump, although other systems may also meet the wider policy aims, such as solar thermal heating and biomass boilers.

7.16 Hydrogen based systems are not considered compatible with the aims of this policy, as the fuel is not proven at scale for domestic or commercial buildings, and only 'green' energy is low or zero carbon, with grey or blue hydrogen being formed from fossil fuels. Where three phase electricity supply is available this must be fully enabled internally, to support the full range of low carbon technologies available to the occupants now and in the future.

7.17 Further information is available: [The Renewable Energy Hub](#) and [Micro Certification Scheme](#)

M4 – Resilient and low carbon building materials

7.18 Slate used on all new buildings with pitched roofs and/or natural stone used for paving must accord with the hierarchy of origin as well as meeting the requirements to be compatible with local vernacular and design:

- Reclaimed UK or European slates where available with proof of origin from supplier
- New UK derived slates with proof of origin from supplier
- New European derived slates with proof of origin from supplier
- No other natural slate products will be considered acceptable

7.19 All new roof slates and natural stone must be covered by a minimum warranty period of 50 years.

7.20 The number and type of materials used to construct a building is extensive, and the planning process rarely seeks to influence materials used in construction except where there may be an issue of visual impact. However, as well considering the colour and tone of certain materials, DEV32.1 requires us to reduce the wider environmental impact of building materials, and this requirement is rarely considered or conditioned.

7.21 Many building materials are increasingly accompanied by information that quantifies not only the origin of the product, but also the environmental impact. Where possible, a product should be obtained that has an Environmental Product Declaration (EPD). If an EPD is not available, a verifiable certificate of origin or provenance will need to be supplied.

7.22 Further information is available: [Environmental Product Declaration](#)

M5 – Demolition and rebuild

7.23 Priority will be given to the reuse and retrofitting of buildings. Where an existing building is proposed to be demolished and rebuilt, the net overall carbon cost of the project should be offset within 25 years through carbon savings achieved by operational use of the replacement building.

7.24 The JLP policies DEV31 and DEV32.1 advocate reuse, recycling and resource minimisation through the development process. In 2019 the Architects Journal launched their RetroFirst campaign, that seeks to ensure that our existing buildings in the UK are only demolished and replaced as a last resort, and where retrofitting is proven to be not technically feasible. However, we recognise that there are some circumstances when demolition may be necessary.

7.25 The age of a building is not in itself justification for demolishing it. Old windows can be replaced, insulation added either internally or externally, roofs replaced with more resilient and lower impact materials. Air tightness can be greatly improved by combining external interventions, with particular focus on the reinstatement of doors and window. A comprehensive approach to improving air tightness through whole-building retrofit will also allow for a suitable ventilation system to be designed and incorporated.

7.26 A project wide assessment of the net carbon impact of the development proposal will form the basis of how much energy needs to be saved through operational efficiencies. Further detail is available in [Architects Journal RetroFirst](#) and [RICS whole life carbon assessment for the built environment](#) and set out below:

Further information

The baseline for this assessment will be the target emissions rate as derived from building regulations Part L, using the most up-to-date SAP software, with savings calculated using the difference between the TER and the dwelling emissions rate (DER, for domestic buildings) or building emissions rate (BER, for non-domestic buildings).

Embodied carbon calculations for existing and proposed dwellings should be submitted in full using software that complies with RICS whole life carbon assessment principles.

Justification for demolition will only be considered acceptable under the following circumstances;

1. The building is structurally unsafe and is in a condition that cannot be safely remediated as part of a comprehensive retrofit; or,
2. The demolition and rebuild will result in significant social and environmental benefits, such as large scale regeneration, and affordable-housing led development proposals

$((\text{TER} \times \text{floorspace}) \times 25) - ((\text{DER} \times \text{floorspace}) \times 25) = \text{more than or equal to the net embodied carbon of original and new structure.}$

M6 – Electric Vehicle Charging Points

7.27 Domestic charging points will be installed in accordance with 2021 Building Regulations Approved Document Part S, which will need to be demonstrated as part of the planning application.

7.28 The quantity of charging points for non-domestic development will also need accord with 2021 Approved Document Part S. The minimum installed capacity for each charging point will be;

- **Class E – 22kw**
- **All other non-domestic development – 11kw**

7.29 Electric vehicles represent an opportunity to reduce reliance on fossil fuels, and will contribute to decarbonising transport emissions across the UK as part of the Government's Transport Decarbonisation Plan. To ensure that the transition to electric vehicles is achieved at a trajectory that secures adequate levels of emissions savings, charging infrastructure must be available and accessible in all new developments.

7.30 Whilst switching fuels in private and commercial vehicles has a clear role to play in decarbonising transport, it should not be confused with the greater benefits that can be achieved by reducing the need to travel in the first place, and increasing the number of journeys by sustainable and active modes of travel.

7.31 Further information is here: [Approved Document Part S 2021](#)

M7 – Active and Sustainable Travel

7.32 All new buildings must incorporate measures to encourage use of active and sustainable travel options and should avoid locking-in reliance on the private car.

7.33 Minor development proposals should be guided by the requirements of the adopted policies 'SPT10 Balanced transport strategy for growth and healthy and sustainable communities', 'SPT12.9 Strategic approach to the natural environment', 'DEV15 Supporting the rural economy' and 'DEV29 Specific provisions relating to transport', as well as the associated sections of the SPD.

7.34 Major developments will need to include an assessment of sustainable and active travel opportunities and constraints in their Design and Access Statement (DAS). This should identify what benefits are being proposed as part of the development highlighting how these benefits will achieve modal shift within and beyond the proposed development.

7.35 In addition, residential developments of over 50 dwellings will need to include an assessment of onsite car club and ebike hire potential, as well as identifying opportunities to contribute to existing active and sustainable travel projects within the local area. In Plymouth, an assessment of how the proposal can link with existing and planned mobility hubs will be required.

7.36 The location of new development should continue to be considered against the adopted spatial strategy set out in the JLP and specifically policies 'SPT1 Delivering sustainable development', 'SPT2 Sustainable linked neighbourhoods and sustainable rural communities' and 'TTV1 Prioritising growth through a hierarchy of sustainable settlements' and 'TTV2 Delivering sustainable development in the Thriving Towns and Villages Policy Area'. Switching to EV is not a substitute for sound placemaking based around the core principles of reducing

the need to travel and maximising the use of sustainable and active travel modes. Any development proposal that locks-in reliance upon the private car, and exclusively caters for car borne customers, such as drive through restaurants, cannot be considered to meet the most basic requirements of the JLP or accord with paragraph 104 of the National Planning Policy Framework.

7.37 Government policy is increasingly supportive of locating development in the most sustainable places and designing development to facilitate modal shift to active travel ([see LTN1/20: Cycle Infrastructure Design](#); [Gear Change: A bold vision for cycling and walking](#)) and bus service ([Bus Back Better: National Bus Strategy for England](#)). Further information is also available at: [Planning and Net Zero Transport](#)

8 Appendix 3 Adaptation measures



8.1 The JLP policies and SPD already include numerous requirements to ensure our communities are both resilient and adaptable to the impacts of climate change. Strategic Objective 'SO11.6 delivering high quality development' within the JLP explicitly requires development to respond positively to the challenges of climate change, reducing carbon and creating communities that are more resilient.

8.2 Given the importance adaptation plays in climate change, it is essential that all schemes are designed to include positive adaptation measures. In all applications additional consideration and increased emphasis will be given to the following adaptation requirements in the decision making process because of their importance in capturing carbon and providing more resilience of extreme weather events.

A1 – Passive Solar Design

8.3 All development is required to :

- **be compliant with 2021 Building Regulations Approved Document Part O – Overheating, and provide a copy of the Part O Compliance Checklist (Appendix B) as part of their planning application**
- **incorporate sound design principles that take every opportunity to incorporate passive solar gain in line with SPD guidance.**

8.4 As the world gets hotter our buildings will need to adapt to rising temperatures. Building design will need to make best use of heat from the sun to create a comfortable internal temperature, whilst avoiding overheating when the sun is at its hottest. Approved document

Part O – Overheating applies to all new buildings and extensions, and includes specific window to floor ratios that need to be adhered to in each elevation. The checklist is a summary document that collates all of the room and window data into a concise format.

8.5 The benefit of this information at planning application stage is that it can be amended during the consideration of the application. This is preferable to identifying and issue at the inspection stage as to rectify any issues then is likely to result in resubmission of planning information and expensive reconstruction of the building.

8.6 JLP Policy 'SPT2 Sustainable linked neighbourhoods and sustainable rural communities' seeks to reduce the use of energy through design. The opportunities for maximising the cooling benefits of planting should not be restricted to areas surrounding a building, but also within the fabric of the building itself. As global temperatures rise we will need to look at whole systems approaches to reducing the risk of overheating, not just in the design and orientation of buildings themselves, but through managing the relationship between buildings and their surroundings. Green walls and roofs offer significant potential to reduce the risk of overheating, whilst also benefitting biodiversity and habitat creation. All proposals should therefore demonstrate what additional adaptation measures are included to reduce the risk of overheating. Building design should avoid relying upon 'bolt-on' technologies like air conditioning units to cool the internal temperature of the building. Mechanical heat recovery and ventilation systems could be suitable technology to use as the air tightness of buildings improves, although care should be taken to ensure that the energy demand from these systems is kept to a minimum, and ideally offset completely by onsite renewable generation.

8.7 Further guidance on green walls and roofs will be made available.

A2. Protecting our soil resource

8.8 The JLP prioritises the development of previously developed land and promotes resilient development and policy DEV2.6 gives further detail on protecting soils. Because of the importance our soil resource plays in carbon storage the plan seeks to protect greenfield sites unless allocated or there is a need for the development.

8.9 Soils support biodiversity, sequester carbon and absorb water and play an important role in capturing carbon, providing sustainable drainage, as well as increasing resilience to extreme weather event. The loss of soil cover to impermeable surfaces has numerous detrimental impacts which erode their important role in addressing the climate emergency.

8.10 The Climate Emergency Compliance Form should include measures to protect the soil resource.

A3. Protecting and enhancing tree cover

8.11 JLP policy DEV28 protects trees, woodlands and hedgerows, require net gain and appropriate mitigation. Trees are crucial in delivering a wide range of adaptation benefits and for helping to maintain our health and wellbeing; for example spending time around trees and looking at trees can reduce stress, lower blood pressure, and improve mood.

8.12 Trees play a vital role in addressing the climate emergency through their storage of carbon, reducing run off, increasing drainage, shade and improving air quality, as well as addressing local climatic effects and reducing energy demand. Trees also support a huge amount of habitats and species. Tree planting at a massive scale is a key component of the government plan to net zero. Existing trees, especially mature trees that have significant value should be protected and development should provide enhanced tree cover with the right new trees in the right places.

8.13 The Climate Emergency Compliance Form should include measures to protect and enhance tree cover and to address their important role in the climate emergency.

A4. Protecting and enhancing gardens, green spaces and greenfield sites

8.14 JLP policy 'SPT1 Delivering sustainable development' and 'SPT2 Sustainable linked neighbourhoods and sustainable rural communities' prioritise the re-use of previously developed sites reducing the need for greenfield development. This in turn helps protect natural assets and promotes the creation of a wildlife rich local environment with well designed public and natural spaces. These key strategic policies, along with other policies in the JLP collectively promote resilient development and the efficient use of land protecting and enhancing gardens, green spaces and greenfield sites.

8.15 Green spaces and green fields sites have an intrinsic value as a natural resource that makes a significant contribution to addressing the climate emergency. They offer a wide range of existing multifunctional benefits. These include as a soil resource, which provides an important role in capturing carbon, and providing increased resilience to extreme weather events through managing drainage and surface water. As well as making a positive contribution to climate change adaptation they are an important source of biodiversity and habitats as well as playing an important role in maintaining our health and wellbeing. This includes delivering opportunities for food production that reduces food miles and grocery costs, growing food protects the soil, creates habitats, manages water run-off and helps reduce the risk of overheating.

8.16 The Climate Emergency Compliance Form should demonstrate how the benefits and functions of all green spaces will be protected and enhanced.

A5. Delivering sustainable drainage, surface water management and restricting urban creep

8.17 JLP policy 'DEV35 Managing flood risk and water quality impacts' requires sustainable water management measures. Being able to absorb water through permeable surfaces reduces the need to manage water offsite, which in turn reduces the risk of flooding. Urban creep is the gradual paving of porous surfaces and leads to an increased need to manage surface water. Good water management onsite will also assist in supporting biodiversity and habitats, as well as reducing the risk of overheating.

8.18 Specific rules apply for householders wanting to pave over their front gardens. You will not need planning permission if a new or replacement driveway of any size uses permeable (or porous) surfacing which allows water to drain through, such as gravel, permeable concrete

block paving or porous asphalt, or if the rainwater is directed to a lawn or border to drain naturally. However, if the surface to be covered is more than five square metres planning permission is required for laying traditional, impermeable driveways that do not provide for the water to run to a permeable area.

8.19 The Climate Emergency Compliance Form should demonstrate how surface water will be managed to ensure sustainable water drainage and reduced flood risk.

A6. Delivering biodiversity net gain and habitat improvements

8.20 JLP policy 'DEV26 Protecting and enhancing biodiversity and geological conservation' requires 10% biodiversity net gain in all major development, a proportionate approach to minor development and enhancements for wildlife from all scales of development. The SPD provides detailed guidance including provision for 30-year maintenance and acknowledges that there will be a new Biodiversity Metric and updated guidance will be required. The Environment Act increases the importance of this issue and makes 10% biodiversity net gain mandatory.

8.21 Biodiversity and habitats are hugely significant to personal health and wellbeing, supporting ecosystems, enhancing ecology, capturing and storing carbon capture and encouraging food production. The RSPB reports that the UK ranks in the bottom 12% of countries globally for biodiversity intactness, and has lost 60% of our habitats since 1970.

8.22 New guidance will be produced on biodiversity net gain including habitat banking and costs. In addition, a Green Space Factor Tool will be produced and consulted on separately.

8.23 The Climate Emergency Compliance Form should demonstrate how appropriate levels of biodiversity net gain will be achieved.

9 Appendix 4 Impact assessment

9.1 The Climate Emergency Planning Statement was assessed during its preparation against sustainability objectives and a supporting Impact Assessment Document was published alongside the consultation version.

9.2 This assessment also began to consider climate justice and how climate change can impact on different groups, however it did not attempt to provide a comprehensive assessment of this but only considered the small impact the document would have. As the Planning Statement will only apply to new development, submitted after 30 September 2022, its impact will be limited to new dwellings and extensions and other development requiring permission.

9.3 Moving forward the Councils recognise the importance of working closely with health authorities and emergency services to plan how to deal with potential emergencies such as storms, heat waves, extreme cold, further pandemics, floods, water or food shortages, wildfires, extreme air pollution, pest invasions, and associated mental health issues.

9.4 We recognise that climate change impacts differently on people and communities and their capacity to adapt will depend on different factors including:

- Personal features of the individual, such as age and health, which affect their sensitivity to climate impacts;
- Environmental characteristics, such as the availability of green space, quality of housing stock or elevation of buildings, which can increase or offset exposure to flooding or heat;
- Social and institutional context, such as levels of inequality and income, the strength of social networks, the cohesion of neighbourhoods and the day-to-day practices of institutions, such as care regimes in nursing homes, which affect people's ability to adapt.

9.5 There will be variations in how communities respond to the risks of climate change and some groups of people such as those with physical or mental health problems, care home residents, people who misuse alcohol, the homeless, the socially isolated, children, the elderly, the disabled, and people of low income can experience different levels of vulnerability to climate change impacts.

9.6 Understanding the full impacts of climate change on the JLP area will form part of the evidence to support any update or review of the Joint Local Plan in the future. In the period before the review/update of the JLP, the measures set out in the document will help ensure that new developments are responding to climate change. This will have direct impacts for those who are living within the properties or use services and facilities that have adapted or mitigated for climate change.

9.7 There might also be some secondary benefits for our communities, for example flood risk to existing development could be reduced as a result of contributions towards flood risk management schemes. Measures which seek to enhance green space and urban cooling measures, including nature based solutions, have the potential to reduce urban temperatures.

These secondary benefits are consistent with National Planning Policy Framework aims to wherever possible help reduce flood risk overall and provide wider sustainability benefits to the community

9.8 This planning statement seeks to improve the resilience of future development and its ability to adapt to climate change and raises awareness about climate change and how the Councils are responding. In terms of Equalities Impact Assessment, it does not have any direct negative impacts on different groups, it seeks to ensure that new development delivers positive benefits and responds appropriately to the Climate Emergency we are facing.

10 Appendix 5: Glossary

Active Travel

Active travel simply means making journeys in physically active ways - like walking, wheeling (using a wheelchair or mobility aid), cycling, or scooting.

Adaptation

Climate change adaptation is the process of adjusting to current or expected climate change and its effects. It is one of the ways to respond to climate change, along with mitigation.

Air Source Heat Pump

An air source heat pump is a renewable heating system that extracts low-temperature solar energy from the air and compresses this energy into a higher temperature. An air source heat pump provides a building with 100% of its heating and hot water all year round.

Biodiversity

The numbers and relative abundances of different genes (genetic diversity), species, and ecosystems (communities) in a particular area.

Biomass boiler

A heating system that uses natural/non-fossil fuel resources to create heat for use throughout a home or premises.

Brise Soleil

Brise soleil (taken from the French for 'sun breaker') is a type of solar shading system that uses a series of horizontal or vertical blades to control the amount of sunlight and solar heat that enters a building.

Carbon footprint

The amount of carbon an entity of any type (e.g., person, group, vehicle, event, building, corporation) emits into the atmosphere.

Carbon sink

Anything storing carbon such as trees and other vegetation, forests, oceans and grasslands.

Class E

The Town and Country Planning (Use Classes) Order 1987 (as amended) introduced a new use class E – Commercial, Business and Service. This covers a variety of uses including retail, restaurant and café, financial and professional services, indoor sport, recreation and fitness, medical or health services, crèche or day centre, offices, research and development and industrial services. Further detail can be found at [Planning portal use classes](#)

Eaves

The area where a roof extends a small way past the wall of a building is usually referred to as the eaves. Extending the eaves can assist with increasing shade at times when the sun is at its highest.

Ecosystem

A system of interacting living organisms together with their physical environment. The boundaries of what could be called an ecosystem are somewhat arbitrary, depending on the focus of interest or study. Thus, the extent of an ecosystem may range from very small spatial scales to, ultimately, the entire Earth.

Emissions

In the climate change context, emissions refer to the release of greenhouse gases (primarily carbon) into the atmosphere over a specified area and period of time.

Embodied carbon

Embodied carbon is the total greenhouse gas (GHG) emissions (often simplified to “carbon”) generated to produce a built asset. This includes emissions caused by extraction, manufacture/processing, transportation and assembly of every product and element in an asset.

Extension

An addition to an existing building that, for the purposes of this document, requires planning permission

Fossil fuels

Carbon-based fuels from fossil carbon deposits, including coal, oil, and natural gas.

Future Building Standard (FBS)

The aim of the Future Buildings Standard is to improve the energy efficiency and sustainability of new and renovated buildings other than new dwellings, which are covered by the Future Homes Standard.

Future Homes Standard (FHS)

The Future Homes Standard is a set of standards that will complement the Building Regulations to ensure new homes built from 2025 will produce 75-80% less carbon emissions than homes delivered under current regulations. Interim standards were introduced from 15 June 2022.

Green Roof

A green roof is a layer of vegetation planted over a waterproofing system that is installed on top of a flat or slightly-sloped roof. Plants help to reduce overheating, retain water and increase biodiversity and habitats.

Green Walls

A green wall is a vertical built structure intentionally covered by vegetation. Plants help to reduce overheating, retain water and increase biodiversity and habitats.

Ground Source Heat Pump

A ground source heat pump is a renewable heating system that extracts low-temperature solar energy stored in the ground or water using buried pipework and compresses this energy into a higher temperature. A ground source heat pump provides a building with 100% of its heating and hot water all year round.

Habitat

The particular environment or place where an organism or species tend to live; a more locally circumscribed portion of the total environment.

Major Development

For housing, development where 10 or more homes will be provided, or the site has an area of 0.5 hectares or more.

For non-residential development it means additional floorspace of 1,000m² or more, or a site of 1 hectare or more, or as otherwise provided in the Town and Country Planning (Development Management Procedure) (England) Order 2015.

Minor development

A minor development is anything below the threshold for major developments. For example: the number of dwellings is between one and nine, or the floorspace is less than 1,000sqm or the site area less than one hectare.

Mitigation

Climate change mitigation consists of actions to limit global warming and its related effects. This involves reductions in human emissions of greenhouse gases as well as activities that reduce their concentration in the atmosphere. It is one of the ways to respond to climate change, along with adaptation.

Offsetting

A carbon offset is a reduction or removal of emissions of carbon dioxide or other greenhouse gases made in order to compensate for emissions made elsewhere. Offsets are measured in tonnes of carbon dioxide-equivalent. Carbon offsetting is just one tool in our toolbox to

tackle climate change and should not be considered as a stand-alone action. Organisations and individuals should look to reduce their emissions as much as possible, as well as taking responsibility for what remains, by offsetting it.

Photo Voltaic (PV) Panels

PV panels, also known as solar panels, capture the sun's energy and convert it into electricity.

Renewable Energy

Energy obtained from natural sources such as geothermal, wind, photovoltaic, solar, and biomass. The harvesting and use of this energy resource does not result in additional carbon being emitted into the atmosphere.

Solar PVT

A combination of solar photo voltaic panels and solar thermal panels in one module and produces electricity and heat simultaneously.

Solar thermal

System that uses energy from the sun to warm water for storage in a hot water cylinder or thermal store.

Solar thermodynamic

A flat plate collector which gains energy from the sun as well as the ambient air.

Standard Assessment Procedure (SAP)

A SAP assessment is the only government approved method for calculating the energy performance of dwellings. These can be done at a design stage, which forecasts the energy performance of a dwelling, and also 'as built' which calculates the actual energy performance of the constructed building.

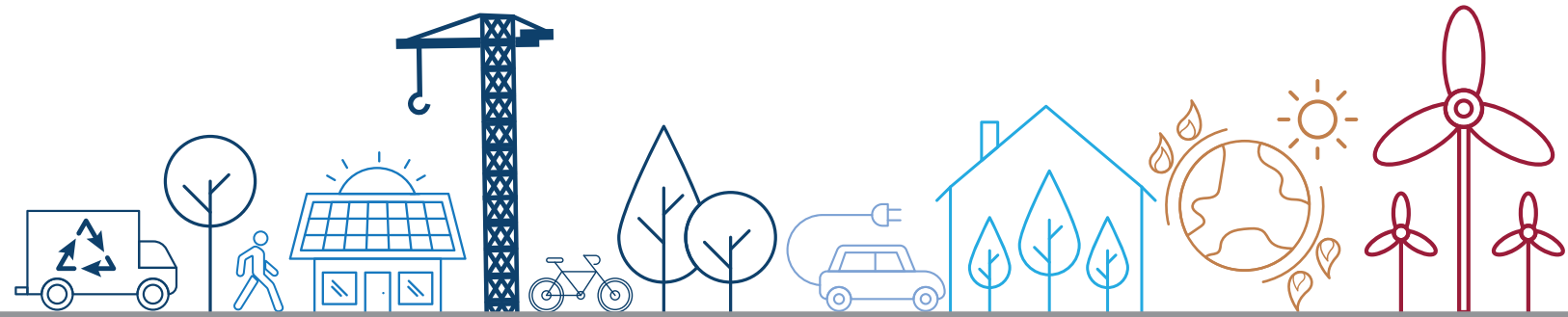
Sustainable Transport

Sustainable transportation is the capacity to support the mobility needs of a society in a manner that is the least damageable to the environment and does not impair the mobility needs of future generations. The most sustainable forms of transport often move multiple people between fixed points, in the UK buses and trains are considered the most sustainable of mainstream transport modes. These can be made more sustainable by using renewable and low carbon fuels.

Thermal efficiency

Is a measure of how well a building uses energy for space heating. A higher level of energy efficiency means that a building uses less energy than a building of an equivalent size, (reducing energy waste) because less energy is lost through the fabric of the building.

CLIMATE EMERGENCY PLANNING POLICY & GUIDANCE



CONSULTATION REPORT JULY 2022



Climate Emergency Planning Statement – Consultation Report



Plymouth and South West Devon Joint Local Plan

Consultation on the draft Climate Emergency Planning Policy and Guidance document took place for 7 weeks between 3 March 2022 and 19 April 2022. Over 1,800 comments were made by 128 individuals and organisations (see Appendix 1) and a range of views were expressed.

The consultation proposed a number of new mitigation and adaptation measures and asked specific questions on each one. There has largely been general support for the positive approach being taken and many feel it should go further, however, there has also been objection expressed by developers and housebuilders. The comments can generally be categorised as follows

- The public overwhelmingly supported the intentions of the document, expressing support for the measures and in many cases want to go further, offering various suggestions about other things to be included
- Interest groups and other organisations generally support the proposals although suggest going further and provide more detailed comments in relation to their specific areas of interest
- Developers were concerned about reference to it as new policy which is untested, does not have the same status as the JLP and can only be made through a review. They objected to measures placing further burdens on them, going further than building regulations and raised concerns on the impact on viability and delivery. Some raised the issue of adequate resourcing to deal with additional compliance work.

These comments have been taken into account in finalising the Climate Emergency Planning Statement. In response to comments made the document has been streamlined to set out clearly the status of the document and when it will be applied. Some of the comments related directly to the Strategic Objective and the Mitigation Measures, set out below is a summary of the comments and how the document has been amended.

A high level summary of the comments received by question is included at Appendix 2. A copy of all the consultation responses is available in full here ([insert a link](#)).

Strategic objective

What we proposed in consultation:

CES01 Strategic Objective

Delivering positive measures to address the climate emergency

To deliver development that mitigates the impacts of climate change and adapts to its current and future effects through:

- **Ensuring resilience by providing positive benefits that reduce carbon**
- **Incorporating renewable energy**
- **Increasing energy efficiency**
- **Using sustainable local materials and minimising embodied energy**
- **Moving away from natural gas and oil**

Climate Emergency Planning Statement – Consultation Report



Plymouth and South West Devon Joint Local Plan

- **Embracing electric vehicles and their charging infrastructure**
- **Increasing walking and cycling opportunities**
- **Reducing waste and increasing recycling**
- **Effective use of solar gain, solar cooling and shading**
- **Delivering biodiversity net gain and using nature based solutions**
- **Reducing flood risk, improving sustainable drainage and minimising impermeable surfaces**

Summary of considerations:

A number of comments suggested that retrofit and reuse of existing buildings should be included as an explicit objective of the document.

Statutory consultees suggested that flood risk in its various types already exist as a result of our current weather patterns, and these are only going to get worse, we are not going to be able to ‘reduce’ flood risk, but should instead be seeking to better ‘manage flood risk’.

The impacts of ongoing reliance on fossil fuels is not limited to space and water heating within buildings, but also from our existing patterns of movement using petrol and diesel vehicles.

Proposed amendments and justification:

The wording for some of the bullet points in the objective have been revised to provide clarity, including wording suggested in comments from the EA about managing flood risk

Reference to fossil fuels has been broadened to allow for consideration of fossil fuel impacts associated with all development.

Updated CESO1 to include more explicit intention to encourage retrofit and re-use of existing buildings

Updated CESO1 has been moved to section 4 of the CEPS document

Measure: M1 – Thermal Efficiency

What we proposed in consultation:

Fast-track a 27% thermal efficiency uplift for non-domestic dwellings ahead of building regulations

Asked if we should adopt a ‘performance gap’ policy

Summary of considerations:

The responses were split between many that suggested we go further now, and require all new development to reach passivhaus standard, and others that claimed any additional uplift would result in homes being unviable to build.

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In addition, at the time of drafting the original measure, it was unclear what would be happening to the Future Building Standards, and it was considered appropriate to include a thermal efficiency measure for non-domestic buildings that could be applied across the JLP area. However, in June 2022 the new Building Regulations Approved Documents were implemented, and that included a Part L 'volume 2' document that applies to non-domestic buildings.

The 2021 Part L Building Regulations requirements (implemented on 15 June 2022) also include a new reporting schedule for air tightness that will see all buildings tested for air tightness, rather than just a sample. This is a significant improvement, and will see developers accountable for ensuring that all buildings are constructed to the design specification.

Proposed amendments and justification:

Due to the 2021 Part L Building Regulations (implemented on 15 June 2022) introducing new thermal efficiency measures for non-domestic buildings, we will no longer be introducing a measure that seeks to achieve this, as to do so would simply be a repetition of Building Regulations.

Uplifts to 2021 Building Regulations (implemented on 15 June 2022) were the subject of government consultation and impact assessments, which show that the viability implications of these new measures are acceptable, and will not harm the deliverability of new development.

For the same reason, we will not be seeking to introduce a 'performance gap' policy at this time, as the new Building Regulations now require 100% of buildings undergo air tightness testing before they can be considered building regulations compliant.

M1 – Thermal Efficiency is no longer required due to uplifts in Building Regulations

Measure: M2 – Roof mounted solar PV

What we proposed in consultation:

For all residential development, we will apply the Future Homes Standard 2022 requirement of 40% of the building footplate to include solar pv panels integrated into the roof design.

For commercial and appropriate other development, we will require a minimum of 40% of the roof space to include solar pv panels integrated into the roof design.

Summary of considerations:

Considerable support was provided for ensuring that solar PV is delivered on new developments, and for extending the PV requirement to all buildings including non-domestic buildings.

Some responses suggested that there could be viability implications for developers if solar PV was a requirement on every new building.

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A handful of responses suggested that the visual impact of solar PV should restrict the installation of PV in certain locations, such as the South Devon AONB.

In addition, at the time of drafting the original measures, it was anticipated that the 2021 Part L Building Regulations changes would include a requirement for roof mounted PV. However, whilst there is a potential role for PV identified within the notional building in the 2021 building regulations, it is not an absolute requirement.

Proposed amendments and justification:

Having clarified that onsite energy generation was not a requirement of 2021 Part L, it is considered more effective to continue to apply existing adopted policy DEV32.4 which requires an equivalent 20% carbon saving to be delivered by onsite generation.

This is likely to be through roof mounted solar PV, however there may be circumstances where solar PV is not the preferable energy source, and as such we will be renaming this measure to 'Onsite renewable energy generation'.

This approach is compatible with measure 'M4' which promotes the use of heat pumps and other low carbon technology for space and water heating – in particular roof mounted PV and heat pumps work effectively in combination.

Any suggestion that low carbon technology is not appropriate in the AONB because of visual impact is too simplistic, and could potentially unfairly limit the ability of residents in the AONB from reducing their emissions and fuel bills. Discussions with AONB colleagues confirm that there is no presumption against either solar PV or heat pumps, although there will be more suitable products to be used in an AONB, such as matt finish PV panels that are built into a roof, rather than bolt on options.

M2 – Roof mounted Solar will go forward in the revised document as new measure **M1 - Onsite Renewable Energy Generation**.

Measure: M3 – Battery storage

What we proposed in consultation:

All development with solar pv should identify a suitable space to accommodate a battery.

Summary of considerations:

Support for this proposal, although many wanted to go further and introduce a requirement for battery storage because of benefits in reducing demand from the grid, and reducing energy bills for residents and businesses.

Some responses objected on the basis of additional cost for battery storage.

Proposed amendments and justification:

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No changes are proposed from the measure that was consulted upon. Future iterations of the policy may introduce a specific requirement for battery installation, although more research needs to be undertaken in terms of product delivery at scale, and viability considerations.

M3 - Battery Storage is now **M2 - Energy Storage**

Measure: M4 – Heat pumps

What we proposed in consultation:

All new buildings are required to be built with a heat pump (air source or ground source) to provide space and water heating. To facilitate this the three phase electricity supply should be fully enabled.

Summary of considerations:

The majority of comments in support of this measure recognised the harm of continuing to lock in dependence on fossil fuels, and saw heat pumps as a suitable alternative technology that can reduce emissions in the short term. In addition there were comments requesting more flexibility for alternative low carbon space and water heating, such as biofuel

Some concerns over the visual and amenity impact of heat pumps were based on assumptions that have now been largely designed out of modern heat pumps, which are not as noisy as early versions of the technology. Developers and designers have developed better levels of awareness in terms of locating heat pumps to not only maximise efficiency, but to also reduce the visual and amenity impact of the pumps.

Discussions with The Heat Pump Federation have provided a useful insight into the scale of production and the availability of installers and engineers to support the scaling up heat pump use. There is little evidence that the sector for both air and ground source heat pumps could not meet the modest additional demand created by the implementation of this measure.

Comments also suggested that there could be grid constraints that prevent the deployment of heat pumps at a strategic scale.

Proposed amendments and justification:

We are proposing to adopt the measure as consulted upon, but with some additional text to provide greater clarity, and to provide flexibility for other low and zero carbon technologies to be used for space and water heating.

It is recognised that heat pumps may not be the only heating system that can deliver low carbon space and water heating to buildings, and as such we will be renaming this measure reflect this.

We have worked in close consultation with Western Power Distribution to ensure that domestic supply will not be a barrier to low and zero carbon technology. WPD have a [corporate](#)

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[commitment to ensuring that three-phase supply](#) is delivered to new buildings as standard, and it is up to developers to ensure that all three phases are enabled within the building by using the appropriate circuit board and wiring internally.

M4 - Heat Pumps will go forward in the revised document as **M3 - Low and zero carbon space and water heating systems**

Measure: M5 – Passive solar heating and reducing the risk of overheating

What we proposed in consultation:

Where the window to floor area ratio exceeds 21% on any elevation, we will require specific protective measures such as:

Tinted glass

Extended overhanging eaves to create shade when the sun is at its highest point

External shutters or Brise Soleil

Summary of considerations:

Some responses question if the 21% threshold was a little simplistic, given each aspect of a building has a different relationship with the sun?

Some responses questioned if the LPAs had the resources for DM case officers to cross-reference ratios for every room in every building?

Additional considerations: new Building Regulations Approved Document Part O – Overheating, was brought into operation on 15 June 2022 and contains some specific thresholds for developers to meet in terms of glazing and orientation.

Proposed amendments and justification:

With the introduction of Building Regulations Approved Document Part O there is a clearer framework of compliance for developers to meet, and this somewhat supersedes the 21% that was consulted upon.

In discussion with building control colleagues, it is considered necessary to include a passive solar design measure as a planning measure. During consideration of a planning application the local planning authority has the ability to work proactively with applicants to request revisions to building design before a planning permission is granted. This flexibility is not inherent in the building control function, and if, once a building is being inspected, it is found to be non-compliant, the design will need to come back through the planning system to gain permission for a different design.

Building control colleagues have recommended that applicants provide a completed copy of the Part O compliance checklist as part of a planning application, so that officers can consider if any aspects of the design need to be changed to enable future compliance against Part O.

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In planning for appropriate and effective passive solar gain, developments will also reduce the risk of overheating, and as such this adaptation measure will be renamed as 'Passive solar design', which is a more accurate reflection of what we are seeking to achieve.

M5 - Passive solar heating and reducing the risk of overheating will go forward into the revised document but as an adaptation requirement as **A1 - Passive Solar Design**

Measure: M6 – Locally sourced materials

What we proposed in consultation:

We are therefore introducing a hierarchy of acceptability for natural roof slates:

- **Reclaimed UK or European slates where available with proof of origin from supplier**
- **New UK derived slates with proof of origin from supplier**
- **New European derived slates with proof of origin from supplier**
- **No other natural slate products will be considered acceptable**

Summary of considerations:

The majority of supportive comments requested that we include natural stone within the requirements of this measure, using a similar hierarchy of acceptance.

Clarification was requested for the circumstances whereby this measure would be applied. An unintentional by-product of this measure would be if developers who would normally have used natural slate from Brazil or China opt for manmade tiles instead.

There was general support for requiring a minimum warranty period also, to ensure that full life cycle impacts of selecting cheaper slates could be avoided.

Concern was raised over the additional cost of using natural materials from the UK and Europe, rather than further afield.

Proposed amendments and justification:

Whilst viability considerations need to be reflected in these measures, an urgent response to the climate emergency will require decisions to be informed by carbon emissions and environmental impact as well as economic reasons. The true 'cost' of a product requires consideration of more than simply the price paid.

It is important that the price paid for land to develop fully reflects the full costs of climate resilient development, and this is recognised by housebuilders in their annual reports. The local planning authorities are being clear and explicit about the standard of development that will be supported, so that the financial viability of these requirements can be understood by developers prior to securing options on, or buying land.

Sufficient support was provided to extend this requirement to natural stone also, and the same hierarchy of acceptance will be applied to natural stone, where it is required.

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A minimum warranty period of 50 years is introduced for new slates and stone to limit the life-cycle impacts of using less resilient materials.

M6 – Locally sourced materials will go forward into the revised document as **M4 – Resilient and low carbon building materials**

Measure: M7 – Principle of net gain

What we proposed in consultation:

Proposals for extensions should deliver a measurable net gain in energy performance across the whole building.

Any buildings that have not yet achieved a minimum EPC band C will be required to achieve a minimum one band uplift as part of the process to extend an existing dwelling or building.

Summary of considerations:

This was a well-supported measure in principle, not least because it is well understood that the majority of UK emissions attributed to buildings come from existing structures that would benefit from retrofit measures, although the use of Energy Performance Certificate (EPC) as a measure attracted less support.

Additional considerations: 2021 Part L Building Regulations introduces new and specific measures for extensions which significantly improve the operational efficiency of the new structures. In some instances, consequential improvements are required to the existing building as part of the improvements, including where glazing and door openings are increased beyond a certain threshold, or if a building with a specified threshold is extended.

In discussion with SAP assessors, it does appear that the limitations of the process to create an EPC could make it difficult to achieve this measure without requiring significant investment in new wall and roof insulation.

Current software that generates EPC is likely to generate an automatic one band uplift simply by installing a new, more efficient, gas boiler in many existing homes. Since this document includes a measure that seeks to limit the deployment of new fossil fuels reliant boilers, this measure could have significant unintended consequences, which act against the intention to phase out gas boilers.

Proposed amendments and justification:

Propose to remove this requirement due to the flaws in the EPC software that would lead to potentially unsuitable outcomes – such as the installation of new gas boilers which currently result in a single band EPC uplift.

In addition, the limitations of the software are likely to require significant additional investment into existing buildings before a one band uplift can be achieved for the worst performing buildings. Without grants or funding available to assist with the retrofit of poorly performing

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buildings the implementation of this requirement is likely to result in unequal outcomes and inconsistent benefits.

M7 Principle of net gain will not be included in the revised document due to the likelihood of unintended consequences and limitations in the EPC process

Measure: M8 – Demolitions and replacement buildings

What we proposed in consultation:

If an existing building is proposed to be demolished as part of a planning application, the developer will need to calculate and offset all the embodied energy within the structure, to be demolished (minus carbon saved through reuse and recycle) together with the embodied carbon of the new build. This is the net overall carbon cost of the new building and should be offset within 25 years of onsite operational use of the replacement building.

The target emissions rate (T) from the SAP is multiplied by the floor area to provide a baseline annual energy demand. The dwelling emissions rate (D) will provide an estimate of actual energy demand. The difference between the target emissions rate and the actual dwellings emission rate over the 25 years should be equal or more than the net amount of embodied carbon in the original structure.

$((Tx\text{floorspace}) \times 25) - ((Dx\text{floorspace}) \times 25) = \text{more than or equal to the net embodied carbon of original and new structure.}$

Summary of considerations:

Widespread support in principle for trying to reduce the loss of embodied carbon through demolition and rebuild proposals. Some misunderstanding of the use of the word 'offset' in terms of how carbon impacts of the overall project are going to be used.

Support for the creation of a mechanism to calculate an offset calculation, although there was a range of views regarding an appropriate offsetting period to be achieved through operational energy savings, with a large number of responses favouring a 10-year period within which the carbon cost of a project needs to be achieved through operational savings.

Additional considerations: Approved Building Regulations Document Part L uses a notional 'payback period' when considering proportional return on investment, which is set at 15 years.

A number of users suggested the Green Building Calculator, although this is another paid for online platform.

Proposed amendments and justification:

The requirement is proposed to remain largely unchanged, albeit some wording has been changed to improve clarity. Testing against 2013 territorial Emissions Rate (TER) has suggested that 25 years is a reasonable 'offset' period, and that it is effective in encouraging reuse of materials, and promoting a very high standard of operational efficiency in the replacement dwelling.

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Further work is required to continue testing against TER generated using 2021 Building Regulations Part L, and we are engaging with external partners and building regulations colleagues to assist with this testing process.

Suggestions to consider a 10 year 'offset' period is considered too onerous when considered against a 2021 Part L TER baseline. Similarly, a 50 year 'offset' period is considered to lack ambition or set a high enough threshold to deliver meaningful reductions in carbon.

An article 4 direction is being considered to bring demolition within planning control, and this is in the process of detailed scoping.

M8 – Demolitions and replacement buildings will go forward into the revised document as **M5 – Demolition and rebuild**

Measure: M9 – EV charging points

What we proposed in consultation:

All new charging points serving domestic dwellings need to have a minimum installed capacity of 7kw.

All new communal parking areas must have 50% of bays connected with 7kw charging points at the time of completion, and the remaining 50% must be serviced with appropriate infrastructure to enable installation of charging points later.

For new commercial development the charging points must have a minimum installed charging capacity of 22kw.

Summary of considerations:

There was broad support for EV charging aspirations as part of domestic development, in particular that 7kw is an appropriate charging capacity. There was less consensus on how to ensure charging points in public places and commercial parking areas met the demands of users.

Additional considerations: 2021 Building Regulations Approved Document Part S (implemented 15 June 2022) introduced new requirements for domestic and non-domestic development, in terms of the number of charging points and wiring per parking space. The Regulations only prescribe a minimum 7kw charging standard for all spaces, and do not differentiate between domestic and non-domestic development.

Proposed amendments and justification:

No new quantitative requirements for EV charging points will be introduced beyond Part S building regulations. Instead, we will be introducing minimum charging capacities for specific non-domestic development.

Using the quantitative requirements from Building Regulations Part S, development within Use Class Order B will need to install minimum 11kw chargers, and Class E uses will need to install a minimum of 22kw chargers.

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M9 – EV charging points will go forward into the revised document as **M6 – Electric Vehicle Charging Points**

Measure: M10 – Active and sustainable travel

What we proposed in consultation:

For major development an additional policy expectation will be to require an external charging point within or adjacent to the cycle storage area to provide support for cyclists who wish to use ebikes. All cycle storage and charging points will need to be clearly marked on site and floor plans.

In addition, residential developments of over 50 dwellings will need to include an assessment of onsite car club and ebike hire potential, as well as opportunities to contribute to existing active and sustainable travel projects within the local area. In Plymouth, an assessment of how the proposal can link with existing and planned mobility hubs will be required.

Summary of considerations:

General support was given for the aim to increase modal shift towards active and sustainable travel.

The challenges of achieving modal shift away from the car in rural areas was recognised, and so too was the damaging effects of putting new development in locations that relied upon the car. A lot of support for more buses and trains, and cheaper fares to incentivise sustainable travel, but this is beyond the scope of what this document, and planning in general, can facilitate.

Although there was cautious optimism about how EVs could reduce emissions in rural areas, it was also acknowledged that it may be many years before these benefits are fully seen in rural communities due to the cost of EVs and the limitations in charging infrastructure.

Proposed amendments and justification:

We have clarified what is required by each type of development, and highlighted the relevant parts of the JLP and SPD that should be referenced in an application.

We are amalgamating ‘M11 – reducing reliance on the private car’ into the sustainable and active travel measure, in order to maintain a positive and proactive approach to meeting the challenges of the climate emergency.

We have broadened one of the aims of the overall strategic objective to ‘reduce reliance on fossil fuels’ as this is just as relevant to personal travel as it is for heating systems and boilers.

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M10 – Active and Sustainable Travel goes forward into the revised document as **M7 – Active and Sustainable Travel**

Measure: M11 – Reducing reliance on the car

What we proposed in consultation:

Any development proposal that locks-in reliance upon the private car, and exclusively caters for car borne customers, such as drive through restaurants, cannot be considered to meet the most basic requirements of the JLP or NPPF, and does not represent a people or place based pattern of development and should be refused.

Summary of considerations:

There was broad support for the intention to reduce development that was reliant upon access by the car, although no clear consensus about the best way to achieve this.

A small number of representations suggested that both the NPPF and JLP already have policies that allow the LPAs to consider whether development would increase reliance upon the car alongside other planning considerations. It was also suggested that the working of this measure was inconsistent with the rest of the document as it was negatively phrased, and that such an approach is not generally accepted when drafting planning policy.

Proposed amendments and justification:

Although the LPAs are clear that the new measures are not planning policies in themselves, they are intended to be used to inform planning decisions, and as such, the negative wording does need to be considered.

One of the stated aims of this piece of work is to reduce reliance upon fossil fuels, both within new buildings and by reducing the wider spatial impacts of developing in locations that lock-in reliance upon the car. However, it is accepted that this could be done in a more positive and proactive manner, and as such we will focus upon the promotion of sustainable and active travel as the means to reduce fossil fuel dependent private transport.

We have broadened one of the aims of the overall strategic objective to ‘reduce reliance on fossil fuels’ as this is just as relevant to personal travel as it is for heating systems and boilers.

M11 – Reducing reliance on the car will not feature in the revised document, although elements of this measure are included within **M7 - Active and Sustainable Travel**, and also within **CES01 - Strategic Objective**

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Adaptation

What we proposed in the consultation:

Greater emphasis on adaptation measures that are already robustly dealt with in the JLP and SPD, bringing them together and using a green space factor tool as an effective mechanism for addressing adaptation comprehensively.

Summary of considerations:

General support for adaptation measures, and a mixed response to the local green space factor. Some misunderstanding of what is already being applied and what is suggested, as 10% Biodiversity net gain and use of Biodiversity metric is already included in the policy and SPD.

Some support for new measures such as grey water use, water butts and net gain of trees.

Proposed amendments

There is considerable value in bringing together all the adaption policies and requirements into a single place. They are currently scattered throughout the JLP and SPD and identifying them collectively enables their contribution to be considered holistically. The climate emergency has afforded the multifunctional adaptation benefits more importance given their role in capturing carbon and providing more resilience to extreme weather events. The Climate Emergency Compliance Form will be used for all development to demonstrate exactly how these issues are addressed recognising their important role in addressing the climate emergency.

The green space factor is an effective tool for securing multifunctional adaptation benefits within developments. A Green Space Factor Tool will be developed separately and introduced with additional Biodiversity Net Gain and habitat banking guidance.

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Appendix 1: List of organisations

- Ash Futures
- Baker Estates
- C G Fry & Son Ltd
- Green Environment Topic Group, Dartmouth Neighbourhood Plan Steering Committee
- Climate Action Plymouth and Environment Plymouth
- Co Cars Ltd
- Cornwall Council
- Dartington Neighbourhood Plan Steering Group
- David Sheppard Architects
- Devon County Council
- Emery Planning
- Environment Agency
- Environment Plymouth
- Food Plymouth
- Forestry Commission
- Gladman
- Historic England
- Holbeton Parish Council.
- Kingsbridge Climate Action (KCA)
- Kingsbridge Town Council
- LiveWest Homes Limited
- MABRAKE
- Ministry of Defence
- National Farmers Union (NFU)
- Natural England
- Nudge Community Builders
- Okehampton Hamlets Parish Council
- Pennon Group and Stuart Partners Ltd
- Persimmon Homes
- Plymouth Citybus Ltd
- Public Health Devon
- Rattery Environment Group
- Rattery Parish Council.
- Sherford New Community Consortium
- Sourton Parish Council
- South Hams Climate Action Network Chair
- South Hams Tree Wardens Network
- Southwest EV Owners Group
- Stephen Guard Architects

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- Strategic Development Projects, Plymouth City Council
- Sustainable South Brent
- Tavistock Town Council
- The Coal Authority
- Totnes Town Council
- Transition Tavistock
- University Hospitals Plymouth NHS Trust, Future Hospital Programme Manager
- Vistry Group
- Wainhomes (South West) Ltd

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Appendix 2: Summary and scale of issues raised

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Question/Section Numbers	Question/Section Text	Summary of Key Issues
Section 1	Introduction	High view of the proposals, most are in favour of the proposals. Some concern over where energy will come from for heat pumps and EV
Section 2	Consultation	Welcomed/ some concern on delay to get specific climate policy, suggests building materials are a major factor, need to be fighting climate change and some concern over implementation of the guidance.
Section 3	Status of the policy and guidance	Reality needs to match theory, needs to be reviewable as new events/data comes to light.
Section 4	Why additional policy and guidance is needed	Some welcome, some question climate emergency, some question could we do more. Devon ask that the Climate emergency partnership be mentioned in Para 4.2.
Section 5	Recent national policy and guidance	Happy content references SDG, could go further asks if BNG will be monitored. Para 5.10 could include a transport document such as Decarbonising Transport.
Section 6	Recent appeal decisions	Comments on what appeals should do in new housing, reference appeal decisions should mitigate against climate change.
Section 7	Stakeholder and developer climate statements	Developers should be accountable, statements should be able to be measured.
Section 8	How the policy and guidance relates to the Joint Local Plan	Could mention policy in this chapter to make it easier for developers to understand the content.
Section 9	How the policy and guidance relates to the Plymouth and South West Devon Joint Local Plan Supplementary Planning Document	Support proposals, need a simple web based tool.
Section 10	What the policy and guidance does and how it works	Some requests that definitions are earlier in the document, 27% be implemented now and increased to 80% in 3 years' time, could be strengthened. Minor tweaks to wording.
Section 11	Mitigation	Many Comments. Dwellings could be orientated to the south, can document be flexible to cover issues such as a move away from air pumps, AONB should have some exemptions for heat pump, consider bike storage, local timber as house building materials, retrofit should be an objective of guidance, could specify a passivhaus standard rather than bolt on solutions, suggest alternative rating for embodied carbon of materials, reconsider EPC rating. Could consult with BRE.
Section 12	Adaptation	Include greenspace for biodiversity reasons, need local green washing, increase tree cover, increase tree protection, new developments could provide a 10% net gain, also harvest grey water, blue space could be considered, could develop a tool to measure benefits of green space.
Section 13	Structure of the Document	Green walls and roofs will need water to maintain, BNG > 10% ecology surveys for all developments. Tiered council tax depending on green rating.
Section 14	How will we deliver this?	Heating, lighting could be a greater priority than offsetting, need to be clear on how adaptation measures are secured for the lifetime of the development. More education to public on ecology.

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Section 15	Sustainability and Equalities Impact Assessment	Liaise with health authorities/emergency services to respond to climate emergencies, could expand para 15.1 to include the benefits of the guidance. Para 15.2 could include children, elderly and low income groups. Para 15.4 include the reduction of flood risk to existing development as a result of contributions to flood risk management schemes.
Section 16	What do you think?	Some agreement. Suggestions are planning applications should require developer to mitigate impact of proposals, pv should be on all new builds, consider AONB impacts as aesthetics of proposals are not seen as positive and harvest grey water.
Section 17	17 Appendices: Mitigation and adaptation factsheets	Could include home grown timber to M6 list.
Section 18	Appendix 1: Mitigation - Extensions, conversions and change of use	General tweaks suggested including M6 para 18.10 consider alternative sources, 18.24 needs to be clear if any application triggers EV ports requirement, 18.22 could require a robust statement should a building be intended to be demolished. M8 sensitivity for listed buildings consider article 4 use. M9, M10, M11 need to be future proof for new technology. M10 some concerns of identification of infrastructure improvements needed, could have an assessment of links for more rural locations, 19.52 'back bus better' suggested.
Section 19	Appendix 2: Mitigation - New build (housing, commercial, other	General tweaks suggested including consider electricity generated rather than roof coverage, para 19.35 encouragement should be greater, para 19.40 text suggested, concern M9/10 are not inclusive to rural areas, M2 concerned listed assets and impacts of solar on roof if not appropriate.
Section 20	Appendix 3: Adaptation - All development	General tweaks suggested including protection of existing trees should be greater, Para 20.2 reference broader landscape and heritage value, para 20.23 suggests using biodiversity metric, para 20.09 clearer wording, further guidance for para 20.14, A3 more clarity on if gardens are included as important green spaces, reference to A4 including enforcement measures, could build on DEV35 flood strategy. A5 Clear set out for managing and protecting proposals. Reference heritage or historic environment in line with NPPF Para 190.
Section 21	Appendix 4: Glossary	Could have been earlier.

Question Number	Question Text	Which Measure/area of document?	Number of responses	Summary of Key Issues
1	Will these new requirements work?	Whole Document	50	Cautious yes, needs monitoring and enforcement.
2	Do they go far enough or too far?	Whole Document	36	Mixed but mostly no
3	What are the challenges?	Whole Document	34	Complexity, keeping engagement, legal challenges, possible to measure, costs and enforcing.



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4	Have we missed anything?	Whole Document	34	Sustainable bus transport, guidance to avoid light pollution from large windows, district heating systems, plastic grass should not be allowed, rainwater harvesting, enforcement measures, grey water.
5	Could we do it better/differently?	Whole Document	21	Consider higher standards of airtightness and HVHR, consolidate energy efficiency/carbon reduction toolkits/checklists, link to JLP and show what grants are available.
6	What transitional arrangements are required?	Whole Document	22	Generally no from members of the public, resistance from developers.
7	Would any additional guides help?	Whole Document	23	Guide to explain terms (comments that terms should be explained outside of glossary), guide for listed building users, specimen application forms, compliance statement and easy presentation of guidance.
8	Should the Statement of Compliance be included as a new validation requirement and included on the local planning authorities Local Validation Lists?	Whole Document	30	Generally no from members of the public, resistance from developers. Suggestion that DAS could be used.
M1 Thermal Efficiency				
33	Should we fast track this Future Building Standard requirement of 27% now?	M1 (Mitigation – New build Housing commercial, other)	28	Yes from members of the public and no from developers. Public would like a greater level and developers concerned it is adding uncertainty to costs.
34	We know there is often a gap between what is designed and what is built, should we also introduce a mechanism to measure the performance gap of all types of development?	M1 (Mitigation – New build Housing commercial, other)	20	Generally yes. Enforcement and implementation is important, there should be independent assessments.
35	Should air tightness testing be required to ensure that thermal efficiency standards are met?	M1 (Mitigation – New build Housing commercial, other)	18	Generally yes from members of the public. Developer notes that it only shows if thermal standards have been met and that fabric performance is important, suggests Veritherm thermal assessments.
M2 Roof Mounted Solar PV				
36	Do you agree that a general minimum 40% requirement should apply to commercial buildings?	M2 (Mitigation – New build Housing commercial, other)	27	Generally yes,



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37	What measure should be used for this requirement – 40% of building footplate or 40% of roof space?	M2 (Mitigation – New build Housing commercial, other)	23	Mix of answers some state whichever is greater.
38	Should there be different standards for different types of uses?	M2 (Mitigation – New build Housing commercial, other)	22	Generally no, some concerns that a change of use could take place bypassing the requirements. Developer notes that PV fitted should depend on demand from on the type of property.
39	Should non-residential buildings with flat or mono-pitched roofs be required to include a pv system that is more than 40% of the building footprint or roof space?	M2 (Mitigation – New build Housing commercial, other)	21	Generally yes,
40	Should this requirement also apply to extensions with favourable aspect?	M2 (Mitigation – New build Housing commercial, other)	24	Generally yes, some concern that it could price out families
41	Should this requirement also apply to extensions on listed buildings and heritage assets?	M2 (Mitigation – New build Housing commercial, other)	14	Some yes and some case by case
42	Should we require solar pv panels integrated into the roof design or roof mounted panels?	M2 (Mitigation – New build Housing commercial, other)	19	Mix of comments some are prioritising efficiency or aesthetics. Generally efficiency is more popular.
M3 Energy Storage				
43	Does this go far enough? Should we be requiring all new buildings with onsite energy generation to include a battery storage system?	M3 (Mitigation – New build Housing commercial, other)	28	Interest in providing battery storage or space, developers wary of additional cost resulting and consider the battery market immature.
M4 Heat pumps				
44	Should we restrict all new gas and oil connections?	M4 (Mitigation – New build Housing commercial, other)	32	Generally yes, some concern this should be in line with national targets.
45	Do you foresee any difficulties in delivering this?	M4 (Mitigation – New build Housing commercial, other)	15	Availability of technology, cost and needs strong political leadership.
46	Should we be prioritising ground source heat pumps over air source heat pumps on developments at a	M4 (Mitigation – New build Housing commercial, other)	17	Generally yes. Developers would like to see decisions made based on viability, concern cost is higher but it is recognised they need less energy.

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	certain scale with favourable conditions, and if so, what should that threshold be?			
47	If there is an additional cost required by WPD to upgrade the local grid, how much is considered 'reasonable'?	M4 (Mitigation – New build Housing commercial, other)	12	Mixed comments. Ofgem has consulted and results are not yet out, price should be capped at £3000. Private power companies should not be receiving additional funding which could affect the viability of schemes
M5 Passive solar heating and reducing the risk of overheating				
9	Do you agree that passive solar gain already adequately covered by guidance in the SPD? If not what else is required?	M5 (Mitigation - Extensions, conversions and change of use)	15	Question not answered yes/no. Comments are consider trees and water to act as cooling and consider possible damp issues.
10	Are there other specific measures that we should include to reduce the risk of overheating?	M5 (Mitigation - Extensions, conversions and change of use)	16	Assessments should be consistent with industry standards, encourage tree planting for shade, solar glass, shading for high glass areas built into design
48	Do you agree that passive solar gain already adequately covered by guidance in the SPD? If not what else is required?	M5 (Mitigation – New build Housing commercial, other)	12	Some suggestions. Many councils across the UK have specified the Passivhaus standard which can be applied to all building types Need to be much firmer on solar orientation.
49	Are there other specific measures that we should include to reduce the risk of overheating?	M5 (Mitigation – New build Housing commercial, other)	12	An overheating assessment using CIBSE TM59 assessment criteria should be undertaken for overheating properties. Include water and shade trees for a cooling factor
M6 Locally sourced materials				
11	Do you agree we should ensure the use of more environmentally friendly, low carbon materials in all development?	M6 (Mitigation - Extensions, conversions and change of use)	35	Generally yes, some developer resistance. Could be clearer on what the more environmentally friendly are and a definition. It could also be subject to cost.
12	Are there more effective ways of doing this?	M6 (Mitigation - Extensions, conversions and change of use)	14	Specify materials and proof of compliance carbon quotas suggested, could consider longevity of products ie slates that last 60 years vs 80.
13	Should we extend this requirement to other natural products such as	M6 (Mitigation - Extensions,	21	Generally yes from members of the public, resistance from developers. Subject to costs.



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	stone where these are required within a development?	conversions and change of use)		
14	Should we require a minimum warranty period as well as proof of origin?	M6 (Mitigation - Extensions, conversions and change of use)	21	Generally yes. Subject to costs. Warranty and proof of origin should be included.
15	What evidence, if any, should we require of compliance?	M6 (Mitigation - Extensions, conversions and change of use)	18	Mix of responses including clear evidence that is reviewed, bill of sale showing origin and life expectancy.
50	Do you agree we should ensure the use of more environmentally friendly, low carbon materials in all development?	M6 (Mitigation – New build Housing commercial, other)	21	Generally yes.
51	Are there more effective ways of doing this?	M6 (Mitigation – New build Housing commercial, other)	7	Consider durability and safety, encourage recycled goods to be used.
52	Should we extend this requirement to other natural products such as stone where these are required within a development?	M6 (Mitigation – New build Housing commercial, other)	14	Generally yes
53	Should we require a minimum warranty period as well as proof of origin?	M6 (Mitigation – New build Housing commercial, other)	12	Generally yes, could also not allow anything with less than 30 years to be on a compliance list. Could be moving towards an embodied carbon assessment.
54	What evidence, if any, should we require of compliance?	M6 (Mitigation – New build Housing commercial, other)	11	Assessment of compliance could be a paid-for service provided by the Planning Authority, or a 3rd party provider. Much as building regs compliance is already done. Evidence of compliance should be required.
M7 Principle of net gain				
16	Do you agree we should seek to achieve a net gain in energy efficiency from extensions, conversions and changes of use?	M7 (Mitigation - Extensions, conversions and change of use)	32	Most responses are yes, some concern over costs and EPC not recognising heat pumps.

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17	Is the EPC the right measure of net gain?	M7 (Mitigation - Extensions, conversions and change of use)	22	Mix of responses between EPC and SAP. Comments however that EPC is most accessible.
18	What other measures can we use to demonstrate net gain?	M7 (Mitigation - Extensions, conversions and change of use)	13	Use improvement in SAP score and Increase U value of building and carbon reduction measurements.
19	Should there be exceptions to this approach?	M7 (Mitigation - Extensions, conversions and change of use)	15	Mixed responses. Listed buildings, extensions as they could be too difficult to measure
20	How do we ensure that net gain is also achieved on listed buildings and heritage assets?	M7 (Mitigation - Extensions, conversions and change of use)	19	Answers around tasking conservation officers to provide ways of improving efficiency in listed buildings. Case by case basis. Consider insulation and heating that is compatible with listed buildings.
21	Should the planning application specify the measures that will generate the uplift?	M7 (Mitigation - Extensions, conversions and change of use)	19	Generally yes from members of the public, resistance from developers.
M8 Demolition and replacement buildings				
22	Do you think we should prioritise reuse and retrofit of existing buildings	M8 (Mitigation - Extensions, conversions and change of use)	34	Yes from members of public, comment that it may not be best solution, viability, substandard building type, ineffective layout and low density referenced. One comment should be not for extensions and small developments.
23	Do you agree we should try and offset any loss of embodied carbon?	M8 (Mitigation - Extensions, conversions and change of use)	28	Generally yes, some comments that reuse should be first option. Should be avoided but if replacement was to result in lower emissions over 10 years it could be considered.
24	Is there a better approach? Should we consider an article 4 direction requiring prior approval?	M8 (Mitigation - Extensions, conversions and change of use)	11	Yes from members of the public. Although some caution and one comment notes that any article 4 should be more locally specific.
25	If we are going to offset embodied carbon is 25 years the right offset	M8 (Mitigation - Extensions,	13	Mix of comments some say 25, some 10, some up to 50 years. Consensus seems to be less than 25 years.

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	period? If not, what alternative should be used?	conversions and change of use)		
26	There is a variety of life carbon assessment tools available to calculate embodied carbon. Do you recommend any particular one?	M8 (Mitigation - Extensions, conversions and change of use)	9	Green building calculator
27	Should the LPAs offer access to a carbon calculator software package to enable developers to calculate the embodied carbon within a proposal? Would you use this?	M8 (Mitigation - Extensions, conversions and change of use)	15	Comments are generally yes. Developers should use same software package. To avoid low cost cheap packages that may not be accurate.
28	Should we require airtightness tests in addition to as built SAP assessment to demonstrate compliance?	M8 (Mitigation - Extensions, conversions and change of use)	21	Generally yes, also consider radon and appropriate ventilation. Concern about cost.
55	Do you think we should prioritise reuse and retrofit of existing buildings	M8 (Mitigation – New build Housing commercial, other)	15	Generally yes. A developer notes this may not be the best solution and mentions an ineffective layout of the existing scheme causing occupational issues.
56	Do you agree we should try and offset any loss of embodied carbon?	M8 (Mitigation – New build Housing commercial, other)	11	Yes
57	Is there a better approach? Should we consider an article 4 direction requiring prior approval?	M8 (Mitigation – New build Housing commercial, other)	7	Generally yes, concern loopholes will be used otherwise.
58	If we are going to offset embodied carbon is 25 years the right offset period? If not, what alternative should be used?	M8 (Mitigation – New build Housing commercial, other)	9	Not directly answered, should use ground source heat pumps. Developer questions how 25 years has been reached. Another comment says 15 years is better.
59	There is a variety of life carbon assessment tools available to calculate embodied carbon. Do you recommend any particular one?	M8 (Mitigation – New build Housing commercial, other)	6	https://greenbuildingcalculator.uk/ Suggested in line with Devon Carbon Plan
60	Should the LPAs offer access to a carbon calculator software package to enable developers to calculate	M8 (Mitigation – New build Housing commercial, other)	6	Yes

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	the embodied carbon within a proposal? Would you use this?			
61	Should we require airtightness tests in addition to as built SAP assessment to demonstrate compliance?	M8 (Mitigation – New build Housing commercial, other)	6	Yes, thermal assessments, such as Veritherm should also be proposed. Some unsure.
M9 EV charging points				
29	Should we be requiring a higher charging capacity in communal parking areas?	M9 (Mitigation - Extensions, conversions and change of use)	26	Yes from members of the public and no from developers.
30	Should commercial chargers be higher than 22kw?	M9 (Mitigation - Extensions, conversions and change of use)	13	Yes from members of the public and no from developers. Developer notes 11KW is equally effective if the instillation has a load management system, public note 50Kw for future proofing.
31	Should we apply a threshold at which commercial development is required to install 22kw?	M9 (Mitigation - Extensions, conversions and change of use)	12	Mostly yes, some comments that vehicles at commercial sites will be doing more journeys require at least a moderate charge rate.
32	Should we be increasing the requirement to 50kw chargers for parking areas that serve class E businesses?	M9 (Mitigation - Extensions, conversions and change of use)	11	Comments are generally yes, some note remote rural locations are an issue, need to be future proof, depends on where the cost to increase chargers comes from ie owners vs energy companies.
62	Should we be requiring a higher charging capacity in communal parking areas?	M9 (Mitigation – New build Housing commercial, other)	12	Some yes, 7Kw suggested several times. 50% parking back requirement seems high. Could use active ev charging bays, should be considered as part of an active travel strategy.
63	Should commercial chargers be higher than 22kw?	M9 (Mitigation – New build Housing commercial, other)	8	Generally yes. 50kw suggested several times. Though a developer notes an 11kw communal charger is equally effective if the installation has a load management system.
64	Should we apply a threshold at which commercial development is required to install 22kw?	M9 (Mitigation – New build Housing commercial, other)	9	Mainly yes. It is noted that vehicles charged at commercial sites are more likely to do miles hence should have a high charge rate. In line with Devon Carbon Plan.
65	Should we be increasing the requirement to 50kw chargers for	M9 (Mitigation – New build Housing commercial, other)	6	Mostly yes, some resistance is it is a broad measure that may not work in villages,

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	parking areas that serve class E businesses?			
M10 Active and sustainable travel				
66	Are there any other measure we should include to encourage more active travel?	M10 (Mitigation – New build Housing commercial, other)	14	Many comments such as car restrictions in heavily built up areas. Cycle routes, 20mph speed limit, easy to access green space and ebike hire.
67	Should we reference or signpost any other documents?	M10 (Mitigation – New build Housing commercial, other)	9	Ones that support good design for sustainable settlements and green place-making, Consider / refer to measures to ensure existing and new routes are safe, appealing and inclusive. Encourage design which makes active travel the most convenient option for short journeys. Devon Carbon Plan Climate Change Building Car Dependency https://www.transportfornewhomes.org.uk Devon Carbon Plan – Devon Climate Emergency Climate change - GOV.UK (www.gov.uk).
M11 Reducing reliance on the car				
68	Should we resist development proposals that rely upon access solely by the private car?	M11 (Mitigation – New build Housing commercial, other)	29	Mostly yes, some resistance as it can depend on location, also consider EV use means petrol impacts are reducing.
69	Should thresholds be applied – for example bike storage/charging, footpath and cycle way connections, bus routes/funding bus services?	M11 (Mitigation – New build Housing commercial, other)	22	Generally yes. Developments should have bike storage, cyclepath and foot way connections. Para 19.50 also needs to include storage for disability vehicles (Trampers/buggies) to enable less physically active people to be mobile without the need for a car, allowing for charging point for all e-bikes, scooters and buggies.
70	Are there any specific planning measures we could introduce to help reduce reliance on the car?	M11 (Mitigation – New build Housing commercial, other)	15	Developments will need to have Bike storage - all houses Footpath and cycle way connections with restrictions based on size. Reduce parking, require active travel strategies.
71	How should we deal with this issue in the rural areas?	M11 (Mitigation – New build Housing commercial, other)	16	Many suggestions such as discourage remote developments, require travel plans, consider upgrading public transport. Car Share schemes. E bike hire.
72	Should we reference or signpost any other documents?	M11 (Mitigation – New build Housing commercial, other)	9	Transport for New Homes reports and checklists, and Walking for Everyone, What is Healthy Streets? — Healthy Streets
ADAPTATION				

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73	How rigorously should the Councils' enforce against non-porous hardstanding that do not have planning permission?	A4 (Adaptation – All Development)	18	Generally the response was very rigorously. It should be treated as a planning infringement. It is recognised as a contributor to flooding by some.
74	Should we give increased emphasis to the inclusion of adaptation measures within development schemes?	A5 (Adaptation – All Development)	12	Generally yes. Resistance from developers. There should be greater emphasis on the inclusion of adaptation measures.
75	Are there any additional adaptation issues that should be included?	A5 (Adaptation – All Development)	21	Many suggestions. Including 10%-15% net gain and reusing grey water.
76	Should we introduce a clearer framework for small-scale developments?	A5 (Adaptation – All Development)	12	Generally yes,
77	Do you know of any good examples of simple approaches to deliver biodiversity net gain in small development schemes?	A5 (Adaptation – All Development)	11	Many suggested including requires local expert guidance and advice, needs to be more than a plan. Teignbridge council have a tool to assess the biodiversity of the sites prior to development. and habitat banks, which are areas set up and funded by the council to increase biodiversity and green spaces.
78	Do you think this is a good tool to achieve a wide range of adaptation measures? If not, what alternatives would work better?	Green Space Factor Tool (Adaptation – All Development)	13	Mixed responses, some feel this is too much of an urban tool, some say yes. Biodiversity matrix 3.0 is mentioned as an assessment tool by several commenters.
79	Do you agree that factor scores should be adjusted according to the type and location of sites?	Green Space Factor Tool (Adaptation – All Development)	9	Generally yes
80	Do you have any views about what the thresholds should be?	Green Space Factor Tool (Adaptation – All Development)	15	Repeated comments that biodiversity on new developments should not just be positive but should be at least 10% net gain as measured by the biodiversity matrix 3.0. Some unsure.
81	Should we use this approach to ensure any green space or greenfield windfall development is required to deliver considerable adaptation benefits?	Green Space Factor Tool (Adaptation – All Development)	10	Mixed responses public generally in favour developers resisting.
82	Do you think the Green Space Factor tool could be used effectively and simply to seek	Green Space Factor Tool (Adaptation – All Development)	10	Generally no. Some yes. Request that biodiversity matrix 3.0 is used.



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	biodiversity net gain from small-scale development?			
83	Do you agree that this tool needs a supporting document to define the different surface types and explain the different factor scores?	Green Space Factor Tool (Adaptation – All Development)	8	Yes
84	Do you think we should provide for carbon offsetting in the event that measures cannot be delivered within the development scheme?	Carbon Offsetting (Adaptation – All Development)	20	Very mixed between respondents. Some note it should be a last resort some argue that if it is required then the design of what is being proposed is wrong.
85	How do we quantify the carbon to offset for each measure?	Carbon Offsetting (Adaptation – All Development)	9	Some resistance for offsetting question not answered.
86	What projects should be included?	Carbon Offsetting (Adaptation – All Development)	11	Local habit banks, not for offsetting. Projects funded through offset should be “extras”, not things like cycle infrastructure or habitat restoration.
87	Do you agree we should require a Statement of Compliance?	Statement of Compliance (Adaptation – All Development)	23	Generally yes. One comment notes the planning system has become increasingly more complicated with long lists both locally and nationally for validation.
88	Should it include anything else?	Statement of Compliance (Adaptation – All Development)	16	More detail in application forms cites. Bath and North East Somerset: sustainable_construction_checklist_spd_version_2_2020_final (2).pdf (bathnes.gov.uk). Consider water saving, management of ground water.
89	Should it be included as part of the validation process and included within the Local Planning Authorities’ validation checklist?	Statement of Compliance (Adaptation – All Development)	17	Generally yes. Some no comments state the planning system is too complex.
90	Does anything else need to be included?	Appendix 4: Glossary	12	Many answers including limits on embodied carbon per m2 for new houses, phased introduction of limits, offer a planning advantage to most thermally efficient, PassivHaus.

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Climate Emergency Compliance Form

All applications are required to complete the relevant sections of this form. Any form with blank entries will not be accepted and the planning application will not be able to be validated until the form is complete.

All planning applicants should identify whether or not they are able to fully meet the mitigation and adaptation requirements set out in the adopted Climate Emergency Planning Statement.

If the requirements have been met, please set out which document this is evidenced in. For example this could be:

- Energy Statement/Strategy;
- Design and Access Statement;
- Sustainability Statement,
- Sustainable Travel Plan,
- Energy Performance Certificate,
- Standard Assessment Procedure (SAP) or
- Specifically indicated on plans, drawings or other compliance reports.

In the event that any of the requirements are not met in full, please explain why this is the case and identify any proposals to mitigate the impact of non-compliance.

With regard to considering appropriate mitigation, please note the following:

- Plymouth and South West Devon Joint Local Plan (JLP) Policy DEV32.3 anticipates that there could be circumstances where carbon reductions are delivered through off-site measures. This is reinforced by Policy DEL1.3 which anticipates the use of planning obligations for offsetting purposes in appropriate circumstances, and is further amplified in the JLP's companion Supplementary Planning Document (para 9.39).
- See para. 5.2 of the Climate Emergency Planning Statement for further information.

Completion of this form is a validation requirement and the local validations lists have been updated to include this.

Type of application (Delete as appropriate)		Major (Mj), Minor (Mn) or Householder (Hh)	
Requirement	Is the requirement being met onsite? In full (F) In part (P) Not at all (N)	If 'in full or in part', which document/plan is the evidence included in;	If 'not of in part', please explain reason for non-compliance and identify any measures you are proposing to mitigate for the non-compliance
Mitigation			
M1 – Onsite renewable energy generation (Mn 20% for Mn & Mj Mj 1kw for Hh)			
M2 – Energy storage (All apps)			
M3 – Low and zero carbon space and water heating systems (Mj, Mn)			
M4 – Resilient and low carbon building materials			

(All apps)			
M5 – Demolition and rebuild (Mj & Mn)			
M6 – Electric vehicle charging points (Mj, Mn and Hh adjacent to off-street parking)			
M7 Active and sustainable travel (Mj, Mn)			
Adaptation			
A1 – Passive solar design (All apps)		(Must include Part O checklist as a minimum)	
A2 – Protecting our soil resource (All apps)			
A3 – Protecting and enhancing tree cover (All apps)			
A4 – Protecting and enhancing gardens, green spaces and greenfield sites (All apps)			
A5 – Delivering sustainable drainage,			

surface water management and restricting urban creep (All apps)			
A6 – Delivering biodiversity net gain and habitat improvements (Mj, Mn)		(Refer to relevant BNG Guidance document and other ecology/BNG requirements on the local validation lists)	
If an offsetting contribution is being proposed to mitigate the impacts of non-compliance, please refer to the most up-to-date Greater London Authority Carbon Offset Funds guidance			

Report to: **Council**

Date: **22nd September 2022**

Title: **Plymouth and South Devon Freeport – Approval of the making of a Compulsory Purchase Order(s) for the Language Freeport (the “Scheme”)**

Portfolio Areas: **Cllr Hilary Bastone - Economy**

Wards Affected: **All**

Urgent Decision: **N** Approval and clearance obtained: **Y**

Author: **Chris Brook** Role: **Director – Place and Enterprise**

Contact: **Email: chris.brook@swdevon.gov.uk**

RECOMMENDATIONS:

That the Council:

- 1) approve the area to be the subject of a compulsory purchase order (“CPO”) or supplemental CPO as shown edged red on the plan at Appendix 1 (“the CPO Plan”), which identifies the outline area of the land and rights to be acquired for the Scheme (“the CPO Land”) by voluntary acquisition or compulsory purchase;**
- 2) authorise the making of CPO(s) by the Council under section 226(1)(a) of the Town and Country Planning Act 1990 in respect of all or part of the CPO Land;**
- 3) authorise all necessary steps to be taken to secure the making, confirmation and implementation of the CPO(s), including the publication and service of all notices, requisitions for information, statement of reasons and the preparation and presentation of the Council’s case at any public inquiry required to secure confirmation of the CPO(s);**
- 4) note, and give due regard in determining whether or not to authorise the making of the Orders, the public sector equality duty contained in section 149 of the Equality Act 2010 and the requirements of the Human Rights Act 1998, as detailed further in section 5 of this Report;**

- 5) authorise agreements to be entered into with landowners to secure the withdrawal of objections to the CPO(s) and to authorise the Director of Place and Enterprise to take all necessary steps to acquire by agreement land and/ or rights over the CPO Land, subject to any consideration payable being within the Scheme budget as set out in section 8 of this Report;**
- 6) delegate to the Director of Place and Enterprise the authority to make and submit the CPO(s) to the relevant Secretary of State for confirmation and to take all necessary steps to secure the making, confirmation and implementation of the CPO(s), including the preparation and presentation of the Council's case at any public inquiry;**
- 7) subject to confirmation of the CPO(s), delegate the authority to the Director of Place and Enterprise to acquire all the land and rights over the CPO land, including service of a general vesting declaration, notice to treat or notice of entry, subject to any compensation to be paid being within the Scheme budget as set out in section 8 of this Report;**
- 8) delegate to the Director of Place and Enterprise, the authority to make any necessary amendments to the CPO(s);**
- 9) delegate to the Director of Place and Enterprise the authority to negotiate and settle all necessary compensation and professional fees (including interim payments) either as agreed with landowners or as determined by the Lands Chamber of the Upper Tribunal in relation to the acquisition of land or rights forming part of the CPO Land in accordance with the Land Compensation Act 1961, the Compulsory Purchase Act 1965 and the Land Compensation Act 1973 provisions in force at the relevant time and the body of case law relevant to the assessment of compensation, where any compensation to be paid is within the Scheme budget as set out in section 8 of this Report;**
- 10) authorise the instruction of the Scheme Project Team's legal advisers, Burges Salmon LLP, to prepare and serve such documentation as may be required for the CPO(s);**
- 11) note that the costs of the CPO process (not including land acquisition costs), which are not expected to exceed £350,000, will be funded through Freeport seed funding that was approved in the Full Business Case. The Council will cash flow the work until that funding is drawn down post designation. It is possible that the Council incurs some costs supporting this activity at risk, although this risk is assessed as being low; and**

12) recognise the internal resource requirement that the Council officer team are providing to the Freeport project to ensure its success.

1. Executive summary

- 1.1 The Council is asked to approve the making and publishing of a Compulsory Purchase Order (CPO) (including any supplemental CPO required) for the Scheme and subsequently to secure the confirmation and implementation of a CPO in relation to the CPO Land at Langage.
- 1.2 This recommendation follows four previous reports, and approval in principle to make a CPO in July 2022.
- 1.3 The CPO Land at Langage is integral to the success of the Freeport. The Langage site is the largest site of the three Freeport sites proposed, and is forecast to provide 1,843 jobs located in 83,338 sq m of new floor space, across 48.5 hectares in total.
- 1.4 The Langage site is split into Phases 1a (northern half) and 1b (southern half). The northern half, owned by Langage Energy Park Limited is being delivered as part of the Freeport through a land owner agreement.
- 1.5 The CPO Land forms part of phase 1b, which is owned by private individuals (the "**Landowners**"). Engagement with the Landowners is ongoing and a negotiated settlement to acquire the CPO Land for phase 1b is the preferred outcome.
- 1.6 A CPO is required to ensure that the Scheme can be brought forward, within the timebound benefits window of the Freeport, to ensure the economic benefits are secured.

2. Background

- 2.1 Previous Committee Reports:
 - 2.1.1 September 2021 [minute reference E30/21] – Outline Business Case Approval
 - 2.1.2 January 27th 2022 [minute reference E.83/21] – Plymouth and South Devon Freeport Update
 - 2.1.3 March 31st 2022 [minute reference E.97/21] – Update and approval for borrowing
 - 2.1.4 July 7th 2022 [minute reference E.11/22] – Freeport: Land assembly at Langage - approval for the principle of a CPO
- 2.2 Following Council approval in July 2022 to assemble a team of legal and technical consultants to support CPO work, Bruton Knowles (Surveyors) and Burges Salmon (Legal) have been appointed.
- 2.3 Burges Salmon have been appointed specifically to advise on and progress the land assembly matters at Langage, including:
 - 2.3.1 A review of the legal powers available to the Council to use CPO.
 - 2.3.2 Seek Counsel's opinion on the above.

- 2.3.3 Establish and present a timetable for a potential CPO.
- 2.3.4 Support the Council to undertake the CPO process, subject to Council agreement/authorisation.
- 2.4 Bruton Knowles have been appointed to advise on land referencing and valuation matters.
- 2.5 Negotiations with the Landowners have been ongoing since October 2021 and a workshop was held with the Landowners and their agents on Wednesday 3rd August 2022. This was constructive and set out: the details of the Freeport; gateway policy; seed funding; tax; and customs benefits.
- 2.6 The Council has explained to the Landowners throughout negotiations that the Council would need to progress a CPO in the event that a voluntary agreement cannot be reached or is not complied with.

3. Planning Policy Context

- 3.1 Planning Policy:
- 3.2 The land at Langage forms part of the adopted Joint Local Plan (JLP), Policy PLY51.
<https://plymswdevonplan.co.uk/policy/so5/ply51>
- 3.3 That policy states: *Land at Langage is allocated for employment development in Use Classes B1b & c, B2 (industrial) and B8 (warehousing and distribution), as an extension to the existing strategic employment site. Provision is made for about 243,000 sq.m. of employment floorspace.*
- 3.4 It goes on to add further detail - *Development should provide for the following:*
 - 3.4.1 *Creation of a high quality environment for the business park commensurate with its status as a strategic employment location for attracting inward investment, including a street frontage presence which helps to create attractive environments for walking and cycling.*
 - 3.4.2 *Ancillary office functions which are orientated to the street frontage.*
 - 3.4.3 *Maximum use of plot space through efficient design and layout arrangements where parking provision does not dominate the site.*
 - 3.4.4 *Enhancements to pedestrian, cycling and public transport links to the City Centre, Plympton, Sherford and Deep Lane Park and Ride which also facilitates links to locations east of the city.*
 - 3.4.5 *Sensitive planting and screening for outward facing sites to the surrounding areas.*
 - 3.4.6 *Contributes to and allows for the delivery a new southern access road.*
 - 3.4.7 *Preserves the future operation of the Energy Park.*

4. The Freeport and Langage – The wider context

Government Initiative

- 4.1 On 7th October 2020 HM Treasury announced - *Government outlines new plans for Freeports to turbo-charge post-Brexit trade. The government has today set out further details around how it will create a number of new innovative Freeports across the UK to create jobs, drive investment and regenerate communities.*
- 4.2 Responding to this Government initiative, the Plymouth and South Devon Freeport (PASD Freeport) bid was submitted and approved. Following the initial bid, the Outline and Full Business cases (the Full Business Case is included as Exempt Annex E) have subsequently been approved.
- 4.3 The initiative is underpinned by:
 - 4.3.1 *Streamlined planning processes to aid brownfield development*
 - 4.3.2 *a package of tax reliefs to help drive jobs, growth and innovation*
 - 4.3.3 *simplified customs procedures and duty suspensions on goods*
- 4.4 In the case of PASD, aligning the bid to areas of land already assigned through the JLP for development and largely “in play” meant that additional streamlining of planning was not required.

PASD Freeport Proposals

- 4.5 The Freeport represents a unique opportunity to level up, address historical challenges and leverage exciting new opportunities to transform the economy of Plymouth and South Devon.
- 4.6 The bid sought to leverage all suitable land identified within the JLP. As such, consideration was given to all potential sites within the accepted radius, recognising:
 - The size and nature (e.g. topography) of the available land
 - How underdeveloped or underutilised they are (for customs sites)
 - Relative costs associated with each
 - Transport links (from the port, between sites and to the M5)
 - Plans and preferences expressed by businesses
 - Land ownership
 - Alignment with strategic priorities

- 4.7 The three sites identified for specific designation within the bid all lie within the growth areas identified in the JLP and are as follows:
- Devonport South Yard (adjacent to the port) which is located within the City Centre and Waterfront area and will form our innovation hotbed as a tax site.
 - Langage and Sherford which are developments within the Eastern corridor with direct access to the A38 Expressway and will provide additional capacity for the Port of Plymouth as tax sites with specific customs zones within them.
- 4.8 The three sites were identified within the JLP because of their strategic importance from an economic perspective and their great potential for change and growth, as well as being the most sustainable locations in terms of their relationship to key transport corridors and public transport accessibility.
- 4.9 For the purpose of the Freeport proposal, they are the areas of Plymouth with the greatest opportunity and viable space for significant growth without adding more vehicles into the city. Given that the JLP already includes specific policies covering these sites, they will enable us to move at pace.
- 4.10 These sites will enable us to unleash the significant but currently untapped potential within the Port of Plymouth which is constrained by the physical space in which it operates by utilising the identified land for light assembly/manufacturing, bonded warehousing etc, attracting investment that builds on our innovation assets.

PASD Freeport Objectives

- 4.11 The high level objectives of the Freeport are to:
- Accelerate growth and development.
 - Deliver critical infrastructure to accelerate uptake.
 - Generate 3,584 jobs (gross) with 10% to be filled by unemployed / inactive people, creating progression pathways and upskilling approx. 50 people a year.
 - Gear in c. £75m of private and public sector investment, on top of the £25m government seed funding.
 - Gear in other funding streams where possible to support delivery, such as Levelling Up for an Innovation Centre at South Yard.
 - Deliver cycle and pedestrian infrastructure across the A38 at Deep Lane Junction, connecting two Freeport sites (Sherford and Langage).

- Support the clustering of businesses in the target sectors of marine, defence and space, including low carbon applications.
- Unlock low carbon opportunities, leveraging green power and private sector excellence.

Langage Proposals and benefits

- 4.12 To create a vision, understand the constraints and opportunities, plan infrastructure alignment and establish possible building footprints, a master planning process for Langage was undertaken. This master plan is set out in Annex B, and was a collaboration between Arcadis, LHC, PCC, DCC and SHDC.
- 4.13 The masterplan includes a Customs site, which will derive commercial advantage for the right manufacturer and is shown in Annex B as the site edged blue.
- 4.14 This master plan was then modelled, and stress tested financially and economically to ensure that it was credible. The Freeport has a Benefit Cost Ratio (BCR) of above 2.
- 4.15 The Langage site has the potential to create 1,843 jobs located in 83,338 sq m of new floor space, across a 48.5 hectare site. It will include a mix of unit sizes and an 8.3 hectare customs site. It is estimated that 890 jobs will be generated specifically from the Scheme by way of 40,450 sq m of new floorspace in the Phase 1b land.
- 4.16 Likely occupational modelling suggests that Freeport jobs will generate an average wage level of £31,519, comparing favourably to an average of £25,200 per annum across the Plymouth and Devon administrative area.
- 4.17 The land identified as phase 1b on the masterplan corresponds to the land shown in Annex A – CPO Land. The CPO Land is approximately 16.12 hectares (161,247.97 sqm) of greenfield land currently in agricultural use. It consists of 8 grass fields bounded by hedgerows and includes a high voltage overhead electricity line operated by National Grid. It represents the minimum land needed to deliver the development as currently master-planned.
- 4.18 It should be noted that the land to the east of the red line plan is included within planning policy area PLY51, but is not included within the Freeport proposals.

5. Need for CPO Powers

- 5.1 The Town and Country Planning Act 1990 authorises the Council, as a local authority, to compulsorily acquire land that is required for development and planning purposes. The relevant statutory provisions are set out in section 9 below.

- 5.2 The CPO Land is required for the delivery of the Scheme in accordance with the statutory conditions set out in the Town and Country Planning Act, as applicable.
- 5.3 Government guidance provides further advice on the use of compulsory purchase powers. The Department for Levelling Up, Housing and Communities 'Guidance on Compulsory purchase process and The Crichel Down Rules' (2019) ("the CPO Guidance") states:
- 5.3.1 Compulsory purchase powers are an important tool to use as a means of assembling the land needed to help deliver social, environmental and economic change. Used properly, they can contribute towards effective and efficient urban and rural regeneration, essential infrastructure, the revitalisation of communities, and the promotion of business – leading to improvements in quality of life.
- 5.3.2 A compulsory purchase order should only be made where there is a compelling case in the public interest.
- 5.3.3 Compulsory purchase is intended as a last resort to secure the assembly of all the land needed for the implementation of projects.
- 5.4 Recognising that the Freeport benefits are timebound, there is a pressing need to commence activity that will see the CPO Land developed. It is difficult to progress critical actions, such as survey work, planning and design, without clarity over who will be bringing the land forward.
- 5.5 If there was a delay to the designation of the phase 1b land, the total number of jobs created (including indirect) would not change, but they would be created more slowly. The table below shows that a 1-year delay would result in £9m fewer benefits and a five-year delay would result in £46m fewer benefits.

	1 year	2 years	3 years	4 years	5 years
Total benefits (NPV)	£228,329,450	£219,049,377	£209,755,516	£200,458,384	£191,163,706
Difference from Base	£9,253,881	£18,533,884	£27,727,745	£37,124,877	£46,419,555

- 5.6 This does not take into account the end of the tax benefits in 2026 and so is a best case analysis, as the uptake from the market may be negatively impacted as a result of delay, compounding the problem.
- 5.7 The CPO is required to deliver important benefits to the area and it is considered that there is a compelling case in the public interest for the CPO. This case will be advanced in more detail through the statement of reasons prepared at the point of making the CPO, if authorisation is secured to progress to that stage.

- 5.8 Ultimately, the Secretary of State will need to confirm the CPO before it can be implemented, and be satisfied that a compelling case has been made.
- 5.9 Further details of the compulsory purchase powers to be relied upon for the CPO are contained in section 9 below.

Human Rights Act and Evidence of Compliance

- 5.10 The Human Rights Act 1998 incorporated into domestic law the European Convention on Human Rights ("**the Convention**"). It includes provisions in the form of Articles which aim to protect the rights of the individual.
- 5.11 Paragraph 12 of the CPO Guidance sets out how an acquiring authority should take into account Human Rights:
- "An acquiring authority should be sure that the purposes for which the compulsory purchase order is made justify interfering with the human rights of those with an interest in the land affected. Particular consideration should be given to the provisions of Article 1 of the First Protocol to the European Convention on Human Rights and, in the case of a dwelling, Article 8 of the Convention."
- 5.12 The Human Rights Act 1998 incorporated into domestic law the provision of the Convention. The relevant articles can be summarised as follows:
- 5.12.1 Article 1 of The First Protocol 'Protection of Property': protects the rights to peaceful enjoyment of possessions. No one can be deprived of their possessions except in the public interest.
- 5.12.2 Article 6 of the Convention Rights and Freedoms 'Right to a fair trial': entitles those affected by compulsory powers to a fair and public hearing.
- 5.12.3 Article 8 of the Convention of Rights and Freedoms 'Right to respect for private and family life': protects the right of the individual to respect for his private and family life, his home and his correspondence. Interference with this right can be justified if it is in accordance with law and is necessary in the interests of, among other things, national security, public safety or the economic wellbeing of the country.
- 5.12.4 Section 6 of the Human Rights Act 1998 prohibits public authorities from acting in a way which is incompatible with rights protected by the Convention.
- 5.13 The CPO, if made, may infringe the human rights of persons with an interest in land. This infringement is authorised by law provided that:
- 5.13.1 There is a compelling case in the public interest for the compulsory acquisition powers included within the CPO, and that proper procedures are followed.

- 5.13.2 Any interference with a human right is proportionate and otherwise justified.
- 5.14 The CPO Land is adjacent to a residential property owned by the Landowners, but it is not proposed to acquire that residential property under the CPO.
- 5.15 The interest in the CPO Land to be acquired is described as all rights and interests in 161,247.97 sqm (or approximately 16.12 hectares) of agricultural land and overhead electricity lines situated to the west of Ley Farm, Plympton, Plymouth as shown in Annex A –CPO Land.
- 5.16 It is recognised that the Scheme may have an impact on individuals. However, this is outweighed by the significant public benefits that will arise from the Scheme, as set out in this Report. The Council must strike a fair balance between the public interest in seeing the Scheme proceed (which is unlikely to happen in the absence of the compulsory acquisition powers being obtained) and the private rights which would be affected by the compulsory acquisition.
- 5.17 In relation to both Articles 1 and 8, the compelling public interest case for the compulsory acquisition powers included within the CPO has been demonstrated in this Report. In this respect the interference with human rights is both proportionate and justified.
- 5.18 In relation to Article 6 it is the case that proper procedures have been followed for both the consultation on the Scheme and for the determination of the compulsory purchase powers included within the scheme. Throughout the development of the Scheme, persons with an interest in the land have had full opportunity to comment on the proposals in a non-statutory capacity, and the Council has endeavoured to engage with Landowners. Further statutory consultation will be undertaken when the planning application(s) for the CPO Land is submitted.
- 5.19 Any person affected by the exercise of compulsory acquisition powers may be entitled to compensation.

6. Landowner engagement

- 6.1 SHDC has been engaging with the Landowners by email and in person since October 2021. More recently that has included discussions and emails with their appointed agent on technical matters.
- 6.2 This engagement does and will continue. Details of meetings and key dates are included in Exempt Annex D of this report.

7. Consultation

- 7.1 The Joint Local Plan incorporated previous 'Our Plan' engagement for South Hams and West Devon which included

Issues and Options consultation on a range of topics between May 2014 and Jan 2015.

- 7.2 Once the decision to move to a JLP was taken a further consultation on site options for development was undertaken in Summer 2016 which included a village settlement assessment.
- 7.3 There was a further opportunity to comment in December 2016 in relation to the distribution of development and the new sites proposals.
- 7.4 Formal Regulation 19 consultation on the draft JLP occurred in March/April 2017. This included:
 - 7.4.1 Presentation to Town and Parish Councils, Neighbourhood Planning workshops, attendance at events including agricultural shows and pop up stands at supermarkets, cafes, parish halls
 - 7.4.2 Dedicated webpages, e-newsletters, joint press releases, and other promotion
 - 7.4.3 Over 5,500 comments were received over the consultation stages which were taken into account in finalising the plan.
- 7.5 The Freeport proposals had the benefit of two stakeholder events during the OBC and FBC preparation:
 - 25th June 2021 (virtual - attended by 130 delegates)
 - 3rd December 2021 – co-hosted by Plymouth and Devon Chamber of Commerce (virtual – attended by 79 delegates)
- 7.6 The Freeport Senior Responsible Officer (SRO) also presented to businesses at a Chamber/Plymouth Marine Network event at the Aquarium on 10th May 2022 attended by 65 delegates.
- 7.7 A dedicated Freeport email address was set up and promoted at those events specifically to encourage people to feedback their views and engage with the process. It has – and continues to be – monitored daily.
- 7.8 Plymouth City Council’s Strategic Director for Place has regularly consulted with our local MPs, Gary Streeter and Luke Pollard. They were also keynote speakers at each stakeholder event.
- 7.9 In addition, a wide range of stakeholders have engaged in the development of the specific Freeport strategies underpinning our skills, trade and investment and innovation activities, ensuring that these strands of work reflect local priorities and align with wider policy objectives.
- 7.10 Feedback from the above has fed into the production of our outline and full businesses cases and these were approved by each of the three Local Authority partners ahead of submission to government.

8. Financial Implications

- 8.1 Seed funding of £3.5m has been allocated for land acquisition of Phase 1b land. This is 100% matched funded by South Hams District Council, predicated on borrowing, approved March 31st 2022 [minute reference E.97/21]. The total land acquisition budget is therefore £7m.
- 8.2 The Council has undertaken an appraisal of land value, which indicates that this figure is comfortably more than the value of the land in Phase 1b. This valuation is being kept under review. The budget was set to enable the opportunity for a wider land acquisition to be agreed, which may include the farm and buildings at Ley Farm (although it is not proposed to include this wider land in the CPO).
- 8.3 The land acquisition budget allows for reimbursement of the Landowners' reasonable professional fees associated with the negotiation and acquisition process, in accordance paragraph 19 of the CPO Guidance.
- 8.4 The CPO process requires significant internal and external officer support both directly and indirectly (transport, planning etc). The internal team consists of:

Who	Role
Director of Place and Enterprise	SHDC Freeport lead – Governance, commercial, risk, key partner liaison and engagement
Head of Assets	Technical lead – CPO
Senior Surveyor	Support CPO
Head of UF Team	Planning advice for 1b, development management services for Freeport planning application
Senior Planner	Planning application case work and support masterplanning phase 1b
UF internal consultees	Landscape, drainage etc
Monitoring Officer	Governance

- 8.5 The external team is made up of:

Who	Role
Burges Salmon LLP	CPO Legal advice
Bruton Knowles	Surveying advice to support CPO
Masterplanning	Yet to be appointed – To progress the highlevel Masterplan into a more detailed plan for delivery
Planning Agent	Yet to be appointed – to ensure the expedient preparation of planning applications that meet with planning policy.
Senior Planner	Planning application case work and support masterplanning phase 1b
PCC / DCC / wider Freeport team	Significant support from the Freeport partners is ongoing in all aspects

- 8.6 The Council approved the appointment of an external team to support this work on July 7th 2022 [minute reference E.11/22].
- 8.7 The cost of the external support may amount to £350,000, but only if the full CPO process was required. The funding for this is included in the Freeport seed funding for site acquisition, but up until the point when that funding can be drawn down is being funded from the Freeport revenue funding held by PCC as the accountable body.
- 8.8 The costs of the CPO process (which are not expected to exceed £350,000) will be funded through Freeport seed funding that was approved in the Full Business Case (Exempt Annex E). The Council will cash flow the work until that funding is drawn down post designation.
- 8.9 If there is a risk that some of the costs of the CPO process will become a direct cost on the Council (as opposed to already being financed by Government seed funding), the wider Council membership will be informed at the earliest opportunity.

9. Legal Powers and Implications

- 9.1 The Council's powers of compulsory purchase to acquire land and interests in land for the Scheme are contained in the Town and Country Planning Act 1990.
- 9.2 It is a condition of the exercise of the relevant compulsory purchase powers that the land is "required" for a particular purpose. The land to be acquired by the Council is required because the acquisition will facilitate the carrying out of development on or in relation to the land in accordance with section 226(1)(a) of the Town and Country Planning Act 1990.
- 9.3 In accordance with section 226(1A), the development will contribute to the achievement of the promotion and improvement of the economic, social and environmental well-being of their area. The benefits of the Freeport and the Scheme are set out in further detail in Section 4.
- 9.4 Procedural matters relating to the service and making of the CPO are contained in the Acquisition of Land Act 1981.
- 9.5 The Acquisition of Land Act 1981 also provides that where special category land is acquired by compulsory purchase a special parliamentary procedure must be completed unless the Secretary of State issues a section 19 certificate.
- 9.6 Further to detailed land referencing, there is no special category land included within the CPO Land.
- 9.7 The primary legal implication of not securing a CPO is that the land required for the Scheme may not be capable of being secured, or alternatively may not be secured or delivered in line with the Freeport milestones. Additional risks relevant to securing the CPO are set out in section 11 of this Report.
- 9.8 Further details of the relevant legal powers are provided within the advice note from Burges Salmon LLP at Exempt Annex C.

10. Climate Change and Environmental Implications

- 10.1 At a high level, the Freeport has embedded low carbon across the proposition. This includes; making it a key sector targeted for inward investment through the gateway policy, promoting the development of a green hydrogen plant and proposing a mobility hub at Langage.
- 10.2 It aligns with the Council’s declaration of a Climate and Biodiversity emergency.
- 10.3 In delivery terms, phase 1b will have the benefit of scrutiny through the planning system, including the need for and compliance with an Environmental Impact Assessment.

11. Risk Management

- 11.1 The importance of the phase 1b land to the success of the Freeport in economic, employment and placemaking terms is clear. It is essential to put in place a mitigation strategy should successful negotiation with the land owner not occur, through the use of CPO powers.
- 11.2 This report includes, in Section 9 and Exempt Annex C, a full assessment of the legal powers available to the Council that it can rely upon to make the CPO.
- 11.3 It should be recognised that a CPO process does carry risk and that the Council should anticipate the need for a public inquiry.
- 11.4 The CPO process is also long. It is anticipated that conclusion of the process would take until May / June 2024 and therefore there is a need to commence it in a timely fashion to meet the key objective – to ensure successful delivery of Phase 1b and the Freeport. An indicative CPO timetable is set out in below.

	Date of Full Council Meeting	Make and serve CPO	Objection period ends	Relevant date letter issued	Statement of Case required	Public Inquiry Date	CPO decision expected	Exercise CPO powers	Land vests/possession taken
	22 September 2022	w/c 3 October 2022	w/c 24 October 2022	December 2022	January – February 2023	July – August 2023	October – November 2023	November 2023 – March 2024*	June 2024
Explanatory Notes	<p><i>Council to authorise the making of a CPO.</i></p> <p><i>The next Full Council meeting is 22 September 2022, followed by 15 December 2022.</i></p> <p><i>The Report to members must set out the justification for CPO and be accompanied by a plan showing the relevant land.</i></p>	<p><i>Allowing approximately 10 days following Council resolution to prepare and serve notices.</i></p> <p><i>The Council is under no obligation to proceed to making a CPO once authorisation has been given.</i></p> <p><i>Once the CPO is made and served, a statutory process with set timescales will apply.</i></p> <p><i>The Council could be liable for costs incurred by objectors from this point onwards, should the CPO be subsequently withdrawn or fail to be confirmed by the Secretary of State (in whole or in part).</i></p>	<p><i>Allowing the minimum statutory 3 week period from service of notices.</i></p> <p><i>The Planning Inspectorate normally send the Council a copy of any objections as they are received in practice.</i></p>	<p><i>Assuming objections are received, the Secretary of State will issue the Relevant Date letter (usually 4 – 6 weeks following close of objection period).</i></p> <p><i>Depending upon the scope and amount of objection, a public inquiry may be ordered. This timetable assumes that an inquiry will be held.</i></p> <p><i>It may be possible to shorten this time period, subject to further discussion between the Council and DLUHC.</i></p>	<p><i>6 weeks from the Relevant Date.</i></p> <p><i>The Statement of Case will reflect the Council report and Statement of Reasons and confirm full particulars of its case including addressing the grounds of objection.</i></p> <p><i>All documents the Council will be relying upon will need to be identified and available at this stage.</i></p>	<p><i>Assuming 6 months following issue of Statement of Case.</i></p> <p><i>The inquiry date will be dependent on PINS availability and inquiry length.</i></p> <p><i>At the moment, Inquiries are in practice being listed within 6 to 12 months.</i></p> <p><i>It may be possible to shorten this time period, subject to further discussion between the Council and DLUHC.</i></p>	<p><i>Assuming 3 months from date of inquiry.</i></p> <p><i>The period for determination will vary depending on the number of issues and remaining objections, and could be shorter or longer than three months.</i></p> <p><i>There is a 6 week statutory challenge period following the decision, which should be noted.</i></p> <p><i>From the decision date, steps can at this point be taken to implement the CPO and start the acquisition/possession process.</i></p>	<p><i>Allowing minimum 2 weeks to prepare to exercise powers (this assumes that the Council exercises its power as soon as possible following confirmation of the CPO, rather than waiting for the challenge period to expire)</i></p> <p><i>*The Council can choose to exercise its compulsory acquisition powers at any time, subject to the statutory deadline of three years from the date of the CPO. The Council would need to exercise its powers by March 2024 in order to take possession of the land in June 2024 in accordance with its delivery plan.</i></p>	<p><i>3 months from service of notice of GVD/notice to treat and notice to enter.</i></p> <p><i>Compensation then becomes payable.</i></p>

12. Equality Implications

- 12.1 The Equality Act 2010 requires the promotion of understanding of the importance of equality and diversity, and the encouragement of good practice in relation thereto. In the promotion of the CPO, the Council will be mindful of the need to properly discharge its obligations under the provisions of this legislation, with particular regard to the locations and accessibility of the places selected for the deposit of documents relevant to the Scheme.
- 12.2 An assessment under the Equality Act 2010 has been carried out in connection with the Scheme and is attached at Exempt Annex F.

13. Options Considered

- 13.1 As set out in the Freeport proposals described in the the Full Business Case (Exempt Annex E), the Langage site including the CPO Land cannot be replicated anywhere else. A detailed triangulation of the Freeport rules and requirements against planning compliant land allocation was undertaken at the very start of the Freeport Bid. This showed that the inclusion of South Yard, Sherford and Langage were a) all required to hit minimum area thresholds and b) were the only allocated sites that were policy compliant and deliverable within in the timeframes required.
- 13.2 Accepting that point, the option to exclude phase 1b land has been considered and dismissed. Excluding 1b land would reduce the area of developable footprint by C. 40,000 sqm, a level lower than the minimum threshold for a Freeport as defined by DLUHC.
- 13.3 Just as relevant would be the reduction in economic benefit and job creation directly attributable to Phase 1b.
- 13.4 The Council has engaged with the Landowners (as set out in Section 6 above) and always made it clear that a negotiated sale is the preferred route to acquisition. That remains the case and an unconditional offer to buy the land, that includes a significant premium to reflect the expedience of a negotiated settlement has been made.
- 13.5 The Council's offer has been rejected by the Landowners, however a counter offer (which has been sought) has not been forthcoming. The Council intends to re-state its offer through the marketing process that the Landowners' agent is running.
- 13.6 The possibility of the Landowners getting a development partner into contract, is also being explored by the Landowners and the Council is helping to facilitate that process. However, it remains a significant risk that their efforts to find a suitable development partner will not be successful. Designation of the Freeport requires a demonstrable programme for delivery and there is no guarantee that the Landowners can or will develop the site in accordance with the Freeport objectives. The CPO is

therefore required as a fall-back to ensure that the full potential of the CPO Land and the Freeport is realised.

Supporting Information

Annex A – CPO Land

Annex B – Langage Master Plan

Exempt Annex C – CPO Legal Advice

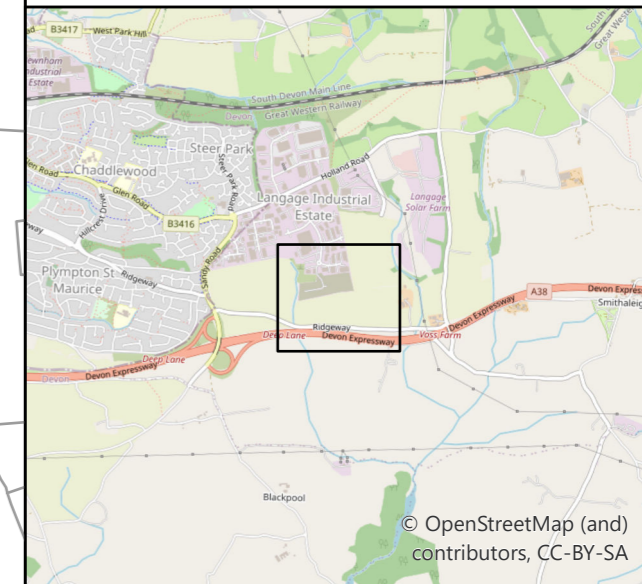
Exempt Annex D – Engagement with Land Owner

Exempt Annex E – Full Business Case

Exempt Annex F – Equalities Impact Assessment

South Hams District Council
and
West Devon Borough Council

Annex A – Phase 1b Red Line Plan



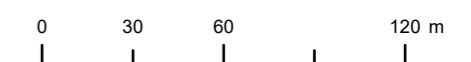
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Legend

 Phase 1b Red Line Boundary

BK Bruton Knowles

Olympus House - Olympus Park
Quedgeley
Gloucester
GL2 4NF
T 01452 880000



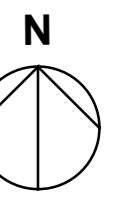
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


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Key: Phasing

	Phase 1A		Customs Site Boundary shows 'Preferred' & 'Do Max' options (Scenario A & C)
	Phase 1B		Customs Site 'Do Min' option (Scenario B)
	Environmental Enhancements		Tax Site Boundary

*Note : - Where the Customs site and Tax site/Freeport boundaries coincide, the Customs Site boundary has been drawn inside the Freeport boundary site for clarity on the Drawings. The Actual Customs Site will extend to the Tax Site/Freeport boundary line

C	08/04/21	Redline update	MO/GO
B	18/03/21	Redline update	MO/GO
A	12/01/21	Issued for CBC	MO/GO
REV	DATE	COMMENTS	AUTHOR / CHECKED

PROJECT TITLE		
Plymouth & South Devon Freeport		
DETAIL		
Proposed Langage Phasing Diagram		
DRAWING NUMBER (PROJECT-ORIGINATOR-ZONE-LEVEL-TYPE-ROLE-NUMBER)		
21086PF -LHC - 00 - 00 - DR - AR - 0105		
STATUS	STATUS DESCRIPTION	
S2		
REVISION	DATE	SCALE
C	31/08/21	1:2500@A1
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MINUTES OF THE MEETING OF THE LICENSING COMMITTEE HELD AT FOLLATON HOUSE, TOTNES ON TUESDAY 21 JUNE 2022

MEMBERS

- * Cllr D Brown - Chairman
- * Cllr R Rowe - Vice-Chairman

∅ Cllr J M Hodgson	∅ Cllr K Pringle
* Cllr T R Holway	∅ Cllr H Reeve
∅ Cllr K Kemp	∅ Cllr P C Smerdon
∅ Cllr D O'Callaghan	* Cllr J Sweett
* Cllr G Pannell	∅ Cllr D Thomas
* Cllr R Foss (substitute)	* Cllr B Taylor (substitute)

- * Denotes attendance
- ∅ Denotes apology for absence

Officers in attendance and participating:
Lawyer (via MS Teams); Licensing Contractor; Licensing Officer; and Senior Case Manager – Democratic Services

L.04/22 **CHAIRMAN'S ANNOUNCEMENTS**

The Chairman welcomed those in attendance and reminded Members that this meeting had been convened in light of the scheduled Committee meeting that had been due to take place on 20 June 2022 having been declared inquorate.

L.05/22 **DECLARATIONS OF INTEREST**

Members were invited to declare any interests in the items of business to be considered during the course of the meeting. There were no declarations made.

L.06/22 **PROPOSED AMENDMENT TO THE SOUTH HAMS HACKNEY CARRIAGE FARE TARIFF**

The Officer provided an update to the Committee on the proposed amendment to the South Hams Hackney Carriage Fare Tariff. The legislation allowed for a maximum period of two months for the fare to take effect and today was the last day a decision could be made on the last proposal. At the last meeting when this report was considered it included 4 options for a maximum fare as well as subsequent proposal option 5. Option 5 was miscalculated and the Committee decision was therefore made on the miscalculated figures. This report set out the 4 original options and included the recalculated option 5.

The Committee was attended by a representative of Totnes Taxis Ltd, who was invited to speak by the Chairman. Mr Routledge, one of the directors of Totnes Taxis, explained that at the last meeting the Committee voted for Option 5 which gave a 31% increase. The difference between tariff one and two was 48% and on the new figures a 36% difference. The rising fuel prices were highlighted and Mr Routledge suggested that drivers be allowed 10p for 10 miles or part thereof when the average fuel price rose above £1.80. Mr Routledge also pointed out a discrepancy between Plymouth (that started tariff two at 7pm) and South Hams (that started at 11 pm).

Following discussions with the representative, tariffs for 8 seater vehicles working unsocial hours was highlighted and clarification was sought on the 10 p for 10 miles.

During the debate Members raised that Mr Routledge had highlighted further issues and figures and sought for officers to re-visit these figures for consideration. The meeting was adjourned for 10 minutes to enable the officers to work through the figures.

Upon reconvening the meeting, the Committee was presented with a new alternative option 6, as outlined, with a 2 mile trip at £7.80 leading to a 30% increase and a 5 mile trip at £16.16 leading to a 33% increase.

It was then:

RESOLVED:

That the Licensing Committee **APPROVED:**

1. Modification to the table of maximum fares approved for consultation on 31 March 2022, as a result of the consultation responses received;
2. That unsociable hours start at 8 pm instead of 11 pm;
3. That the option chosen was option 6 as outlined above and to include the addition of an extra 10p per mile part thereof;
4. That, in the event that the current table of fares is modified, the date upon which the modifications to the maximum fares take effect shall be 21 June 2022.

(Meeting commenced at 10:00 am and concluded at 10:45 am).

Chairman

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**MINUTES OF A MEETING OF THE AUDIT AND GOVERNANCE COMMITTEE
 HELD IN THE COUNCIL CHAMBER, FOLLATON HOUSE, PLYMOUTH ROAD,
 TOTNES ON THURSDAY, 30th JUNE 2022**

Members in attendance			
* Denotes attendance			
∅ Denotes apology for absence			
*	Cllr L Austen (Chairman)	∅	Cllr J T Pennington
*	Cllr J Brazil	*	Cllr R Rowe (via Teams in a non-voting capacity)
*	Cllr D Brown (substituting for Cllr Rowe)	*	Cllr B Spencer (Vice-Chairman)
∅	Cllr J McKay	*	Cllr B Taylor

Member(s) also in attendance:
Cllrs H D Bastone and N Hopwood (via Teams)

Item No	Minute Ref No below refers	Officers and Visitors in attendance
All Items		Director of Strategy and Governance; Section 151 Officer (via Teams); Head of Finance; Democratic Services Manager; Head of Strategy & Projects (via Teams); Audit Manager; and Audit Specialist (via Teams)

AG.1/22 MINUTES

The minutes of the Audit Committee meeting held on 10 March 2022 were confirmed as a true and correct record.

AG.2/22 DECLARATIONS OF INTEREST

Members and officers were invited to declare any interests in the items of business to be considered during the course of the meeting, but none were made.

AG.3/22 CHAIRMAN’S ANNOUNCEMENTS

In recognition of the availability of Grant Thornton representatives, the Chairman advised that he had exercised his discretion to enable for an additional Committee meeting to be added to the Calendar of Meetings for 2022/23. The Chairman proceeded to inform the Committee that this additional meeting would be held on Thursday, 24 November at 2.00pm.

AG.4/22 GRANT THORNTON AUDIT PLAN FOR 2021-22

Consideration was given to a Grant Thornton report that sought to provide an overview of the planned scope and timing of their statutory external audit of the Council.

In the ensuing debate, particular reference was made to:

- (a) the significant increase in Audit Fees. Whilst noting the explanatory comments in the published agenda report and the conclusions of the Redmond Review, Members still felt that the Committee deserved a greater explanation from Grant Thornton representatives to justify what was in effect a 14% increase in Audit Fees; and
- (b) the Council's Investment Property portfolio. The Section 151 Officer confirmed that the Investment Property Monitoring Report was to be presented to the next Committee meeting to be held on 8 September 2022.

It was then:

RESOLVED

That the contents of the Grant Thornton Audit Plan for 2021-22 be noted.

AG.5/22 GRANT THORNTON REPORT: GUIDANCE FOR MEMBERS WHEN REVIEWING THE FINANCIAL STATEMENTS

A Grant Thornton report was considered that provided guidance to Members to support them in assessing how the Council was performing and to identify any areas of potential concern. The document would also help Members to identify areas of the Council's Final Accounts to ask further questions on when scrutinising the Statement of Accounts.

In discussion, Members welcomed the offer of Grant Thornton for a training session to be arranged and felt that this should be delivered as part of the May 2023 Member Induction Programme.

It was then:

RESOLVED

1. That the contents of the Grant Thornton Report: Guidance for Members when Reviewing the Financial Statements be noted; and
2. That Grant Thornton representatives be invited to deliver a Member Training session as part of the May 2023 Member Induction Programme.

AG.6/22

GRANT THORNTON REPORT: INFORMING THE AUDIT RISK ASSESSMENT FOR SOUTH HAMS DISTRICT COUNCIL 2021/22

The Committee considered a Grant Thornton report that covered some important areas of the auditor risk assessment for which Grant Thornton was required to make inquiries of the Committee in accordance with auditing standards.

In discussion, reference was made to significant risks that were not highlighted in the presented agenda report. In citing the waste and leisure contracts and some of the Capital Programme projects as being the most significant risks for the Council, a Member questioned why this was not reflected in the Grant Thornton report. As a consequence, the Member proceeded to question the value of this report. In reply, the Section 151 Officer advised that, as part of its Value for Money audit, Grant Thornton reviewed the Council's Risk Management Register and all of the reports that were published during the year and representatives would report on their conclusions in their end of year report. Furthermore, the Committee was reminded that it received six monthly update reports on the Council's Risk Register.

It was then:

RESOLVED

That the contents of the Grant Thornton Report: Informing the Audit Risk Assessment for South Hams District Council 2021/22 be noted.

AG.7/22

INTERNAL AUDIT ANNUAL REPORT 2021/22

Consideration was given to a report that sought to inform Members of the principal activities and findings of the Council's Internal Audit for 2021/22 (to 1 June 2022) by:

- Providing a summary of the main issues raised by completed individual audits;
- Showing the progress made by Internal Audit against the 2021/22 annual internal audit plan (as approved by the Committee at its meeting in April 2021); and
- Providing an opinion on the adequacy of the Council's control environment.

During discussion, the following points were raised:

- (a) For a number of audits undertaken, there was felt to be a lack of timescales included and it was therefore requested that this be rectified before the Committee next considered an Internal Audit report;

- (b) The Internal Audit Manager confirmed that the Internal Audit Team had now concluded its support to the Business Rates Grant Team. As a result, the Team was now able to provide greater focus to the delivery of the Council's Internal Audit Plan. A number of Members wished to commend the excellent work of officers in being able to distribute over £80 million worth of Grants during the pandemic to much needed businesses and individuals in the South Hams;
- (c) With regard to some of the Internal Audit findings that related to the Revenue and Benefits service area, the Committee was informed that officers were confident that a number of these would be mitigated once the newly appointed Head of Revenues and Benefits joined the employ of the Council in September 2022;
- (d) The Committee expressed some concerns that the following internal audit follow-ups had still only resulted in a 'limited assurance' audit opinion being given:
- Estates Property and Rents Follow-Up; and
 - Performance Management (Data Quality) Follow-Up;

In light of these concerns, it was **PROPOSED** and **SECONDED** and when being put to the vote declared **CARRIED** that:

'The Head of Assets and the Head of Strategy and Projects be requested to attend the next Audit Committee Meeting (to be held on 8 September) to provide an update on the progress being made on the recommendations generated by the Internal Audits into the Estates Property and Rents Follow-Up and the Performance Management (Data Quality) Follow-Up.'

Having been informed that this would be the last Audit Committee meeting that would be supported by the Internal Audit Manager, Members wished to put on record their thanks to him for his excellent level of service and the Committee proceeded to wish him every success for the future.

It was then:

RESOLVED

1. That overall and based on work performed during 2021/22 (and that of our experience of previous years' audits), it be noted that the Head of Internal Audit's Opinion is one of 'Reasonable Assurance' on the adequacy and effectiveness of the Authority's Internal Control Framework;
2. That the performance and achievements of the Internal Audit Team during 2021/22 be noted; and

3. That the Head of Assets and the Head of Strategy and Projects be requested to attend the next Audit Committee Meeting (to be held on 8 September) to provide an update on the progress being made on the recommendations generated by the Internal Audits into the Estates Property and Rents Follow-Up and the Performance Management (Data Quality) Follow-Up.

(Meeting commenced at 2:00pm and concluded at 3.15pm)

Chairman

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MINUTES of the MEETING OF THE DEVELOPMENT MANAGEMENT COMMITTEE
held in the **COUNCIL CHAMBER, FOLLATON HOUSE, TOTNES**, on **WEDNESDAY,**
6 July 2022

Members in attendance			
* Denotes attendance			
∅ Denotes apologies			
*	Cllr V Abbott	*	Cllr M Long
*	Cllr J Brazil	∅	Cllr G Pannell
*	Cllr D Brown	*	Cllr K Pringle
*	Cllr R J Foss (Chairman)	*	Cllr H Reeve
*	Cllr J M Hodgson	*	Cllr R Rowe (Deputy Chair)
∅	Cllr K Kemp	*	Cllr B Taylor
*	Cllr Thomas (substituting for Cllr Pannell)	*	Cllr McKay (substituting for Cllr Kemp) (for 5(a) only (Minute DM.15/22 refers)

Other Members also in attendance and participating:
Cllr J Pearce and Cllr H Bastone

Officers in attendance and participating:

Item No:	Application No:	Officers:
All agenda items		Head of Development Management; Senior Specialists, Specialists and Senior Case Manager – Development Management; Monitoring Officer; IT Specialists; and Democratic Services

DM.12/22 URGENT BUSINESS
The Chairman advised that there was no urgent business

DM.13/22 DECLARATIONS OF INTEREST
Members and officers were invited to declare any interests in the items of business to be considered and the following were made:

Cllr B Taylor declared an Other Registerable Interest in applications 5(a), (b), (c) (d) and (f) (minutes DM.15/22 below refer), he is a member of the South Devon AONB Partnership Committee. The Member remained in the meeting and took part in the debate and vote thereon.

Cllr J Brazil declared a Personal Interest in applications 5(f) (minutes DM.15/22 below refer), the applicants are personal friends. The Member remained in the meeting and took part in the debate and vote thereon.

DM.14/22 PUBLIC PARTICIPATION
The Chairman noted the list of members of the public, Town and Parish Council representatives, and Ward Members who had registered their wish to speak at the

meeting.

DM.15/22

PLANNING APPLICATIONS

The Committee considered the details of the planning applications prepared by the Planning Case Officers as presented in the agenda papers, and considered also the comments of Town and Parish Councils, together with other representations received, which were listed within the presented agenda reports, and **RESOLVED** that:

5a) 1059/22/FUL Car Park off Leonards Road", Leonards Road, Ivybridge. Parish: Ivybridge East

Development: Delivery of a new A1 food retail store circa. 1950m2 (shell only), associated 2-tiered carpark, highway works, pedestrian, cyclist and public realm enhancements

The Chairman handed over to the Monitoring Officer to read the following statement:

“The following application is one that has been submitted by the Council. It is not unusual for a council to apply for planning permission and for the same council to decide whether planning permission should be granted or not. The law expressly allows for this. As with any other planning application that the Committee has to consider, the Committee is required to determine the application on its merits having regard to the development plan and any material considerations. The planning officer’s report to the Committee makes it plain what considerations are material and equally those that are not. Any benefits that the Council as the applicant and landowner might accrue from the proposed development are entirely separate from the planning process and are not relevant to the decision about whether the planning application should be approved or not.”

Case Officer Update: The Case Officer shared images of the site area and highlighted the development outline to members, different views following the site visit from the car park in relation to the Town Hall and Glanville Mill, EV charging points, disabled parking, mother and baby spaces, cycle path and planting/seating area. Image showing the different elevations and existing vegetation and the materials to be used on the build will be Siberian larch timber blades which will fade to a grey and will be in keeping with the surroundings.

The Chairman adjourned the meeting at 10.17 am to address technical issues with the live streaming. The meeting reconvened at 10.30 am and the Case Officer proceeded from the beginning of the presentation for the benefit of the recording of the meeting.

The Case Officer highlighted the concerns expressed on the location and stated that a retail impact assessment had been undertaken for an edge of centre site and concluded that the Co-op would see a loss in sales, however the Tesco at Lee Mill would see the most impact.

There will be a temporary loss of car parking spaces and currently there are 227 spaces. The proposals will see 222 spaces with an overall loss of 5 spaces, 99 spaces allocated to Aldi with 90 minutes free parking and 115 spaces run by SDHC. The percentage of parking allocation will be 44% to Aldi and 56% to SHDC. A survey was undertaken and at peak times 99 spaces were available across Iybridge. A mitigation scheme will be put in place during the construction period of 6 – 9 months or until the lower deck is open with a free shuttle bus from station car park, promotion of existing car parks and tariffs changed to allow shoppers to stay longer.

There will be public realm improvements with a new skate park and tree planting and vegetation on site. The JLP seeks to avoid tree loss however building on the car park cannot be secured without the loss of trees. £172k of mitigating tree planting on site and in other areas of Iybridge. Report submitted on flooding in this area and in order to overcome concerns the swale areas of land lower and can accommodate access water. Image showing the section of the swale. Drainage must be dealt with on site and in terms of impact potential flooding.

Police commented that they did express concerns on the development and applicants will have adequate lighting and trolleys locked. The applicant will undertake a review within a year of opening to ascertain what parts of the car park require CCTV.

This is supported by planning policy, there will be trade diversion, no significant competitive between Aldi and other retailers, car parking has been mitigated, drainage mitigated with a swale, no objections from the environment agency or flood agency. The Case Officer concluded that overall the proposals were in line with planning policies and the location supported by planning policy.

Speakers included: Objector – Jo Burgess (slides); Supporter – Martin Simpson; Parish Council – Cllr Hladkij (slides); Ward Members - Cllrs Abbott (slides) and Pringle

Following questions to speakers it was felt that an independent person should be appointed to undertake the assessment to review both reports before making a final assessment. It was reported that no other site was highlighted for this development. They were not asked to look at sustainable materials for the development which would also have cost implications. They were offering a range of flexible car parking tariffs to give people more flexibility when they visit Iybridge. They looked at several layouts for the site and wanted to maintain the car parking numbers and unfortunately there would be a loss of trees.

The Ward Members thanked members for attending the site visit, they said that this is not just a commuter town, it was their home. Iybridge has the lowest number of car parking spaces in comparison to other towns in the South Hams area. Car parking will be further impacted by construction workers taking up spaces and the impact on the loss of parking on local businesses, and people trying to access NHS services. An Aldi built on the significant car parks in towns like Totnes, Kingsbridge, Salcombe or Dartmouth would take away from each

town. Experts were saying two different things regarding the veteran tree and it is crucial to understand whether the tree is veteran before development takes place. Members, when stood by the Co-op store, saw green landscape and this will be replaced by a two-storey building. When the bridge was renovated businesses saw a reduction in footfall which resulted in a shop not opening on the second day. The town has regenerated and recovered from covid and there is only one empty shop on Fore Street. Iybridge has regenerated: do not take away the livelihood of retailers and there will be a significant impact on the loss of car park for the Breast Screening Unit and the Thursday market.

During the debate, Members felt that this scheme was not supported within the Iybridge Neighbourhood Plan and would negatively impact on an already thriving Town Centre. Members questioned whether there was a more suitable site for this development. Concerns raised on the veteran trees and wildlife and the impact of the removal of trees. Members questioned whether appropriate assessments on flood risk, economic impact and the age of the veteran tree had been undertaken. The loss of car parking was of concern and the impact of the proposed mitigation during construction would have on the Town Centre. Members felt that appropriate assessments had not taken place on the viability of this scheme.

Recommendation: Approval

Committee Decision: The Head of Planning in consultation with Cllrs Hodgson, Brazil, Chairman and Vice-chair be authorised to finalise the reasons for the refusal of planning permission based on the Committee's concerns about parking provision, the unacceptable impact on town centre businesses, the design and retail building not supporting the local vallecular and would cause harm to the visual appearance to site and aesthetics; and the loss of trees as a result of the development being likely to have a significant impact to biodiversity.

5b) 1430/21/ARM "Site at SX 775 424", East of Creek Close, Frogmore Parish: Frogmore and Sherford

Development: READVERTISEMENT (Revised plans received) Application for approval of reserved matters following outline approval 3880/17/OPA

Councillor Rowe chaired this application.

Case Officer Update: Two updates since the report written. The neighbourhood plan has been through a referendum and no change to the report. Cirl Bunting mitigation has been covered by an obligation in a Section 106 Agreement and therefore the proposed condition referred to in the report can be

omitted.

Speakers included: Supporter – Alex Perraton; Parish Councillor – Cllr Smith

Following questions to speakers, it was reported that the agricultural access retained due to the narrowness of Mill Lane for large vehicles. There will be occasional access to that field.

The Ward Member questioned the safety of large farm machinery accessing the field and the layout of the site.

In response to questions from speakers it was reported that highways have not objected to this application.

During the debate Members discussed the layout of the site and agricultural access. The meeting was adjourned at 14.44 to ensure the right information was being provided. The meeting reconvened at 14.46 and officers reported that they were happy with the overall layout and that the access to the field would be very occasional.

Recommendation: Grant Permission

Committee decision: Grant Permission

Conditions:

1. Time limit (2 years) – as per the outline condition
2. Accordance with plans
3. Highways engineering details
4. Drainage (Installed in accordance with plans)
5. Compliance with Ecology report/LEMP
6. Biodiversity net gain
7. External lighting
8. Compliance with DEV32
9. Materials details - stonework, render and slate prior to commencement
10. Remove PD rights

**5c) 0746/22/FUL "Houndall Farm", Sparkwell
Parish: Sparkwell**

Development: Construction of replacement dwelling in place of barn with Class Q approval under 1567/21/PDM

Case Officer Update: This application is a full planning application for the demolition of the agricultural dwelling, and the construction of a replacement three-bedroom, two-storey dwelling.

Following questions from members it was reported the ridge height of the dwelling on the existing building will be higher by 4m. The fact the development cannot be seen isn't a reason for granting permission. On this site the principle of a

residential dwelling is already established for Class Q permission. Members questioned the size of the dwelling and it was reported by the agent that the size of the new building was not significantly larger.

Speakers included: Supporter – Amanda Burden; Ward Member
– Cllr Baldry.

In response to questions to speakers it was reported that the ridge height was 9.5 m and the Scandinavian design of the build allows for better ventilation. The metal roof design to keep the agricultural feel of the building.

The Ward Member reported that he had enormous sympathy for Mr Kendrick and his needs for a more accessible dwelling, however the Ward Member said that personal circumstances were not material. The Ward Member reported that the Parish Council have raised objections with the increase in size and sustainability of the development. The Ward Member further reported that the development had limited accessibility and was not sustainable and therefore vote against the officer recommendations.

During the debate Members identified the main issues as the increase in size and whether detrimental effect on the landscape and heard from the officer this dwelling cannot be seen. Officers reported that the dwelling was now 18% bigger in volume metric and this was seen as an acceptable increase. Members also welcomed a high-quality eco-house.

Recommendation: Conditional Approval

Committee decision: Conditional Approval

Conditions:

Standard time limit
Accord with plans
Removal of permitted development rights
Walls to be natural timber
Details of materials
No external lighting
Accord with drainage details
Details of ASHP prior to installation
Details of noise mitigation prior to occupation
Accord with ecology survey
Unsuspected contamination

**5d) 3026/21/FUL "Vineyard North West of Buckland",
Buckland, Bantham
Parish: Thurlestone**

Development: Temporary installation of two rows of Paraweb Fencing to protect planted windbreaks.

This application deferred to the next meeting.

5e) 3027/21/FUL

**"Vineyard North of Lower Aunemouth", Bantham
Parish: Thurlestone**

Development: Temporary installation of two rows of Paraweb Fencing to protect planted Windbreaks

This application deferred to the next meeting.

5f) 3186/20/VAR

**"The High Nature Centre", East Portlemouth
Parish: East Portlemouth**

Development: Variation of conditions 3, 5 and 23 of planning consent 20/0785/12/F

Case Officer Update: Received a letter support saying that the site was very environmentally friendly. The application seeks variation of conditions numbered 3, 5 and 23 of Planning Consent 20/0785/12/F. Those conditions provided:

3. The use hereby authorised shall cease not later than 10 years from the date of this permission. On cessation, the land shall be returned to agricultural purposes, the Roundhouse, yurts and all other structures except for the polytunnels shall be permanently removed from the land.

5. The polytunnels shall be used for B1 and D1 purposes only of the Schedule to the Town and Country Planning (Use Classes) Order 2005 or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order. Notwithstanding these permitted uses, no use of plant, machinery, or other mechanical equipment is permitted unless otherwise agreed in writing in advance with the Local Planning Authority. Reason: To prevent noise and disturbance harming the amenity of neighbours and the tranquillity of the landscape.

23. No further chattels, caravans, tents, yurts or other temporary or moveable structures shall be positioned on the land without the prior written approval of the Local Planning Authority. There are environmental concerns as this is in AONB.

In response to questions raised it was reported that in the opinion of the landscape officer the high levels of recreational use would continue to impact on the condition of the landscape, with an increase in car parking, camping and caravan sites.

The Case Officer clarified for the Committee the officer recommendation for refusal was because the scope of Section 73 had been subject to a number of court cases that had adopted a restrictive interpretation. As a result the Officer explained that a section 73 application cannot extend the scope of the base permission. The original planning application established the base permission, in this case "Construction of roundhouse and siting of five yurts to be used in association with nature holiday enterprise. Provision of additional facilities for educational, recreational and business activities together with associated carparking

landscaping works". Accordingly, in terms of the current application, what was being proposed by way of changes to Condition 3, would be acceptable within the terms of section 73. Likewise Condition 5 if the additional of food and drink was connected with the recreational and business use of the base permission. Members were advised that the difficulty was in the changes sought to be made to Condition 23. Members felt disappointed that the local authority did not contact the applicant after they have followed the process and then for the application to be refused. In light of this, the Monitoring Officer suggested different scenarios for members to consider which included the applicant withdrawing that part of the Application relating to the variation of Condition 23.

The Chair adjourned the meeting at 15.46 for officers to discuss with the applicant the withdrawal of Condition 23. The meeting reconvened at 15.53 pm. Officers reported that the applicant had agreed to withdraw variation Condition 23 from this application.

Speakers included: Objector – John Miller (slides); Supporter - Catherine Middleditch (slides); Parish Councillor – Cllr Lawson; Ward Member – Cllr Brazil

In response to questions to speakers the main objection was the breaches and noise pollution during the summer months. Members highlighted the good social outreach work undertaken with children and young adults at the centre. With regard to noise complaints, it was reported that the centre had never been visited by an Enforcement Officer. It was further reported that it was extremely rare for the centre to hold a party.

The Ward Member reported that he understood the concerns of local residents, however he said that he represented the wider community and there was a lot of support for this application. He referred to the social benefits that the development has brought to the area and that the application ticked all the boxes and should be supported.

During the debate Members said that the original development had been a really important offer to the area and provided a real social service, important to children and young people and their families. Members highlighted a real concern for nearby neighbours and asked whether it would be possible to add a condition on the use of the field kitchen to alleviate the noise. Officers reported that they could impose a new condition on the hours of use for the field kitchen, but the question of noise nuisance was a matter for Environmental Health to address under its powers. In discussion members asked whether a dawn to dusk would be appropriate Officers advised that conditions needed to satisfy 6 tests and the difficulty with such a dawn to dusk condition is that the times vary from day to day and officers therefore encouraged members to consider a condition that was more precise. Accordingly, it was suggested that the Field kitchen close by 10 pm would be a good compromise.

Recommendation: Refusal

Committee decision: The Head of Planning be authorised to approve the

application in consultation with the proposer and seconder, Chairman and Vice-Chair.

DM.16/22 **PLANNING APPEALS UPDATE**

Members noted the list of appeals as outlined in the presented agenda report.

DM.17/22 **UPDATE ON UNDETERMINED MAJOR APPLICATIONS**

Members noted the update on undetermined major applications as outlined in the presented agenda report.

(Meeting commenced at 10:00 am and concluded at 17:18 pm, with a 10 minute break at 12:20 pm and 4:15 pm, with lunch at 1:20 pm)

Chairman

Voting Analysis for Planning Applications – DM Committee 6th July 2022

<i>Application No:</i>	<i>Site Address</i>	<i>Vote</i>	<i>Councillors who Voted Yes</i>	<i>Councillors who Voted No</i>	<i>Councillors who Voted Abstain</i>	<i>Absent</i>
1059/22/FUL	"Car Park off Leonards Road", Ivybridge	Refusal	Cllrs Abbott, Brazil, Brown, Foss, Hodgson, Long, McKay, Reeve, Rowe, Smerdon, Taylor and Thomas (12)			
1430/21/ARM	"Site at SX 775 424", East of Creek Close, Frogmore	Approval	Cllrs Abbott, Brazil, Brown, Long, Reeve, Rowe, Smerdon, Taylor and Thomas (9)		Cllrs Foss and Hodgson (2)	Cllr McKay (1)
0746/22/FUL	"Houndall Farm", Sparkwell	Approval	Cllrs Abbott, Brazil, Brown, Foss, Hodgson, Long, Reeve, Rowe, Smerdon and Taylor (10)		Cllr Thomas (1)	Cllr McKay (1)
3026/21/FUL	"Vineyard North West of Buckland", Buckland, Bantham	Deferred				
3027/21/FUL	"Vineyard North of Lower Aunemouth", Bantham	Deferred				
3186/20/VAR	"The High Nature Centre", East Portlemouth	Approval	Cllrs Abbott, Brazil, Brown, Foss, Hodgson, Long, Reeve, Rowe, Smerdon, Taylor and Thomas (11)			Cllr McKay (1)

**MINUTES OF A SPECIAL MEETING OF
THE EXECUTIVE
HELD IN THE COUNCIL CHAMBER ON TUESDAY, 12 JULY 2022**

Members in attendance:			
* Denotes attendance			
∅ Denotes apologies for absence			
*	Cllr K J Baldry	*	Cllr T R Holway
*	Cllr H D Bastone (Vice Chairman)	*	Cllr N A Hopwood
*	Cllr J D Hawkins	*	Cllr J A Pearce (Chairman)

Non-Executive Members also present either in person or remotely for all or part of the meeting: Cllrs Abbott, Austen, Birch, Foss, Long, McKay, Rowe, Spencer and Sweett
--

Officers in attendance and participating:		
All items		Chief Executive; Deputy Chief Executive, Section 151 Officer; Director of Strategy and Governance, Monitoring Officer (via Teams); Democratic Services Manager; and Head of Waste and Environmental Services

E.25/22 DECLARATIONS OF INTEREST

Members and officers were invited to declare any interests in the items of business to be considered during the course of this meeting, but there were none made.

E.26/22 EXCLUSION OF PUBLIC AND PRESS

It was then:

RESOLVED

That in accordance with Section 100(A)(4) of the Local Government Act 1972, the public and press be excluded from the meeting during consideration of the following item of business as the likely disclosure of exempt information as defined in paragraph 3 of Schedule 12A to the Act is involved.

E.27/22 WASTE AND RECYCLING SERVICES CONTRACT UPDATE

Consideration was given to an exempt report that provided an update on the status of the Waste and Recycling Services Contract. It was noted that the report was an urgent report and that it had been agreed with Chairman of the Overview and Scrutiny Committee that the Call-in provisions should not apply of this report.

Following a lengthy debate during which widespread support was expressed for the proposed way forward and the strictly confidential nature of the contents of the published agenda report was reinforced, Members expressed a wish to re-admit the public and press to the meeting in advance of the vote on the motion being taken.

As a result, it was then:

RESOLVED

That the public and press be re-admitted to the meeting.

It was then:

RESOLVED

1. That the work of the Waste Working Group in guiding the Council's strategic approach to waste services and the progress made in negotiations with the Council's waste contractor (FCC) be recognised;
2. That Council be **RECOMMENDED** to
 - a. agree to terminate the contract by mutual agreement, resulting in the transfer of all services currently provided under the contract back to the Council with effect from 3 October 2022;
 - b. delegate authority to the Head of Paid Service (Chief Executive) and Director of Customer Services Delivery, in consultation with the Leader and Lead Member for Waste and Recycling Services, to:
 - i. conclude the negotiations based on the outline of draft settlement terms set out in Appendix A and to finalise the settlement agreement and any other necessary agreements.
 - ii. formulate and implement a mobilisation plan for the Council's delivery of the service; and
 - iii. keep the Waste Working Group informed on progress.
 - c. transfer the value of the 2021/22 deductions to the sustainable waste management earmarked reserve, as part of the closure of the 2021/22 accounts, in order to contribute to anticipated set up costs of bringing the service back in house as outlined in section 4 of the presented report.
 - d. allocate all additional payments from the waste contractor in 2022/23, to contributing to the anticipated set up costs of bringing the service back in house as outlined in section 4 of the presented report.
 - e. approve the use of the business rate retention reserve to fund the anticipated revenue costs during the transition period as outlined in section 4 of the presented report.
 - f. allocate a budget for one-off set up costs, as outlined in Section 4 of the presented report

3. That it be noted that the Lead Member will bring a further report to the Executive in September 2022 setting out an operational plan designed to stabilise the service and the changes required to reduce the current operating costs in the medium term.
4. That the intention for the Head of Paid Service to make the necessary organisational changes to enable a seamless handover of the service be noted.
5. That that the Section 151 Officer be requested to bring a further report to the Executive in September 2022 on the ongoing revenue costs of delivering the service in-house (after the transitional period) and the impact on the Council's Medium Term Financial Strategy (MTFS).

(Meeting commenced at 9.30 am and concluded at 11.00 am)

Chairman

(NOTE: THESE DECISIONS, ARE NOT SUBJECT TO THE CALL-IN PROVISIONS OF THE OVERVIEW AND SCRUTINY PROCEDURE RULES).

MINUTES of the MEETING OF THE DEVELOPMENT MANAGEMENT COMMITTEE
held in the **COUNCIL CHAMBER, FOLLATON HOUSE, TOTNES**, on **WEDNESDAY,**
27 July 2022

Members in attendance			
* Denotes attendance			
∅ Denotes apologies			
*	Cllr V Abbott	*	Cllr M Long
*	Cllr J Brazil	*	Cllr G Pannell
*	Cllr D Brown	∅	Cllr K Pringle
*	Cllr R J Foss (Chairman)	*	Cllr H Reeve
*	Cllr J M Hodgson	*	Cllr R Rowe (Deputy Chair)
∅	Cllr K Kemp	*	Cllr B Taylor
*	Cllr P Smerdon (substitute for Cllr Pringle)		

Other Members also in attendance and participating:
Cllr J Pearce

Officers in attendance and participating:

Item No:	Application No:	Officers:
All agenda items		Principal Planning Officers; Senior Specialists, Specialists and Senior Case Manager – Development Management; IT Specialists; and Democratic Services

DM.18/22 MINUTES
The minutes of the meeting of the Committee held on 25 May and 1 June 2022 were confirmed as a correct record by the Committee.

DM.19/22 DECLARATIONS OF INTEREST
Members and officers were invited to declare any interests in the items of business to be considered and the following were made:

Cllr B Taylor declared an Other Registerable Interest in applications 6(a), (b) and (c) (minutes DM.21/22 below refer), he was a member of the Member of South Devon AONB Partnership Committee. The Member remained in the meeting and took part in the debate and vote thereon.

DM.20/22 PUBLIC PARTICIPATION
The Chairman noted the list of members of the public, Town and Parish Council representatives, and Ward Members who had registered their wish to speak at the meeting.

DM.21/22 PLANNING APPLICATIONS
The Committee considered the details of the planning applications prepared by the Planning Case Officers as presented in the agenda papers, and considered

also the comments of Town and Parish Councils, together with other representations received, which were listed within the presented agenda reports, and **RESOLVED** that:

**6a) 4175/21/VAR Sherford Housing Development Site, East
Sherford Cross To Wollaton Cross Zc4, Brixton,
Devon
Parish: Brixton**

**Development: READVERTISEMENT (Additional EIA Information Received)
Application to amend conditions 48 & 50 of 0825/18/VAR, to vary conditions
relating to employment floor space in respect of the Sherford New
Community.**

Case Officer Update: The Case Officer highlighted to the committee a submission received from the Plympton St Maurice Society on traffic issues in which they feel have not been sufficiently addressed. The Traffic Officer who considered the proposal felt it did not alter the impact to the residents of Plympton St Maurice. The application didn't seek to change the existing masterplan and was generated by a need to reflect market changes and the Freeport.

In response to questions raised by Members, it was reported that there was no proposal to drop the school. Members raised concerns on the change of usage and increase in vehicle movement across the site and impact to the residents and local community. Members wanted to see evidence and a fuller assessment of the commercial need at Sherford. Officers reported that there was a strong demand across all sectors for business units. There was no availability in the south west part of South Hams and Plymouth and this is the last appropriate place for large scale commercial premises and JLP highlights this as an area.

Speakers included: Objector - Paul Ottewell; Supporter – Andy Tinnelly;
Ward Members – Cllr Brown

Following questions to speakers it was reported that traffic issues in the Plympton St Maurice area have been raised with the consortium and Plymouth City Council. Member's sought clarification on the roads that would be impacted and officers reported that the majority of traffic would flow through the Deep Lane Junction. Member's questioned which company would take up the commercial space and it was reported that a local marine company were interested in the space.

The Ward Councillor reported that this application here today for consistency and will be speaking on behalf Brixton Parish Council who have requested a potential condition to be added regarding the movement of traffic from A38. Brixton Parish Council do not object to this application. Sherford is a long term project and since conception in the 1990s the application on this site has changed over that time and the changes need to be reflected. The Ward Councillor sympathised with the objector in terms of traffic, however felt that it didn't have significant material consideration on this application. This is a good idea and will bring a lot of

investment to the site and employment. Since covid and a change to more flexible working has seen less of a need for office space and this application is moving with the times. This is important for the Freeport.

During the debate, some Members felt this was a good employment opportunity for the area and supports the Freeport, however traffic was of concern. Members felt that a condition for a no drive through restaurant near the Deep Lane junction would help ease traffic congestion. Some Members felt that this application was more about allowing the Freeport rather than change in use of commercial space. Members had sympathy with the objector(s) and the concerns raised regarding vehicular movements through Plympton St Maurice, however recognised that the existing S106 obligations around this was within the remit of the highway authorities and not SHDC and that continued pressure should sought be applied to the concerning parties to seek to resolve this outstanding matter.

Concerns on climate emergency where also raised, as for the people who will move into the new town we are allowing a much bigger and much worse carbon footprint.

Recommendation: To delegate authority to the Head of Development Management, in consultation with the Chairman of the Development Management Committee to grant conditional approval subject to a S106 with Plymouth City Council and Devon County Council, and to; 1. Make minor alterations to the planning conditions set out at the end of the report to ensure consistency and appropriate cross referencing to the S106; and 2. In the event that the S106 agreement remains unsigned six months after this resolution, that the application is reviewed by the Head of Development Management, in consultation with the Chairman of the Committee, and if no progress is being made delegated authority is given to the Head of Development Management to refuse the application in the absence of an agreed S106 agreement.

Committee decision: To delegate authority to the Head of Development Management, in consultation with the Chairman of the Development Management Committee in conjunction with Ward Members to grant conditional approval subject to a S106 with Plymouth City Council and Devon County Council, and to; 1. Make minor alterations to the planning conditions set out at the end of the report to ensure consistency and appropriate cross referencing to the S106 including an amendment to condition 48 that adds a further restriction preventing drive through takeaways being located within the commercial area – Reason: to ensure highway safety and the function of the highway network are maintained; and 2. In the event that the

S106 agreement remains unsigned six months after this resolution, that the application is reviewed by the Head of Development Management, in consultation with the Chairman of the Committee, and if no progress is being made delegated authority is given to the Head of Development Management to refuse the application in the absence of an agreed S106 agreement.

Conditions: The original outline conditions as imposed upon 0825/18/VAR to be reiterated, but amended as necessary to reflect the proposed amendments (included in full at the end of the report).

6b) 1159/21/FUL Land at West End Garage, Main Road, Salcombe Parish: Salcombe

Development: Erection of 21 residential dwellings (including 30% affordable homes) with associated amenities and infrastructure (Resubmission of 3320/20/FUL).

Case Officer Update: This application was considered in June and the committee were unhappy with certain aspects of the development and therefore deferred the application. Meetings have taken place with the developer on the concerns raised which included the room sizes in the apartment building, some of the garden sizes and the level of renewal energy provided. Officers feel that these concerns have been addressed.

Members raised concern over the lack of a pedestrian crossing. The Highways Officer outlined in the report that the number of dwellings do not support the need for a crossing and will leave the crossing well underutilised.

Speakers included: Supporter – Stephen Thompson; Ward Members – Cllrs Pearce and Long.

The Ward Members both reported that the deferment improved and addressed the issues raised. However disappointed in the response received from highways and once this development up and running will go back to highways. Also highlighted that this is a strategic site from a landscape perspective and would like to public realm trees to be TPOd to be preserved.

During the debate concerns were raised on the pedestrian crossing and whether Section 106 could secure this at a later date. Members also wanted to ensure adequate planting and landscape management plan in place for this development. Officers highlighted that condition 13 requires a landscaping plan pre commencement.

Recommendation: Delegate to the Head of Planning to approve conditionally subject to the conditions below and

subject to prior completion of an acceptable s106 agreement.

Committee decision: Delegate to the Head of Planning to approve conditionally subject to the conditions below and subject to prior completion of an acceptable s106 agreement. To include a mechanism to TPO newly planted trees.

Conditions:

1. Time Limit
2. Approved plans
3. Construction Management Plan (pre commencement)
4. Drainage; surface and foul (pre commencement)
5. CEMP (pre commencement)
6. LEMP (pre commencement)
7. Accord with tree survey
8. Accord with ecology report
9. Bird/bat/box provision
10. Repeat badger survey
11. No clearance in nesting season
12. Landform/Engineering Plan (clearly showing the details of levels and design of any retaining feature on the western boundary) (pre commencement)
13. Hard and Soft Landscaping Plan (inc. boundary treatments/enclosures) (pre commencement)
14. Exceptional planting contract
15. External materials, finish and colour (including windows and doors)
16. EV Charging inc. 7kw point for each property
17. Comply with Energy Statement
18. Waste Management Plan (pre commencement)
19. Unexpected Land Contamination
20. Parking provision
21. Highway details
22. Off-site highway works
23. Provision of site access
24. Road survey (pre commencement)
25. Employment and Skills Plan (pre commencement)
26. Removal of PD
27. Locked gates
28. No additional lighting

**6c) 1424/22/VAR Waves Edge, Challaborough
Parish: Bigbury**

Development: Application for variation of condition 2 (approved plans) of planning consent 4416/17/FUL (APP/K1128/W/18/3202068) (Retrospective)

Case Officer Update: A further discussion with the agent since the chair's brief and the agent happy to accept condition to use an anti-reflective coating to the roof windows.

Speakers included: Ward Members – Cllr Taylor.

The Ward Member had received objections from the parish council and neighbours regarding the massive reflection from the roof lights. This is a retrospective planning application and why a bungalow needs so many roof lights. This is affecting the neighbours and the increase in roof lights will cause light pollution.

During the debate Members discussed the roof lights and the concern on light pollution in this area. Members supported the applicant's use of reflective cover to reduce the glare to neighbours, however did request whether a further condition be included on blinds and officers reported that this would be difficult to enforce. Members requested applicants to put on the reflective screen within a month and to be maintained for perpetuity.

Recommendation: Conditional approval with additional condition for anti-reflective coating to roof windows as per Case Officer update.

Committee decision: Conditional approval with additional condition for anti-reflective coating to roof windows as per Case Officer update.

DM.22/22 **PLANNING APPEALS UPDATE**
Members noted the list of appeals as outlined in the presented agenda report.

DM.23/22 **UPDATE ON UNDETERMINED MAJOR APPLICATIONS**
Members noted the update on undetermined major applications as outlined in the presented agenda report.

(Meeting commenced at 10:00 am and adjourned at 10.13 am to address technical issues and resumed at 10.20 am. Meeting concluded at 13:05 pm, with a 10 minute break at 11.49 pm)

Chairman

Voting Analysis for Planning Applications – DM Committee 27th July 2022

<i>Application No:</i>	<i>Site Address</i>	<i>Vote</i>	<i>Councillors who Voted Yes</i>	<i>Councillors who Voted No</i>	<i>Councillors who Voted Abstain</i>	<i>Absent</i>
4175/21/VAR	Sherford Housing Development Site, East Sherford Cross To Wollaton Cross Zc4, Brixton, Devon	Approval	Cllrs Abbott, Brown, Foss, Long, Reeve, Rowe, Smerdon and Taylor (8)	Cllrs Hodgson and Pannell (2)	Cllr Brazil (1)	
1159/21/FUL	Land at West End Garage, Main Road, Salcombe	Approval	Cllrs Abbott, Brazil, Brown, Foss, Hodgson, Long, Pannell, Reeve, Rowe, Smerdon, Taylor (11)			
1424/22/VAR	Waves Edge, Challaborough	Approval	Cllrs, Brazil, Brown, Foss, Hodgson, Pannell, Reeve, Rowe and Smerdon (8)	Cllrs Abbott, Long and Taylor (3)		

PUBLIC QUESTIONS AT COUNCIL MEETINGS

There is a period of 15 minutes at meetings of the Full Council (excluding the Annual Meeting) during which members of the public can ask questions about items on the agenda.

Any member of the public who wants to ask a question should ensure that the question:

- a) is no more than 50 words in length;
- b) is not be broken down into multiple parts;
- c) relates to an item included on the agenda; and
- d) is suitable to be considered. A question will not be suitable if, for example, it is derogatory to the Council or any third party; relates to a confidential matter; it is about a specific planning matter; or it is substantially the same as a question asked in the past six months.

Questions should be sent to Democratic Services (Democratic.Services@swdevon.gov.uk) by 1.00pm on the Monday before the meeting (the deadline will be brought forward by a working day if affected by a bank holiday). This will allow a detailed response to be given at the meeting. If advance notice of the question cannot be given the Chairman of the meeting has the discretion to allow questions on matters that are felt to be urgent;

For any further advice on questions to Full Council, or to request a copy of the full Public Questions Procedure Rules, please contact Democratic Services (Democratic.Services@swdevon.gov.uk)

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