

South Hams Executive



Title:	Agenda
Date:	Thursday, 26th January, 2023
Time:	10.00 am
Venue:	Council Chamber - Follaton House
Full Members:	<p style="text-align: center;">Chairman Cllr Pearce</p> <p style="text-align: center;">Vice Chairman Cllr Bastone</p> <p><i>Members:</i> Cllr Baldry Cllr Holway Cllr Hawkins Cllr Hopwood</p>
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

1. Minutes	1 - 10
to approve as a correct record the minutes of the meeting of the Executive held on 1 December 2022;	
2. Urgent Business	
brought forward at the discretion of the Chairman;	
3. Division of Agenda	
to consider whether the discussion of any item of business is likely to lead to the disclosure of 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. Public Question Time	11 - 12
a period of up to 15 minutes is available to deal with questions submitted to the Council in accordance with the Executive Procedure Rules;	
6. Executive Forward Plan	13 - 16
7. Month 8 Revenue Budget Monitoring 2022/2023	17 - 30
8. Capital Programme Monitoring 2022/23	31 - 38
9. Draft Revenue and Capital Budget Proposals for 2023/24	39 - 94
10. Write Off Report 2021/22	95 - 104
11. Council Tax Reduction Scheme 2023-24 and other Council Tax Discounts and Premiums	105 - 116
12. Housing Crisis - Changes to Financial Assistance and Enforcement Policies.	117 - 180
13. UK Shared Prosperity Fund & Rural England Prosperity Fund	181 - 192
14. Better Lives for All - Quarter 3 Integrated Performance Management Report	193 - 218

15.	Modbury Neighbourhood Plan	219 - 326
16.	Reports of Bodies	327 - 352

(a) Salcombe Harbour Board: 14 November 2022 Meeting

Minute Recommendation:

SH.25/22 'Governance Arrangements – Memorandum of Understanding with the Executive'

*That the Board agrees to its Chairman signing the Memorandum of Understanding with the Executive in relation to the exercise of the Executive's Harbour functions and its role as Duty Holder for the purposes of the Port Marine Safety Code and **RECOMMENDS** that the Executive authorise the Leader of Council to also sign it on behalf of the Executive.*

(NB. a report has also been produced to be read in conjunction with this minute recommendation)

(b) Overview and Scrutiny Committee Meeting: 12 January 2023 Meeting – to follow

Minute Recommendation:

O&S.41/22: 'Task and Finish Group Updates: EV Strategy Task and Finish Group: Concluding Report'

*That the Overview and Scrutiny Committee **RECOMMEND** the content of the draft EV Strategy (as set out at Appendix A to the published minutes) to the Executive and that officers be requested to undertake a public consultation exercise on the Strategy in line with the Council's Consultation and Engagement Strategy.*

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**MINUTES OF A MEETING OF
THE EXECUTIVE
HELD IN THE COUNCIL CHAMBER ON THURSDAY 1 DECEMBER 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, Birch, Brazil, Hopwood, Long, McKay, O’Callaghan, Pringle, Spencer, Sweett, Taylor and Thomas

Officers in attendance and participating:		
All items		Senior Leadership Team; Monitoring Officer; Democratic Services Manager; Assistant Director – Planning; Head of Housing; Deputy Section 151 Officer; Head of Revenue and Benefits; Senior Specialist – Benefits; Head of Strategy, Corporate Projects and Partnerships; Customer Service Improvement Manager; Head of Waste and Environmental Services; Senior Specialist – Parking; Specialist – Climate Change; Head of Organisational Development; Head of Assets and Senior Specialist - Engineering

E.51/22 MINUTES

The minutes of the Executive meeting held on 13 October 2022 were confirmed as a true and correct record.

E.52/22 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.53/22 PUBLIC QUESTION TIME

The Leader informed that no public questions had been received in accordance with the Executive Procedure Rules.

E.54/22 EXECUTIVE FORWARD PLAN

Members were presented with the most recently published version of the Executive Forward Plan that set out items on the agenda for Executive meetings for the next four months and duly noted its contents.

In discussion, the following points were raised:

- (a) Members noted that the Quarter 1 and Quarter 2 Write Off Report for 2022/23 had since been deferred for consideration to the next Executive meeting (to be held on 31 January 2023);
- (b) The Executive expressed its wish for the 'Planning Improvement Plan – Six Month Progress Review' to be considered before the May 2023 local elections.

E.55/22

REVENUE AND CAPITAL BUDGET PROPOSALS FOR 2023/24 TO 2025/26

Consideration was given to a report that outlined the draft revenue and capital budget proposals for 2023/24 to 2025/26.

In discussion, particular reference was made to:

- (a) the current capital bidding process. At the request of the Executive, officers set out the current capital bidding process and advised that, in future years, it would be amended to enable greater Member input at an earlier stage. This point was welcomed and the Leader asked that, if any Members had any requests that they wished to be considered for inclusion for the 2023/24 Financial Year, then they must let either Members of the Executive or their Group Leader know at the earliest possible opportunity;
- (b) the increases in external audit fees. Despite receiving an explanation from the Section 151 Officer regarding the increases in external audit fees, some Members were of the view that audit process for all local authorities were no longer fit for purpose or represented good value for money;
- (c) recommendation 5. In reply to a question, the Chief Executive wished to firstly apologise to the Chairman of the Overview and Scrutiny Committee that he had not been made aware of the proposal for an Advisory Committee to be established to consider the draft Budget Proposals for 2023/24 prior to the agenda papers having been published. For clarity, the intention of this recommendation was to enable for all non-Executive Members to have an opportunity to consider the draft Budget for 2023/24 which, in light of the recent changes in Committee membership, would not now have been possible via a joint meeting of the Overview and Scrutiny and Development Management Committees.

It was then:

RESOLVED

- i) That the forecast budget gap for 2023/24 of £195,616 (1.7% of the Projected Net Budget for 23/24 of £11.43million) and the position for future years be noted;
- ii) That the timescales for closing the budget gap in 2023/24 and future years to achieve long term financial sustainability be noted;
- iii) That the current level of Unearmarked and Earmarked Reserves (as set out in Appendix C of the published agenda report) be noted, as well as the net contributions to Earmarked Reserves modelled for 2023/24 (as set out in Appendix D of the published agenda report);
- iv) That the outline initial proposals for the Capital Programme for 2023/24 of £2.070 million (as set out in Appendix E of the presented agenda report) be noted (with Full Business Cases to be presented to Members as part of the January 2023 budget cycle of meetings).

And that Council be **RECOMMENDED**:

- v) to set up an advisory Committee comprising of all Non-Executive Members to meet in January 2023, to consider the 2023/24 Revenue and Capital Budget Proposals and make recommendations to the Executive on the Budget Proposals (meeting date proposed of Thursday 19 January 2023); and
- vi) that South Hams District Council continues to be part of the Devon Business Rates Pool for 2023/24, subject to there being no announcements within the Finance Settlement (expected to be announced in mid-December), which in the opinion of the Section 151 Officer (in consultation with the Leader of the Council and the Portfolio Holder for Finance), would change this recommendation.

E.56/22

BETTER LIVES FOR ALL – QUARTER 2 INTEGRATED PERFORMANCE MANAGEMENT REPORT

Members considered a report that set out the Integrated Performance Management report covering the Quarter 2 period. The report also highlighted the strategic risk profile of the Council, performance against key indicators and an overview of the capital programme

During discussion, the following points were raised:

- (a) A local Ward Member drew attention to the comments regarding the Caravan Club at Steamer Quay, Totnes. In so doing, the Member expressed his disappointment at the apparent lack of progress being made in respect of the validation of the planning application and the agreement of the lease on this site. In reply, officers committed to providing a progress update to local Ward Members outside of this meeting;
- (b) A Member recognised the reliance on agreed time extensions in determining planning applications and welcomed the earlier comment that the Planning Improvement Plan would be brought back to the Executive during the early months of 2023 (Minute E.54/22 above refers).

It was then:

RESOLVED

That the progress in delivery of the Better Lives for All thematic delivery plan and the overall strategic performance of the Council be noted.

E.57/22 CUSTOMER ACCESS STRATEGY & CONTACT CENTRE UPDATE

Consideration was given to a report that provided a progress update on the Council's Customer Access Strategy

In discussion, the following points were raised:

- (a) Although not forcing all residents to interact with the Council digitally, the improved effectiveness of the online service would encourage those who preferred to conduct their business with the Council online to do so, thereby releasing capacity and improving effectiveness for those residents who preferred to contact the Council by telephone or book an appointment to visit in person;
- (b) It was noted that the proposal to offer a Home Visiting service was to be launched imminently and would offer the most vulnerable amongst the Council's residents the opportunity to meet with Council staff in their own homes. Visiting Officers had been trained in a number of different subject areas and had developed the expertise to offer assistance and signposting on a wide range of matters. The Home Visiting Service was widely welcomed by Members;
- (c) With regard to partnership working, it was confirmed that the Council had increased its work with local partners (for example Citizens Advice and the Community Voluntary Service), with a view to offering vulnerable residents a more expansive and joined up service;

- (d) Concerns were raised regarding how the Council could ensure that its message would reach those most in need. In response it was confirmed that a new text messaging service was to be introduced and that Local Ward Members were key in advising their local residents and Town and Parish Councils of the services available and how these could be accessed. In expanding upon the point, a Member highlighted that Town Council offices were open during the week and there was scope for the District Council to access its residents through this means. Finally, all Members recognised that the Strategy currently omitted to make reference to the fact that residents should contact their local Ward Member(s) if they were unable to gain a response from the Council;
- (e) Some Members raised their concerns about the lack of a fully operational Reception facility at Follaton House. In reply, it was confirmed that a Virtual Reception was proposed to be introduced in the New Year whereby members of the public could access the building to use telephones and computers to initiate contact with Council staff. In addressing concerns that an unmanned reception was unsatisfactory for many residents and the consequent detrimental impact on tenants, a Member stated that travel to Follaton House was not easy or convenient for many of those living outside the Totnes area. As a result, improving other methods of contacting the Council benefitted many residents and released resource to help support residents in other ways;
- (f) A Member queried whether the new digital service had specifically taken account of those residents with partial or total hearing loss. In response, it was confirmed that, although the Council's telephony system was voice only, Council staff had access to video calling and that once initial contact had been made, staff could arrange to contact the resident via a video call which would assist hearing impaired residents who were able to lip read. It was agreed that this service should be advertised as being available;
- (g) As a general point, a number of Members regretted the reference to 'customers' and not 'residents'. Given that residents had no choice as to the local authority that they were served by, it was felt that the corporate emphasis should be on 'residents' as opposed to 'customers'.

It was then:

RESOLVED

1. That the Customer Access Strategy principles and approach (as set out in section 3 of the presented agenda report) be approved;
2. That the approach and actions to implement the Customer Access Strategy (as set out in section 4 of the presented agenda report) be endorsed; and

3. That the actions taken to improve the performance of the Contact Centre (as highlighted in Appendix A of the presented agenda report) be noted.

E.58/22 **COST OF LIVING CRISIS: PLANS FOR HOUSEHOLD SUPPORT FUND ALLOCATION**

The Executive was presented with a report that provided information on the latest round of Government funding and set out a range of options for how the fund could be administered to best help those in the most need.

In the ensuing debate, it was stated that:

- (a) The Household Support Fund was to open today (1 December 2022) and would close on 31 March 2023, with all Funds needing to be administered by that time. Members highlighted that the Council had an excellent track record with regard to the efficient distribution of Grant funding;
- (b) A Member queried the possibility that some payments could be made before Christmas. Officers replied that, whilst they would not wish to over commit, it was hoped that, in some cases where the Council held all necessary details, some payments could be administered later in the month;
- (c) Clarity was sought on how eligibility for payments would be decided and whether or not any funds would be held in reserve for any residents with a sudden and desperate need for help. By way of a comfort, officers confirmed that there were funds in reserve for any such residents in desperate need;
- (d) Members welcomed the discretionary element of the Scheme which afforded the Council the opportunity and discretion to develop its own eligibility criteria but it was requested that further clarity be added to part 1 of the recommendation set out in the presented agenda report.

As a result, an amendment to recommendation 1 was **PROPOSED**, **SECONDED** and, when put to the vote, declared **CARRIED** that the Executive:

*'Instructs officers to take immediate steps to progress support payments of £650 to working age households who are not receiving **Passported Benefits but are receiving Council Tax Reduction** on 1 December 2022;'*

It was then:

RESOLVED

1. That officers be instructed to take immediate steps to progress support payments of £650 to working age households who are not receiving Passported Benefits, but are receiving Council Tax Reduction on 1 December 2022;
2. That officers be instructed to take immediate steps to progress support payments of £300 to households in receipt of council tax disabled band reduction on 1 December 2022;
3. That officers be instructed to work with partners to distribute slow cookers and cookbooks, electric blankets, warm clothing and sleeping bags to households based on need and that £10,000 from the Fund is ring-fenced for this purpose; and
4. That the use of the balance of the funding for an open application process from low-income households most in need of support be approved.

E.59/22

HOUSING CRISIS UPDATE – SUMMARY REPORT OF ACTIONS

The Executive considered a report that provided an update on the progress made against the Council's Housing Crisis Declaration. The report also sought approval of a Section 106 offsite affordable housing contribution for a development in St Anns Chapel.

In the ensuing discussion, reference was made to:

- (a) the progress that was being made following the Housing Crisis Declaration. Members wished to put on record their thanks to the Head of Housing and her Housing Team for the progress that was being made;
- (b) the challenges and negative impact arising from the increased provision of short-term lets in the South Hams. In providing an update to the meeting, the Leader advised that there was an increased recognition at Central Government level over the challenges associated with high numbers of short-term lets in the South Hams. Furthermore, there was also national recognition that the Local Housing Allowance was no longer fit for purpose;
- (c) the Ropewalk site at Kingsbridge. Members confirmed that they were committed to working in partnership with the Town Council to bring forward a suitable scheme and that no views had yet been reached with regard to the most appropriate delivery option for this site;

- (d) the St Anns Chapel development. The pace of the development at St Anns Chapel was commended and its local benefits were recognised. Nonetheless, a Member expressed his concerns over the cost of the development and his hope that, upon its completion, a project review would be undertaken;
- (e) a second homes premium on Council Tax. A number of Members welcomed the pending Central Government legislation to enable for local authorities to charge a premium on Council Tax for second homeowners.

It was then:

RESOLVED

1. That the progress against the Housing Crisis Declaration be noted; and
2. That the allocation of Section 106 funding for affordable housing at St Anns Chapel be approved.

E.60/22

WASTE AND RECYCLING SERVICES UPDATE

The Executive was presented with a report which set out the progress made to date with the transfer of the Waste and Recycling Service and the costs incurred to date on the service transfer.

In discussion, the following points were raised:

- (a) The lead Executive Member for Environment highlighted the overall success of the transfer and stated that performance had been far better than had been expected. When questioned on why this had been the case, the Member stated that this was largely attributed to hard work and open and regular communication; collaborative working and use of local knowledge and experience of all members of staff;
- (b) Whilst acknowledging the reasons for the delay, the lead Member expressed some disappointment that a Food Waste collection service could not be offered yet. Officers informed that it was hoped that such a service could be provided by June 2023;
- (c) In response to a query around current take up of the new Garden Waste Service, it was confirmed that 4,122 subscriptions had so far been secured with a target of 11,500 needed for the service to break-even. A Member proceeded to question how members of the public who were not able to subscribe via the Council website could sign up to the Scheme.

In reply, it was confirmed that the subscriptions could be taken over the phone by means of the Council's main switchboard number and that all Contact Centre staff were able to manage such requests. Finally, the need for a communications campaign to be undertaken to increase take up was recognised;

- (d) In light of recent staff recruitment and retention issues, officers provided an update to the meeting. In so doing, officers stated that a successful recruitment exercise had been recently undertaken and, as a result, it was likely that the reliance upon Agency staff to fill positions would fall from around 30% to nearer the national average of 10-15%.

It was then:

RESOLVED

1. That the successful transfer of the service, the improvement in service performance and the key operational risks that the service is operating under be noted;
2. That the approach to improving the service throughout the transitional period (as set out in Section 4 of the presented agenda report) be endorsed; and
3. That the work underway to build a comprehensive budget forecast for the current operating phase and prepare financial projections of the service beyond the transition phase be noted.

E.61/22 MOTORHOME POLICY REVIEW

Members considered a report that set out the findings of the Pilot Motorhome Home Policy that had been in operation for the past year.

In the ensuing debate, the following points were raised:

- (a) Whilst the site at Longmarsh Car Park had proven to be the most successful during the Pilot, it had also received the most number of complaints. The lead officer summarised the headline areas for which complaints had been received and emphasised that the Council had taken enforcement action against anti-social behaviour and had issued a number of penalty charge notices;
- (b) Specifically regarding the Caravan Club at Totnes, local Ward Members had received concerns from the site owners in respect of the competition being generated from the Longmarsh Car Park site. In countering these concerns, other Members stated that the Council was offering a different service to that being operated by the Caravan Club and indeed other campsites;

- (c) A Member asked that additional signage be placed in some locations as the site in Kingsbridge was not clearly signposted and as a result some Motorhomes had stopped in an incorrect nearby car park;
- (d) When questioned, officers stated that the policy would continue to evolve and the ability remained for additional sites to come forward.

It was then:

RESOLVED

That the permanent adoption of the Motorhome Policy be approved for the following car parks only:

- Longmarsh Car Park, Totnes;
- Leonards Road Car Park, Mybridge;
- Poundwell Meadow Car Park, Modbury;
- Park & Ride Car Park, Dartmouth; and
- Cattlemarket Car Park, Kingsbridge

E.62/22 DEVON CARBON PLAN

Members were presented with a report which provided details of the Devon Carbon Plan and also provided an update on the progress made against the Council's Climate Change Strategy and Action Plan.

In debate, it was confirmed that much of the Council's work to date on its own Climate Change Strategy and Action Plan had been aligned with the work undertaken by Devon County Council and it was hoped that this approach would continue.

It was then:

RECOMMENDATION

That Council be **RECOMMENDED** to:

1. endorse the ambition and objectives set out within the Devon Carbon Plan; and
2. revise its Climate Change Strategy and Action Plan to show how it will contribute to delivering the Devon Carbon Plan.

(Meeting commenced at 10.00 am and concluded at 1.00 pm)

Chairman

(NOTE: THESE DECISIONS, WITH THE EXCEPTION OF MINUTES E.55/22 (PARTS V and VI) & E.62/22 WHICH ARE RECOMMENDATIONS TO THE COUNCIL MEETING TO BE HELD ON 15 DECEMBER 2022) WILL BECOME EFFECTIVE FROM 5.00PM ON MONDAY, 12 DECEMBER 2022 UNLESS CALLED IN, IN ACCORDANCE WITH SCRUTINY PROCEDURE RULES)

PUBLIC QUESTIONS AT EXECUTIVE MEETINGS

There is a period of 15 minutes at meetings of the Executive 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 the Executive, 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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Executive Leader's Forward Plan

About the Forward Plan

This is the Leader of Council's provisional forward plan for the four months starting January 2023. It provides an indicative date for matters to be considered by the Executive. Where possible, the Executive will keep to the dates shown in the plan. However, it may be necessary for some items to be rescheduled and other items added.

The forward plan is published to publicise consultation dates and enable dialogue between the Executive and all councillors, the public, and other stakeholders. It will also assist the Council's Overview and Scrutiny Committee in planning their contribution to policy development and holding the Executive to account.

Local authorities are required to publish updated forward plans on a regular basis. The Plan is published on the Council's website (www.southhams.gov.uk)

About the Executive

The Executive consists of six Councillors. Each has responsibility for a particular area of the Council's work.

- Leader of the Council with specific responsibility for Improving Homes / Protecting, Conserving and Enhancing our Built and Natural Environment– Cllr Judy Pearce
- Deputy Leader of the Council with specific responsibility for Stimulating a Thriving Economy – Cllr Hilary Bastone
- Lead Executive Member for Environment – Cllr Keith Baldry
- Lead Executive Member for Health and Wellbeing – Cllr Jonathan Hawkins
- Lead Executive Member for Climate Change and Biodiversity – Cllr Tom Holway
- Lead Executive Member for Council Services – Cllr Nicky Hopwood

Further information on the workings of the Executive, including latest information on agenda items, can be obtained by contacting Democratic Services on 01803 861105 or by e-mail to democratic.services@swdevon.gov.uk

All items listed in this Forward Plan will be discussed in public at the relevant meeting, unless otherwise indicated with *



Forward Plan from January 2023

Portfolio Area	Report Title and Summary	Lead Member / Officer	Documents to be considered in making decision	Date of Decision	Consultees and means of consultation
Deputy Leader	Title: Revenue Budget Monitoring Report to Month 7 2022/23 Purpose: To consider a report that presents the Revenue Budget Monitoring Report to Month 7.	Cllr Bastone / Lisa Buckle	Report of Section 151 Officer	26 January 2023	
Deputy Leader	Title: Capital Programme Monitoring Report to Month 7 2022/23 Purpose: To consider a report that presents the Capital Programme Monitoring Report to Month 7.	Cllr Bastone / Pauline Henstock	Report of Head of Finance	26 January 2023	
Leader	Title: Draft Revenue and Capital Budget Proposals Purpose: To consider a report that seeks to recommend to Council the draft Revenue and Capital Budget proposals.	Cllr Pearce / Lisa Buckle	Report of the Section 151 Officer	26 January 2023	
Deputy Leader	Title: Write-off Reports Q1 and Q2 2022/23 Purpose: The Council is responsible for the collection of: Housing Rents, Sundry Debts including Housing Benefit Overpayments, Council Tax and National Non-Domestic Rates. The report informs Members of the debt written off for these revenue streams.	Cllr Bastone / Lisa Buckle	Report of Strategic Lead of Finance	26 January 2023	
Council Services	Title: Council Tax Discretionary Discount Policy Purpose: To consider a report that seeks to consider a revised Council Tax Discretionary Discount Policy.	Cllr Hopwood / Geni Hotchkiss	Report of the Head of Revenues and Benefits	26 January 2023	



Portfolio Area	Report Title and Summary	Lead Member / Officer	Documents to be considered in making decision	Date of Decision	Consultees and means of consultation
Council Services	Title: Council Tax Reduction Scheme Purpose: To consider a report that seeks to recommend to Council the adoption of an updated Council Tax Reduction Scheme	Cllr Hopwood / Geni Hotchkiss	Report of the Head of Revenues and Benefits	26 January 2023	
Leader	Title: Housing Crisis – Changes to Financial Assistance and Enforcement Policies Purpose: To consider a report that seeks to approve some revisions to the Council's Financial Assistance and Enforcement Policies.	Cllr Pearce / Ian Luscombe	Report of the Head of Environmental Health and Licensing	26 January 2023	
Deputy Leader	Title: UK Shared Prosperity Fund and Rural Fund Delivery Purpose: To consider a report that presents an update on the UK Shared Prosperity Fund.	Cllr Bastone / Chris Shears	Report of the Senior Specialist – Economic Development	26 January 2023	
Leader	Title: Quarter 3 Integrated Performance Management Report 2022/23 Purpose: To consider a report that sets out the Integrated Performance Management report for Quarter 3 of 2022/23.	Cllr Pearce / Neil Hawke	Report of the Head of Strategy and Projects	26 January 2023	
	Title: Housing Crisis – Standing Agenda Item			2 March 2023	
Deputy Leader	Title: Revenue Budget Monitoring Report to Month 10 2022/23 Purpose: To consider a report that presents the Revenue Budget Monitoring Report to Month 10.	Cllr Bastone / Lisa Buckle	Report of Section 151 Officer	2 March 2023	



Portfolio Area	Report Title and Summary	Lead Member / Officer	Documents to be considered in making decision	Date of Decision	Consultees and means of consultation
Deputy Leader	Title: Capital Programme Monitoring Report to Month 10 2022/23 Purpose: To consider a report that presents the Capital Programme Monitoring Report to Month 10.	Cllr Bastone / Pauline Henstock	Report of Head of Finance	2 March 2023	
Leader	Title: Draft Annual Report of Achievements Purpose: To consider a report that presents the Council's draft Annual Report of Achievements for 2022/23	Cllr Pearce / Neil Hawke	Report of the Head of Strategy and Projects	2 March 2023	
Leader	Title: Planning Improvement Plan – Six Month Progress Review Purpose: In accordance with the Executive resolution, to consider a six-month progress review into the Planning Improvement Plan.	Cllr Pearce / Drew Powell	Report of Assistant Director Planning	2 March 2023	
				13 April 2023	
Council Services	Title: Customer Journey Purpose: To consider a report that provides an update on the Customer Journey.	Cllr Hopwood / Steve Mullineaux	Report of the Deputy Chief Executive	July 2023 (date TBC)	

Report to: **Executive**

Date: **26 January 2023**

Title: **Month 8 Revenue Budget Monitoring
2022/2023**

Portfolio Area: **Finance and Assets – Cllr H Bastone**

Wards Affected: **All**

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

Date next steps can be taken: **N/A**

Author: **Pauline Henstock** Role: **Head of Finance Practice
and Deputy S.151 Officer**

Lisa Buckle **Corporate Director for
Strategic Finance
(S151 Officer)**

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RECOMMENDATION:

That the Executive RESOLVES to note the forecast income and expenditure variations for the 2022/23 financial year and the overall projected deficit of £46,000 (0.4% of the total Budget £10.464 million).

1. Executive summary

- 1.1 This report enables Members to monitor income and expenditure variations against the approved budget for 2022/23 and provides a forecast for the year end position.
- 1.2 The gross service expenditure budget for 2022/23 was set at £44 million (£10.464 million net). This report identifies a projected deficit of £46,000 which is 0.4% of the overall Budget set for 2022/23 of £10.464 million.

2. Background

2.1 Regional and national context

2.2 The Covid-19 pandemic has drawn into sharper focus the financial challenges faced by Local Authorities which have existed for some years. There remains outstanding a number of Local Authority Government reviews into Local Authority funding to reset the way local Councils are funded and the mechanism for the distribution of funding.

2.3 Financial Monitoring arrangements

2.4 The Council's financial procedure rules require that reports must be made on budget monitoring on a regular basis to the Executive as part of the Council's arrangements for budget management.

3. Outcomes/outputs

3.1 **Budget overview** - Table 1 below provides an analysis of the projected variances against budget.

TABLE 1: 2022/23 BUDGET FORECAST

	2022/23	Budget		£000	Note
	Budget	variations			
	expenditure	%	£000	£000	
	/(income)				
	£000				
APPROVED BUDGET				10,464	
Reductions in expenditure/additional income					
Governance and Assurance					
Savings on Member travel, expenses and training	39	77%	(30)		A
Land Charges income	(170)	11%	(18)		B
Place and Enterprise					
Car parking income	(3,162)	9%	(290)		C
Dartmouth Lower Ferry income	(827)	19%	(160)		D
Employment Estates income	(887)	12%	(110)		E
Dartmouth Asset Transfer	60	50%	(30)		F
Homelessness Prevention Grant	n/a	n/a (no budget)	(169)		G
Other Comprehensive Income & Expenditure					
Investment Income	(123)	469%	(577)		H
Sub total of variations				(1,384)	

Increases in expenditure/reductions in income					
Customer Service & Delivery					
Waste contract inflation	130	138%	180		I
Additional salary costs	7,500	2%	120		J
Pay award	185	222%	410		K
ICT Support Contracts	548	13%	70		L
Council Tax Collection income	(155)	26%	40		M
Governance & Assurance					
Planning income	(1,084)	24%	260		N
Place and Enterprise					
Fuel and utility costs	457	35%	160		O
Dartmouth Lower Ferry fleet maintenance	40	250%	100		P
Homelessness costs	237	38%	90		Q
Other Comprehensive Income & Expenditure					
Sub total of variations				1,430	
PROJECTED OUTTURN				10,510	
PROJECTED DEFICIT FOR 2022/23				46	

There is projected to be an overall deficit of £46,000 when compared against the Revenue Budget set for 2022/23.

Notes

- A. **Savings on Member travel, expenses and training** – following Covid 19, it is currently anticipated that a saving of up to £30,000 could be achieved in 2022/23.
- B. **Land charges income** – additional income of £18,000 (11%) is currently anticipated for 2022/23.
- C. **Car parking income** – additional income of £209,000 has been received as at 30 November 2022. It is currently anticipated that this could increase further to £290,000 by the end of the 2022/23 financial year. The additional income is mainly from Bigbury, Salcombe (North Sands), Slapton and Torcross car parks, and additional income on permits.
- D. **Dartmouth Lower Ferry income** – additional income of £135,000 has been received as at 30 November 2022. It is currently anticipated that this could increase further to £160,000 by the end of the 2022/23 financial year. This equates to 19% of the annual income target for Dartmouth Lower Ferry of £827,000.
- E. **Employment Estates income** – employment estates income is currently projected to be over budget by £110,000 in 2022/23 due to high occupancy rates and regular rent reviews.

- F. **Dartmouth Asset Transfer** – following the transfer of assets to Dartmouth Town Council in 2018, the Council approved to make an annual maintenance contribution to Dartmouth Town Council for 5 years, reducing annually. The contribution for 2022/23 has reduced to £30,000 in 2022/23 from £60,000 in 2021/22, resulting in a saving of £30,000. This is the 5th and final year of the maintenance agreement.
- G. **Homelessness Prevention grant** – as set out in the grant conditions, this grant is ring-fenced for 2022/23. This will be applied against costs incurred in reducing temporary accommodation numbers and enforcing the Homelessness Reduction Act.
- H. **Investment income** – investment income is currently anticipated to be up by 469%, which equates to additional income of £577,000 in 2022/23. This follows the recent increases in interest rates as the Bank of England (base rate is currently 3.5%) looks to tackle surging inflation.
- I. **Waste contract inflation** - the impact of the current rate of inflation for 2022/23 (12.2%) is significantly higher than the current budget provision of £130,000 (3%). This will result in additional contract costs of £180,000 in 2022/23, for the six month period covered under the waste contract. Contract inflation is based on published indices for fuel inflation, wage inflation and consumer price index (CPI).
- J. **Salaries** – there are additional staffing costs of approx. £120,000. This is mainly due to new posts in relation to the Housing Delivery team, as per the report to the Executive on 26th May 2022, and the additional cost of five agency staff in the Legal team. The social care levy of 1.25% has been ceased from November 22 and the next monitoring report will quantify the impact of this on the overall salary position.
- K. **Pay award** – the impact of the proposed employer’s pay offer for 2022/23 of £1,925 on all NJC pay points, is significantly higher than the current budget provision of £185,000 (3%). The proposed pay award will result in additional salary costs of approx. £410,000.
- L. **ICT Support Contracts** - there are additional costs in respect of ICT support contracts mainly due to,
- Above inflation increases, e.g. Microsoft Licensing
 - Additional costs for new licenses, laptops and accessories due to an increase in the number of users on our network
 - The acquisition of remote diagnostics software as a result of the increase in remote working
 - Disability Access legislation for the website has required the purchase of tools for monitoring compliance and enhancing access

- M. **Council Tax Collection income** – summons costs recovered in respect of Council Tax and Business Rates are currently anticipated to be 26% down on the 2022/23 budget.
- N. **Planning income** – there is a shortfall in income of £223,000 as at 30 November 2022. It is currently anticipated that this could increase further to £260,000 by the end of the 2022/23 financial year. However, this is a volatile area which can be very difficult to forecast given the impact of large applications.
- O. **Fuel and utility costs** – due to the rise in energy costs and inflationary pressures, additional costs of £160,000 are projected in 2022/23, mainly due to the increase in utility and fuel prices.
- P. **Dartmouth Lower Ferry fleet refurbishment** – The annual fleet refurbishment costs are predicted to be £100,000 in excess of the budgeted amount for 2022/23. It is acknowledged that the refurbishment budget for the ferry has historically been lower than the actual costs for a number of years and the 2023/24 budget will address this by increasing the annual refurbishment budget by £80,000 per year.
- Q. **Homelessness** – It is anticipated that there will be additional expenditure on temporary accommodation over and above what is claimable through the DWP subsidy. This is due to a number of external factors beyond our control,
- the housing crisis and lack of accommodation
 - an increased number of properties on Airbnb
 - Staycation holidays creating higher demands for hotels in the area and driving up costs
 - The Homes for Ukraine Scheme
 - More family units presenting as homeless compared to previous years requiring more than one room
 - Having to stay longer in the accommodation due to the housing crisis and limited suitable accommodation to move them onto.

3. Other items to be considered in the 2022/23 Budget

- 3.1 Waste and recycling service – there was an update report on the 1st December 2022 Executive agenda on the waste and recycling service. As set out within 5.2 of the report, initial estimates based on current costs are that the service will remain within the budget anticipated for the transition phase. The costs and budget are detailed in the previous report to the Executive on 21 September 2022.
- 3.2 At Council on 14 July 2022, Members approved the use of £3million from the business rates retention earmarked reserve, to fund the

additional costs during the transitional phase of bringing the waste service back in house.

4. Earmarked Reserves

- 4.1 Budgeted contributions to and from Earmarked Reserve were part of the 2022/23 Budget reports.
- 4.2 A schedule of Earmarked Reserves is attached at Appendix A, which shows Earmarked Reserves have a projected balance of £12.047 million at 31.3.2023 currently.
- 4.3 The Council's level of Unearmarked Reserves currently stands at £2.056 million. The deficit of £46,000 would go into Unearmarked Reserves at the year end, in accordance with normal accounting practice (the Accounting Code of Practice, which sets out that surpluses or deficits at the year end are added to Unearmarked Reserves). This gives a predicted year end (31.03.23) balance of £2.010 million for Unearmarked Reserves.

5. Prudential Indicators

- 5.1 The prudential code indicators were approved in the Capital, Investment and Treasury Management Strategy report to the Council on 31 March 2022. The indicators are monitored during the year through the normal revenue and capital monitoring processes. All Treasury Management limits have been adhered to.

6. Income and Reserves

Income monitoring is an integral part of financial management. Current income forecasts are as follows: Income monitoring is an integral part of financial management. Below shows the current income (surpluses)/shortfalls already experienced for April 2022 to November 2022. The table also shows the latest 2022/23 projections for the major streams of income.

Service	Deficit/ (Surplus) April – November 2022 £'000	Projected Income 2022/23 £'000	Income Budget 2022/23 £'000	Deficit/ (Surplus) £'000	Deficit/ (Surplus) %
Car Parks	(209)	3,452	3,162	(290)	(9%)
Planning	223	824	1,084	260	24%
Employment Estates	(101)	997	887	(110)	(12%)
Trade Waste	-	819	819	-	-

Service	Deficit/ (Surplus) April – November 2022 £'000	Projected Income 2022/23 £'000	Income Budget 2022/23 £'000	Deficit/ (Surplus) £'000	Deficit/ (Surplus) %
Dartmouth Ferry	(135)	987	827	(160)	(19%)
Business Rates Pooling Gain	-	285	285	-	-
Investment income	(266)	700	123	(577)	(469%)
Licensing	-	201	201	-	-
Land Charges	(18)	188	170	(18)	(11%)
TOTAL	(506)	8,453	7,558	(895)	(11%)

7. Management Actions

7.1 The table below sets out the relevant management actions for the revenue expenditure and income variations shown above. It is best practice for the Council to state whether there are any corrective actions that need to be taken for the variances identified in 2022/23.

	Budget variations overspend/ (underspend) £000	Management Action
Reductions in expenditure/additional income		
Member travel, expenses and training	(30)	The projected underspend will be kept under review during the year.
Land charges income	(18)	Income levels will be kept under review in 2022/23
Car parking income	(290)	Additional income of £250,000 has been built into the 2023/24 budget.
Dartmouth Lower Ferry income	(160)	Additional income of £250,000 has been built into the 2023/24 budget.
Employment Estates income	(110)	Additional income of £150,000 has been built into the 2023/24 budget.
Dartmouth Asset Transfer	(30)	This saving relates to 2022/23.

	Budget variations overspend/ (underspend) £000	Management Action
Homelessness Prevention Grant	(169)	Additional income of £180,000 has been built into the 2023/24 budget.
Investment income	(577)	Additional income of £677,000 has been built into the 2023/24 budget.
Increases in expenditure/reductions in income		
Waste contract inflation	180	A cost pressure of £360,000 has been built into the 2023/24 budget, plus an additional £205,000.
Salaries	120	This will be kept under close review in 2022/23.
Pay award	410	A budget provision of £435,000 has been built into the 2023/24 budget.
ICT Support Contracts	70	This will be kept under close review in 2022/23.
Council Tax collection income	40	Recovery of summons costs will be kept under review in 2022/23.
Planning income	260	Income levels will be kept under close review in 2022/23.
Fuel and utility costs	160	A cost pressure of £450,000 has been built into the 2023/24 budget for inflation on all goods and services.
Dartmouth Lower Ferry fleet refurbishment	100	A cost pressure of £80,000 has been built into the 2023/24 budget.
Homelessness	90	This will be kept under close review in 2022/23.

8. Options available and consideration of risk

8.1 At this early stage it is important to note that these forecasts can change over the course of the year. Managers can seek out opportunities to reduce any overspends, whilst considering the risk of any adverse impact on the customer experience.

9. Proposed Way Forward

9.1 Revenue budget monitoring will continue on a regular basis and further reports will be brought to the Executive each quarter.

10. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	The Council is required to make arrangements for the proper administration of its financial affairs. As part of those arrangements, the Council is under a duty to monitor its budgets throughout the financial year and to take appropriate action to deal with any deterioration in the financial position revealed by the regular monitoring.
Financial implications to include reference to value for money	Y	<p>The report identifies a projected deficit of £46,000 which is 0.4% of the overall budget set for 2022/23 of £10.464 million.</p> <p>As part of Grant Thornton’s external audit of the Statement of Accounts for 2021/2022, they will assess the arrangements the Council has in place for securing economy, efficiency and effectiveness in its use of resources.</p> <p>The outcome of Grant Thornton’s work in this area will be reported to Members at the Audit Committee meeting on 9 March 2023.</p>
Risk	Y	<ol style="list-style-type: none"> 1) Budget variances – continual monthly budget monitoring at all levels within the Council ensures early identification of variances. Reporting to the Executive provides an opportunity for Members to identify and instigate remedial action where appropriate. 2) Resource Planning – the Executive takes into account any significant issues when developing the Council’s Medium Term Financial Strategy. These are identified in the Management Actions section of the report (Section 7).

Supporting Corporate Strategy		The budget monitoring process supports all of the Delivery Plans within the Council's strategic vision, 'Better Lives for All'.
Climate Change – Carbon / Biodiversity Impact		<p>A report was presented to Council on 17th December 2020 'Climate Change and Biodiversity Strategy and Action Plan update'. The report set out the proposed allocation of the £400,000 in the Climate Change Earmarked Reserve.</p> <p>A further £200,000 funding for the Climate Change Action Plan was approved by Council on 11th February 2021, as part of the 2021/22 Budget.</p> <p>Further detail is set out in the Council's 'Better Lives for All' strategy.</p>
<i>Comprehensive Impact Assessment Implications</i>		
Equality and Diversity		None directly arising from this report.
Safeguarding		None directly arising from this report.
Community Safety, Crime and Disorder		None directly arising from this report.
Health, Safety and Wellbeing		None directly arising from this report.
Other implications		None directly arising from this report.

Supporting Information

Appendix A – Schedule of Reserves (Earmarked Reserves and Unearmarked Reserves).

Appendix B – Savings/Additional income schedule

Background Papers:

None.

RESERVES - PROJECTED BALANCES (EXCLUDES SALCOMBE HARBOUR)						APPENDIX A
EARMARKED RESERVES	Cost Centre	Opening balance	Additions to Reserve	Predicted Spend	Closing balance	Comments
		01.04.2022 £000s	2022/23 £000s	2022/23 £000s	31.03.2023 £000s	
Specific Reserves - General Fund						
Affordable Housing (Capital)	S0822	(544)		544	0	Actual spend relates mainly to Capital Programme expenditure including St Ann's Chapel
Affordable Housing (Revenue)		0	(408)	60	(348)	This is a new reserve set up as part of the 2022/23 Budget process and has been created from a one off contribution from the New Homes Bonus funding in 2022/23. Predicted spend in 2022/23 relates to the Step on Deposit Scheme pilot (Council Feb 2022).
Beach Safety	S0839	(14)			(14)	
Capital Programme	S0820	(249)	(182)	431	0	Predicted spend relates to Capital Programme commitments and a transfer of £80k to the Repairs & Maintenance earmarked reserve in respect of Follaton House roof refurbishment and replacement lift
Community Composting	S0933	(200)		200	0	Council 10/02/22 approved a one off amount of £200k to be transferred into a Community Composting Earmarked Reserve in 2021/22.
Community Parks and Open Spaces	S0826	(46)	(17)	9	(54)	
COVID-19	S0815	(209)		175	(34)	This reserve was set up in 2020/21 to protect against future COVID losses. In 2022/23 £174,632 will be used to fund the shortfall in the leisure management fee income (Executive 3/3/22).
Dartmouth Ferry Repairs & Renewals	S0830	(530)	(117)		(647)	
District Elections	S0838	(20)	(10)		(30)	
Economic Initiatives	S0831	(23)			(23)	
Economic Regeneration (Business Rates pilot gain 2018/19)	S0858	(24)			(24)	
Emergency Climate Change Projects	S0852	(553)		233	(320)	The set up of this reserve was approved by Executive on 6/2/2020 E74/19, funded originally by a £400k contribution from the New Homes Bonus Reserve. Predicted spend for 2022/23 includes the Climate Change & Biodiversity Locality Fund and 'Better Lives for All' commitments.
Environmental Health Initiatives	S0857	(20)			(20)	
Financial Stability	S0868	(280)			(280)	This is a new reserve set up in 2021/22. Council 10/02/22 approved for £280k to be transferred from unearmarked reserves to a Financial Stability Earmarked Reserve, to be available for any future financial pressures from future local government funding reforms and any other budget pressures.
Grounds Maintenance	S0901	(149)		92	(57)	A new reserve set up in 2020/21 to hold the Grounds Maintenance in year surpluses to be reinvested back into the service (Executive 18/6/20). Commitments in 2022/23 relate to equipment purchases.
Homelessness Prevention	S0851	(234)		195	(39)	This reserve has been created following underspends on Homelessness Prevention Costs. The main commitment in 2022/23 relates to the Housing staffing costs (£151k) - Executive 26/5/22
Housing Capital Projects	S0854	(408)			(408)	
ICT Development	S0836	(89)	(50)	107	(32)	Predicted spend in 2022/23 includes Future IT project and hardware commitments
Joint Local Plan		0	(25)	24	(1)	
Land and Development	S0829	(72)	(7)	15	(64)	
Leisure Services	S0858	(41)		1	(40)	
Maintenance Fund	S0927	(78)		46	(32)	This is a new reserve set up in 2021/22 to hold service charge income.
Maintenance, Management and Risk Management Reserve (MMRM)	S0861	(66)	(29)		(95)	This reserve was set up in 2019/20 to manage the ongoing maintenance costs of the Council's Investment Property. The contributions to the reserve equate to 10% of the rental income
Marine Infrastructure	S0828	(184)	(58)	210	(32)	£200k has been committed for match funding for the Fish Quay funding bid - Council May 2022
Members Sustainable Community Locality	S0846	(49)			(49)	This reserve holds the unspent balances.
New Homes Bonus	S0804	(1,917)	(1,008)	1,969	(956)	The NHB allocation for 22/23 is £1,008m. Projected spend in 2022/23 relates to £500k contribution to the base revenue budget, £100k contribution to the Capital Programme and £407,557 contribution to the Affordable Housing Earmarked Reserve. In addition there are commitments from previous years for the Capital Programme budget. The remaining balance includes £235,016 unallocated from the 2020/21 New Homes Bonus and £122,274 from the 2021/22 New Homes Bonus with its future use to be decided when more details are known about the Spending Review for 2022/23 onwards and a replacement scheme for NHB.
On-Street Parking	S0834	(44)			(44)	
Pay & Display Equipment Renewals	S0833	(186)	(21)	32	(175)	This reserve provides for the periodic replacement of Pay & Display machines.
Pension Fund Strain Payments	S0810	(208)	(99)		(307)	This reserve is used to fund pension strain costs
Planning Policy & Major Developments	S0840	(531)	(50)	98	(483)	This reserve is for all planning matters and is also required to meet appeal costs. The predicted spend for 2022/23 relates to the Planning restructure. The cost of the first three years of this restructure is to be met from additional planning income in the Planning earmarked reserve (Executive 26/5/22)
Play Area Renewals	S0867	0	(128)		(128)	This is a new reserve to be set up to hold the anticipated underspend on Play Parks to be used for replacement play area equipment (Executive 22/10/20)
Recovery and Renewal Plan	S0864	(500)		158	(342)	This is a new reserve set up as part of the 2021/22 Budget to support the costs of the Recovery and Renewal Plan. Projected spend in 2022/23 relates to 'Better Lives for All' commitments.
Repairs & Maintenance	S0827	(374)	(173)	21	(526)	The additions to the reserve in 2022/23 mainly relate to the budgeted annual contribution (£80k) and a contribution from the Capital Programme earmarked reserve (£80k) towards the Follaton House roof refurbishment and replacement lift. £390k of this reserve balance is earmarked for Follaton House roof refurbishment and replacement lift.

Revenue Grants	S0821	(1,725)		292	(1,433)	This reserve comprises of government grants received for specific initiatives or new burdens and are held in the reserve for accounting purposes. £120,000 of this reserve has been earmarked to fund the Council's share (60%) of a 2 year fixed term senior role to drive customer service and operational efficiency (Executive 15/9/22 - Waste & Recycling Services Update). An estimated £30k has been included for 2022/23 - six months of this 2 year senior role. In addition a commitment of £73k relates to the funding of three housing posts which were made permanent in the 2020/21 budget process and are funded from the Flexible Homelessness Support Grant
Section 106 Deposits	S0842	(38)			(38)	This reserve comprises of deposits with no repayment conditions - created as a result of IFRS
Section 106 Monitoring	S0929	(158)		20	(138)	This reserve funds the cost of an officer to oversee the administration of S106 deposits and how they are spent
Section 106 Technical Support	S0862	(14)		14	0	To meet the salary costs of a S106 technical support officer.
Support Services Trading	S0856	(75)		39	(36)	This reserve was created from external work carried out in other Councils e.g. HR work with Councils also embarking on a Transformation Programme. The 2022/23 commitment relates to the purchase of Audio Visual equipment.
Sustainable Waste Management	S0837	(1,065)	(25)	400	(690)	This reserve was created for one-off waste management costs. This 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. This will contribute to the anticipated set up costs of bringing the service back in house in October 2022 and capital outlay (some of which will be spent in 2023/24).
Tree Maintenance	S0934	(60)		30	(30)	A new reserve set up in 2021/22 to hold in year surpluses generated to reinvest back into the Tree maintenance service.
Vehicles & Plant Renewals	S0832	(276)	(550)	550	(276)	Earmarked for the Fleet Replacement Programme. An annual contribution of £550k is made to this reserve.
Sub Total excluding the Business Rates Reserves		(11,253)	(2,957)	5,965	(8,245)	
Business Rates Retention	S0824	(4,546)		2,206	(2,340)	This relates to a timing issue on the accounting adjustments required for the localisation of business rates. This reserve also deals with any volatility in Business Rate income. In 2022/23 £100,000 has been earmarked to smooth the volatility in business rates. At Council on 14 July 2022, Members approved the use of £3million of this reserve, to fund the additional costs during the transitional phase of bringing the waste service back in house.
S.31 Compensation Grant (Business Rates)	S0866	(4,260)	(674)	3,472	(1,462)	This is a new reserve set up to hold the business rates S31 grants received in 2020/21 and 2021/22 to offset the business rate reliefs given to businesses during lockdown. Under current Collection Fund accounting rules, the S31 grants received will not be discharged against the Collection Fund deficit until the following year, 2022/23 and partly 2023/24. This reserve is not money which is available for the Council to spend and it is important that this is not misinterpreted in the Accounts, as this is a national issue.
TOTAL EARMARKED RESERVES		(20,059)	(3,631)	11,643	(12,047)	
TOTAL UNEARMARKED RESERVES (General Fund Balance)		(2,056)	46		(2,010)	This Unearmarked Reserve has a minimum balance of £1.5million and an operating level of £2 million (set by Members as part of the budget process). The predicted deficit for 2022/23 of £46,000 has been debited to this reserve.
TOTAL REVENUE RESERVES (EARMARKED AND UNEARMARKED RESERVES)		(22,115)	(3,585)	11,643	(14,057)	

Summary of Savings and Additional Income from the 2022/23 Budget Setting Process

APPENDIX B

The table below summarises the savings and additional income that were included in the 2022/23 Budget Setting process and indicates whether the saving/additional income is on track to be delivered.

	Savings and Additional Income for the 2022/23 Budget	Income/Savings Target for 2022/23 (£)	Latest Projection for 2022/23 (£)	Narrative
1	IT FIT Project - software savings	70,000	70,000	Currently on target to achieve these savings.
2	Efficiencies gained from IT and digital communications	20,000	20,000	Currently on target to achieve these efficiencies mainly from savings on postage costs.
3	Employment Estates - additional rental income	80,000	110,000	Additional income of £110,000 is anticipated for 2022/23.
4	Extra recycling income	70,000	115,000	It is currently envisaged that recycling income will be at least the same level as the amount of the extra recycling income achieved in 2021/22 of £115,000.
5	Extra planning income (to fund four planning specialists and two legal specialists) - Planning Improvement plan - Executive 14.10.21	164,000	-	There is a shortfall in planning income of £223,000 as at 30 November 2022. It is currently anticipated that this could increase further to £260,000 by the end of the 2022/23 financial year. However, this is a volatile area which can be very difficult to forecast given the impact of large applications.
	TOTAL	£404,000	£315,000	

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NOT FOR PUBLICATION

Appendix A to this report contains exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972

Report to: **Executive**

Date: **26 January 2023**

Title: **Capital Programme Monitoring 2022/23**
Cllr Bastone

Portfolio Area: **Finance and Assets**

Wards Affected: **ALL**

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

Author: **Clare Scotton** Role: **Principal Accountant**
Pauline Henstock **Head of Finance Practice**

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RECOMMENDATION

That the Executive note the content of the Capital Programme Monitoring Report.

1. Executive summary

- 1.1 The report advises Members of the progress on individual schemes within the approved capital programme, including an assessment of their financial position.
- 1.2 A new reporting process is in place and the narrative around capital schemes previously included in this budget monitoring report will now be part of the Integrated Performance Management Update reports (the quarter 3 update is a separate report on this agenda). The capital budget monitoring report will purely focus on capital expenditure against budget.

- 1.3 The monitoring of the capital programme at month (end of November 22) has shown that all projects are within their existing budget approved by Members. £11,708,867 has been profiled into 2022/23 with the remaining budgets rolled forward into future years (Appendix A). ***The spend against this profiled budget is £6,601,397 (56.4% of the budget) as at the end of November 2022.***

2. Background

- 2.1 The capital programme for 2022/23 was approved by Council on 10 February 2022 (63/21). This report provides an update on the Capital Programme and also on those schemes that remain outstanding from previous programmes.
- 2.2 A summary of the Capital Programme is shown in exempt Appendix A. The award of contracts is subject to the Council's procurement rules on competitive tendering and therefore the allocated budget is commercially sensitive.

3. S106 Deposits

- 3.1 The list of S106 Deposits are shown in Appendix B totalling **£7,058,670.41**.
- 3.2 Some of these S106 Agreements have a clause within the S106 Agreement which states that the Council shall be entitled to use up to a five per cent (5%) part of the total payments and contributions payable pursuant to the provisions of the Agreement, towards the costs to be reasonably and properly incurred by the Council in monitoring compliance with the S106 Agreement and in assessing the details submitted to the Council for approval pursuant to the S106 Agreement.

4. Options available and consideration of risk

- 4.1 This is considered on a project by project basis as part of the project appraisal document and initial business case for each capital project.

5. Proposed Way Forward

- 5.1 This is considered on a project by project basis.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance		<p>Statutory powers are provided by the S1 Localism Act 2011 general power of competence. The capital programme is implemented in line with the Council's legal requirements, which are examined on a project-by-project basis. To date there are no undue legal concerns.</p> <p>Since there is commercially sensitive information in Appendix A regarding the budgets for individual projects, there are grounds for the publication of this appendix to be restricted, and considered in exempt session.</p> <p>The public interest has been assessed and it is considered that the public interest will be better served by not disclosing the information in the appendices.</p> <p>Accordingly this report contains exempt Information as defined in paragraph 3 of Schedule 12A to the Local Government Act 1972.</p>
Financial Implications to include reference to Value for Money		<p>The monitoring of the capital programme at month 8 (end of Nov 22) has shown that all projects are within their budgets approved by Members (Appendix A).</p> <p>£11,708,867 has been profiled into 2022/23 with the remaining budgets rolled forward into future years. (Appendix A). <i>The spend against this profiled budget is £6,601,397 (56.4%) as at the end of November 2022.</i></p> <p>The regular monitoring of the Capital Programme ensures the Council has arrangements in place to secure economy, efficiency and effectiveness in its use of resources.</p>

Risk		<p>The Council demonstrates that capital investment contributes to corporate priorities, provides value for money and takes account of the revenue implications of the investment. Regular monitoring of the capital programme and consideration of new pressures enables Members to control the programme and secure appropriate mitigation where problems arise.</p> <p>There is regular quarterly monitoring of the Capital Programme to Members where any cost overruns are identified at an early stage.</p>
Supporting Corporate Strategy		<p>The Capital Programme supports all of the thematic delivery plans within the 'Better Lives for All' strategy.</p>
Climate Change - Carbon / Biodiversity Impact		<p>The Council declared a Climate Change and Biodiversity Emergency on 25 July 2019 and a Climate Change Action Plan was presented to Council in December 2019.</p> <p>The Council has approved a budget of £600,000 in the Climate Change Earmarked Reserve.</p> <p>Further detail is set out in the Council's 'Better Lives for All' strategy.</p>
Comprehensive Impact Assessment Implications		
Equality and Diversity		<p>This matter is assessed as part of each specific project.</p>
Safeguarding		<p>This matter is assessed as part of each specific project.</p>
Community Safety, Crime and Disorder		<p>This matter is assessed as part of each specific project.</p>
Health, Safety and Wellbeing		<p>This matter is assessed as part of each specific project.</p>
Other implications		

Supporting Information

Appendices:

EXEMPT - Appendix A – Details of capital expenditure to 30th November 2022
Appendix B – S106 Summary as at 30th November 2022

Background Papers:

None

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Classif. Code	Site	Date Received	Current Stage	Restriction/Committed End Date	Conditions	TOTAL S106 DEPOSITS £
Thriving Economy Delivery Plan						
Langage Energy Centre						
1007	Landscape Fund (PG01)			25 years, interest (rate not specified)	Reduce the landscape and visual impact of power station	(40,606.43)
1008	Local Liaison Group (PG02)			25 years, interest (rate not specified)	Funding of local activities in the electoral wards of the Council immediately surrounding the Phase 1A and the wards of SHDC and/or PCC	(6,349.23)
1009	Public Art (PG03)			25 years, interest (rate not specified)	Public art in or in the vicinity of the Phase 1A Land	(113,814.03)
1010	Migrant Workers (PG04)			No restriction/committed end date	Provide information and advice relating to migrant workers employed in relation to the development	(1,520.16)
1012	Ecology Park (PG06)			25 years, interest (rate not specified)	Laying out and planting of the Ecology Park	(34,144.21)
1013	Ecology Park Mtc (PG07)			25 years, interest (rate not specified)	Maintenance of the Ecology Park	(34,144.21)
2020	Construction of Starter Units (PG08)				Construction of the Starter Units and procure a site for the Starter Units on either the Energy Park or land within South Hams District	(1,195,047.08)
2118	Langage Consultants Fees (MP)				Master plan	(29,957.01)
						(1,455,582.36)
Employment						
2601	SRP Annual Contribution					(19,762.00)
2603	Fees - Monitoring					(78,460.67)
2604	Economy - Economy & Training					(12,859.26)
3161	Sherford Design Review Body					8,690.99
2715	Harvey's Field (32/0844/12/F)	04/03/15	PIF	10 years, payable at 87.5% to owner and 12.5% payee of contribution, interest at 1% below Barclays base rate	Employment (Rural Growth Network) administered by LEP	(57,959.27)
						(160,350.21)
Strengthening Community Wellbeing Delivery Plan						
Open Space, Sport and Recreation						
3233	Great Court Farm - 03/2163/14/O	04/10/19	Under Development	None	50% Bridge Town Corridor Contribution	(17,122.96)
3233	Great Court Farm - 03/2163/14/O	04/10/19	Under Development	10 years	80% Sports and Recreation Contribution	(41,930.45)
3149	Land East of Allern Lane, Tamerton Foliot (04/1129/15/F)	13/02/20	Under Development	5 years	Sports and Recreation	(103,029.56)
2428	Former Old Chapel Inn, St Anns Chapel, Bigbury (05/0227/11/F)	02/05/13	PIF	No restriction/committed end date	Open Space Sport and Recreation contribution towards open public space	(12,075.39)
2974	Holywell Stores, Bigbury (05/2557/13/F)	11/06/18	Under Development	25 years, no interest specified	Open Space, Sports and Recreation Contribution	(9,155.33)
2255	Land at Blackawton (New Parks Farm), Blackawton (06/2313/09/F)	05/09/11	PIF	25 years, no interest	Required as a result of the development - spent on Open Space Sport Recreation contribution within or directly relating to the parish of Blackawton or on such other Blackawton Community project as the Council shall see fit	(2,596.00)
3287	Land at Town Farm - French Furze - 06/0992/14/F				50% Sports pitch and Community Facilities	(51,558.38)
2652	Land Ven Farm Brixton (07/2022/12/F)	13/05/14	PIF	No restriction/committed end date	Sport & Recreation/Employment	(13,125.25)
2652	Land Ven Farm Brixton (07/2022/12/F)	12/05/16	PIF	Capital spend, no interest specified	Open Space Sport and Recreation contribution - Open Space land commuted Sum	(12,000.00)
2861	Barn Conversions at Butlas Farm (07/1601/08/F)	14/12/16	PIF	No restriction/committed end date	Open space, sport and recreation contribution within or directly related to the parish of Brixton	(16,254.51)
3082	Venn Farm, Brixton (07/1196/15/F)	08/05/18	Under Development	10 years	Brixton Play Provision Contribution	(36,668.90)
3082	Venn Farm, Brixton (07/1196/15/F)	08/05/18	Under Development	10 years	Open Space Contribution	(13,182.59)
3271	Land at the Royal British Legion Club, Brixton - 1884/18/FUL & 2771/16/FUL		Under Development	5 Years	£13,337.58 for pitches at Horsham Playing Fields	(12,670.70)
3271	Land at the Royal British Legion Club, Brixton - 1884/18/FUL & 2771/16/FUL		Under Development	5 Years	£8,518.12 for play facilities on the Brixton Play Trail	(8,092.21)
2850	Sorley Tunnel (11/2425/07/F)	28/07/16	PIF	No restriction/committed end date	Open Space Sport Recreation contribution	(12,195.27)
2862	Lutton Farm Barns, Ivybridge (12/0953/07/F)	23/11/16	PIF	No restriction/committed end date	Public Open Space contribution	(8,965.15)
2718	Sawmills Field, Dartington 14/1744/13/F	06/05/16	PIF	7 years, interest at 1% below Barclays base rate or 0% (whichever is higher)	Sports	(46,485.81)
3081	Webbers Yard Dartington (14/1745/13/O)	02/05/2018 & 19/09/18	Under Development	No restriction/committed end date	1st & 2nd instalment of Sports Provisions	(55,959.71)
3160	Brimhay Bungalows, Dartington - 14/0142/15/F	19/03/19	Under Development	None	OSSR - £44752.50 towards either Gidley Meadows, Dorothy Elmhirst Recreation Field or provide a games area at Meadowbrook	(42,514.87)
2863	Land at SX 8638 5117, Ivatt Road, Dartmouth (15/0587/13/F)	08/11/16	PIF	No restriction/committed end date	Open Space, Recreation and/or sports facilities within Dartmouth	(16,995.10)
2698	Boat House, Dartmouth Quay, Southtown, Dartmouth (15/2046/13/F)	17/08/14	PIF	5 years, no interest specified	Tree planting and management in Dartmouth	(741.79)
2835	Gara Rock Hotel, East Portlemouth (20/2104/13/F)	17/05/16	PIF	No restriction/committed end date	Open Space Sport Recreation contribution	(10,288.92)
3422	Cleeve Farm Barns, Ivybridge (1675/16/Ful)	07/04/21	PIF	25 Years	100% OSSR - Provision of sport and Recreation at Ermington Road Play area.	(8,479.48)
2860	Plot 2 Godwell Lane, Ivybridge (27/1758/11/F)	07/10/16	Under Development	No restriction/committed end date	Open Space Sport Recreation contribution (OSSR £195 to spend and Affordable housing £1335)	(195.00)
2994	Land SE of Torhill Farm, Ivybridge (27_57/1347/14/F)	19/07/2017, 21/09/18 & 28/06/19 & 17/01/20	Under Development	No restriction/committed end date	Filham Park Contribution instalments 1, 2 & 3 + BCIS	(468,709.19)
3000	Land at Woodland Road, Ivybridge (27/1859/15/F)	11/10/17 & 04/12/18	Under Development	10 Years no interest specified	1st Instalment OSSR & 2nd Invoiced	(153,398.41)
3000	Land at Woodland Road, Ivybridge (27/1859/15/F)	04/12/18	Under Development	10 Years no interest specified	1st & 2nd Instalment Open Space and Play	(37,480.45)
3224	Cornwood Road, Ivybridge - 2208/16/FUL	03/10/19	Under Development	5 years	Off-Site Open Space	(46,539.85)
3282	Land at Cornwood Road Ivybridge (Phase 2) -3954/17/Ful	15/05/20	Under Development	10 Years	50% Open Space, Sport and Recreation Contribution	(143,040.99)
3258	Land at Rivermaid Marine - (4140/16/Ful)	09/03/20	Under Development	10 Years	Sports and Recreation Contribution	(18,050.00)
2806	Maypool House Youth Hostel (30/2787/10/F) - Dwelling Two	10/02/16	PIF	No restriction/committed end date	OSSR	(5,386.40)
2715	Harvey's Field (32/0844/12/F)	04/03/15	PIF	10 years, payable at 87.5% to owner and 12.5% payee of contribution, interest at 1% below Barclays base rate	Sports facilities contribution towards the provision of sports facilities required as a result of the development.	(472.47)
3256	Land at Marlborough Park (0549/17/OPA)		Under Development	7 years	1st Instalment of OSSR	(65,064.95)
2944	Land at Moorview, Marldon (34/2184/13/O)	07/07/14	PIF	10 years, interest at 1% below Barclays base rate	Sports and Recreation Contributions	(18,652.07)
2944	Land at Moorview, Marldon (34/2184/13/O)	07/07/14	PIF	10 years, interest at 1% below Barclays base rate	Offsite play Contribution	(62,824.41)
2973	Land off Palm Cross Green, Modbury (35/0059/15/F)	23/08/2017 & 15/08/19	Under Development	No restriction/committed end date	Open Space, Sport and Recreation contribution	(68,304.18)
3262	West Palm Cross Phase 2 (S106 -1391/18/F)	17/02/20	Under Development	10 Years	Sport Contribution	(10,860.48)
3199	Land at The Fairway, Newton Ferrers - 1372/16/FUL	19/09/19	Under Development	10 Years	Open Space and Recreation	(10,743.00)
3454	Yealm Hotel, Newton Ferrers (0607/17/FUL)	26/02/21	PIF	NA	OSSR - to be used for sports and play at Butts Park	(14,613.04)
2460	Loughrigg Coronation Rd, Salcombe (41/0652/11/F)	20/08/13	PIF	10 years, interest rate not specified	Open Space Sport and Recreation contribution	(10,250.86)
2705	Trennels, Herbert Road, Salcombe (41/0929/13/F)	21/10/14	Under Development	25 years, no interest specified	Open Space Sport Recreation contribution (£13,650)	(4,367.50)
2716	Bonfire Hill, Salcombe (41/1915/13/F)	09/2016 & 09/01/20	Under Development	5 years, interest at 1% below Barclays base rate	Open Space and Play contribution	(3,610.24)
2716	Bonfire Hill, Salcombe (41/1915/13/F)	09/2016 & 09/01/20	Under Development	5 years, interest at 1% below Barclays base rate	Sports Provision contribution	(81,417.34)
2716	Bonfire Hill, Salcombe (41/1915/13/F)	09/2016 & 09/01/20	Under Development	5 years, interest at 1% below Barclays base rate	Open Space and Play maintenance contribution	(8,146.77)
3132	Former Gas Works, Salcombe (0362/16/FUL)	24/01/19	PIF	10 Years	OSSR - £14,280 towards The Berry	(14,177.21)
3466	The Smithaleigh Hotel (3043/18/FUL)	06/04/21	Under Development	NA	50% OSSR - towards Erme Valley Playing Field, Ivybridge and/or provision of an all-weather pitch at ICC	(12,096.09)
3385	Paignton Road Stoke Gabriel - 52/1503/15/F				100% OSSR Contribution to improve football facilities in Stoke Gabriel	(54,666.25)
3421	Marians Maples, Stoke Gabriel (52/2081/15/F)	10/02/2021, 15/6/21 & 25/10/21	PIF	10 Years	Sports and Recreation Contribution	(12,554.90)
2717	Old Grist Mill 53/1706/07/F	12/01/15	PIF	No restriction/committed end date	Open Space Sport Recreation contribution	(1,303.08)
2802	Riverside, Totnes (03_56/0447/12/O)	07/12/15	PIF	No restriction/committed end date	Open Space Sport Recreation contribution	(63,271.44)
2820	Follaton Oak, Totnes (56/2346/10/O)	15/04/16	PIF	7 years, interest at 1% below Barclays base rate	Open Space, Sport and Recreation contribution (£60k)	(13,172.10)
2894	Land at Ashburton Road (Meadowside), Totnes (14_56/2246/1)	27/03/17	Under Development	5 years, interest at NatWest base rate	Sports Pitch contribution in the vicinity of the development	(11,430.86)
3001	Land adjacent to Elwell House, Totnes (56/1214/14/F)	12/04/18	PIF	25 years, no interest specified	OSSR - £1596 to spend	(1,596.00)
2945	Knighton Road, Wembury (58/1352/12/F)	28/06/19	Under Development	5 years, interest at NatWest base rate	Footpath Contribution	(95,000.00)
2945	Knighton Road, Wembury (58/1352/12/F)	28/06/19	Under Development	5 years, interest at NatWest base rate	Foot Path Contribution - £9600k to be transferred to National Trust.	(9,600.00)
2972	Home Field, West Alvington (59/2482/14/F)	05/09/17	Under Development	No restriction/committed end date	Play Contribution	(17,970.00)
2972	Home Field, West Alvington (59/2482/14/F)	05/09/17	Under Development	No restriction/committed end date	Sport and Recreation contribution	(43,527.17)
2429	Milzic Close (Underhay) Yealmpton (62/2948/11/O)	13/05/13		5 years, interest at BoE base rate +4%	Sport and Recreation contribution towards improved facilities for formal sport and recreation relating to the development	(0.48)
3487	Former Royal Oak, Bigbury (2873/18/FUL)	15/04/21	PIF	5 years	100% OSSR - Improvements to open space and recreation facilities at the Kings Recreation Ground.	(8,336.25)

Classif. Code	Site	Date Received	Current Stage	Restriction/Committed End Date	Conditions	TOTAL S106 DEPOSITS
3488	Gabriel Court Hotel - 3903/16/FUL	06/07/21	Under Development	10 Years	50% OSSR Contribution towards play facilities at Orchard Play Area, Memorial grounds or a new games area within the parish.	£ (2,604.89)
3489	129 Fore Street Kingsbridge (3552/18/FUL)	11/06/21	PIF	10 Years	100% OSSR - Towards improvements of Duncombe park	(9,262.50)
3500	S106 - Land at Loddiswell Primary (1468/19/FUL)	27/05/21	PIF	NA	100% OSSR - Improvement of Butts Playing Field, Loddiswell.	(15,746.25)
3521	S106 Land off Belle Hill, Kingsbridge (0299/17/OPA)	02/08/21	Under Development	10 Years	33% OSSR - Improvements to facilities at Kingsbridge RFC ground or to increase grass/artificial grass pitch provision in Kingsbridge	(209,644.65)
3526	Blindwells, Hynetown Rd, Strete (2954/20/VAR)	15/07/21	PIF	NA	OSSR - improvements at Strete Play Park, Strete Village Green and/or Blackbird Wood	(12,034.86)
3377	Land At SX 651 560 Filham Ivybridge (3703/18/OPA)	28/09/21	Under Development	10 Years	50% Phase 1 Sports Contribution - detailed off site	(101,222.27)
3557	Parsonage Farm, Newton Ferrers (3139/16/OPA)	13/12/21	PIF	7 years	Open Space Off Site contribution	(35,156.28)
3377	Land At SX 651 560 Filham Ivybridge (3703/18/OPA)	06/05/22	PIF	10 years	Biodiversity contribution	(28,189.24)
3623	St Ann's Chapel Bigbury (4097/16/OPA)	30/06/22	PIF	None	OSSR Sports Play facilities contribution	(38,643.22)
3624	Land adj Fairfield South Brent (DNP 0346/18)	31/05/22	PIF	5 years	OSSR Public Open Space contribution	(23,343.00)
3626	Venn Farm Brixton (1825/16/OPA)	??	Under Development	None	50% OSSR contribution	(37,193.36)
3634	Coco's Nursery Totnes (56/2221/15/O)	06/06/22	Under Development	10 years	50% OSSR Sports & Recreation contribution	(10,529.69)
3651	Siding Cross Wrangaton (1317/16/OPA)	12/07/22	PIF	7 years	OSSR Sports & Recreation contribution	(76,851.46)
3654	Spion Lodge Salcombe (41/1023/15/F)	06/07/22	PIF	7 years	OSSR Sports & Recreation contribution	(22,112.33)
3670	Lower Poole Farm E Allington (0084/18/FUL)	01/08/22	PIF	10 years	OSSR Sports & Recreation contribution	(15,706.08)
3678	The Oaks Pinewood Dr Woolwell (1954/18/OPA)	22/09/22	PIF	10 years	OSSR Sports & Recreation contribution	(161,100.34)
3702	White Parks Farm, Moreleigh (3228/19/FUL)				OSSR Sports & Recreation contribution	(16,319.36)
						(2,958,577.54)

Homes and Built and Natural Environment Delivery Plan

Affordable Housing

2428	Former Old Chapel Inn, St Anns Chapel, Bigbury (05/0227/11/F)	02/05/13	PIF	No restriction/committed end date	Affordable Housing contribution	(97,700.91)
2974	Holywell Stores, Bigbury (05/2557/13/F)	11/06/18	Under Development	25 years, no interest specified	Affordable Housing contribution	(65,193.00)
2819	Churchstow (11/0046/14/F)	29/04/16	PIF	No restriction/committed end date	Affordable Housing contribution - deposit deed	(19,689.00)
2835	Gara Rock Hotel, East Portlemouth (20/2104/13/F)	17/05/16	PIF	No restriction/committed end date	Affordable Housing contribution	(311,691.70)
3116	Gara Rock Hotel (3586/16/FUL)	07/11/18 & 22/02/19	Under Development	No restriction/committed end date	1st, 2nd and 3rd instalment of Affordable Housing	(200,000.00)
3224	Cornwood Road, Ivybridge - 2208/16/FUL	03/10/19	Under Development	5 years	Affordable Housing Contribution	(167,200.00)
2860	Plot 2 Godwell Lane, Ivybridge (27/1758/11/F)	07/10/16	Under Development	No restriction/committed end date	Open Space Sport Recreation contribution (OSSR £195 to spend and Affordable housing £1335)	(1,335.00)
2806	Maypool House Youth Hostel (30/2787/10/F) - Dwelling Two	10/02/16	PIF	No restriction/committed end date	Affordable Housing contribution	(36,047.38)
2411	Maypool House Youth Hostel (30/2787/10/F) - Dwelling One	20/03/12	PIF	No restriction/committed end date	Affordable Housing contribution (£10,000.00) and Open Space (£4,868.75)	(32,415.54)
3101	Land at Pendarves Loddiswell (S106 -32/1722/15/F)	31/07/18	PIF	10 Years	Affordable Housing Contributions	(13,016.73)
3454	Yealm Hotel, Newton Ferrers (0607/17/FUL)	26/02/21	PIF	NA	Affordable Housing Contribution	(124,168.93)
2460	Loughrigg Coronation Rd, Salcombe (41/0652/11/F)	20/08/13	PIF	10 years, interest rate not specified	Affordable Housing contribution	(91,713.56)
2838	Treetops, St Dunstons Road, Salcombe (41/3063/13/F)	30/06/16	PIF	5 years, interest at Lloyds base rate	Affordable Housing	(13,665.79)
2705	Trennels, Herbert Road, Salcombe (41/0929/13/F)	21/10/14	Under Development	25 years, no interest specified	Affordable Housing contribution (£93,001)	(88,780.95)
3132	Former Gas Works, Salcombe (0362/16/FUL)	24/01/19	PIF	25 Years	Affordable Housing	(53,611.32)
2869	Waddeton Barton Farm (52/1249/10/F)	14/09/17	PIF	Not specified	AH contribution of £52313.00	(49,697.35)
2802	Riverside, Totnes (03_56/0447/12/O)	07/12/15	PIF	No restriction/committed end date	Affordable Housing contribution, Open Space Sport Recreation contribution	(27,384.45)
2691	Warland Garage (56/2793/11/F & 56/1520/12/F)	04/08/14	PIF	25 years, no interest specified	Affordable Housing contribution	(664.01)
3523	Millpool, Coombe Shute, Stoke Gabriel (52/2477/15/F)	21/07/21	PIF	5 Years	Affordable Housing contribution	(103,866.66)
3623	St Ann's Chapel Bigbury (4097/16/OPA)	13/07/22	PIF	None	Affordable Housing contribution	(181,875.58)
3630	Tides Reach Hotel Salcombe (2826/15/FUL)	19/05/2022 & 26/7/22	PIF	None	Affordable Housing contribution	(469,044.91)
						(2,148,762.77)

Ecology

2716	Bonfire Hill, Salcombe (41/1915/13/F)	04/03/15	Under Development	5 years, interest at 1% below Barclays base rate	Ecology contribution	(58,401.25)
						(58,401.25)

Tamar SAC

3454	Yealm Hotel, Newton Ferrers (0607/17/FUL)	26/02/21	PIF	NA	Yealm Estuary Environmental Management Plan Contribution	(491.43)
3380	Land Adj Sea View Heybrook bay (1165/20/VAR)	22/06/20		NA	Plymouth sounds and Estuaries EMS recreation mitigation and management scheme	(0.01)
3520	S106 Babland Farm, Modbury (1478/21/PDM)	29/06/21	PIF	NA	Plymouth sounds and Estuaries EMS recreation mitigation and management scheme	(507.05)
3525	Old Barn, Godwell Lane, Ivybridge (2812/20/FUL)	08/07/21	PIF	NA	Plymouth sounds and Estuaries EMS recreation mitigation and management scheme	(467.91)
3655	Ashford, Avelton Gifford (0409/21/OPA)	01/09/21		NA	Plymouth sounds and Estuaries EMS recreation mitigation and management scheme	(507.05)
3656	Briars Cottage Lee Mill (3832/19/FUL)	08/11/21		NA	Plymouth sounds and Estuaries EMS recreation mitigation and management scheme	(507.05)
3574	Babland Farm Modbury (0681/20/FUL)	07/01/22		NA	Plymouth sounds and Estuaries EMS recreation mitigation and management scheme	(116.62)
3586	Sunridge Worston Yealmpton (3355/20/FUL)	31/01/22		NA	Plymouth sounds and Estuaries EMS recreation mitigation and management scheme	(489.16)
3593	Quay West Studios Newnham (1600/21/FUL)	07/10/21 & 22/02/22		NA	2 x Plymouth sounds and Estuaries EMS recreation mitigation and management scheme	(935.98)
3604	106 Church Rd Wembury (3455/21/FUL)	18/03/22		NA	Plymouth sounds and Estuaries EMS recreation mitigation and management scheme	(236.62)
3377	Land At SX 651 560 Filham Ivybridge (3703/18/OPA)	06/05/22	Under Development	10 years	50% Plymouth Sound EMS 2023 Phase 1	(45,841.10)
3620	Scobbiscombe Farm Yealmpton (3845/20/FUL)	25/04/22	PIF	None	Plymouth Sound EMS 2022	(479.60)
3623	St Ann's Chapel Bigbury (4097/16/OPA)	04/05/22	PIF	None	Plymouth Sound EMS 2022	(2,678.29)
3626	Venn Farm Brixton (1825/16/OPA)	21/06/22	PIF	None	Plymouth Sound EMS 2022	(1,065.91)
3628	Highlands Brixton (1944/21/ARM)	04/05/22	PIF	None	Plymouth Sound EMS 2022	(467.91)
3633	Baccamore Shippen Plymouth (3387/20/VAR)	12/06/22	PIF	None	Plymouth Sound EMS 2022	(502.68)
3646	Hareston Farm Yealmpton (2812/21/FUL)	17/06/22	PIF	None	Plymouth Sound EMS 2022	(1,050.88)
3663	The Old Vicarage Stable Modbury (0404/20/FUL)	16/07/22	PIF	None	Plymouth Sound EMS 2022	(36.76)
3679	Woodland Farm Ivybridge (1503/20/FUL)		PIF	None	Plymouth Sound EMS 2022	(482.64)
3708	Land at Northlands, Chittleburn (1508/21/FUL)				Plymouth Sound EMS 2022	(496.47)
3708	Northlands Lodge, Chittleburn (3146/21/FUL)				Plymouth Sound EMS 2022	(290.17)
						(57,651.29)

Air Quality

2994	Land SE of Torhill Farm, Ivybridge (27_57/1347/14/F)	07/2017 & 21/09/21	Under Development	No restriction/committed end date	Air Quality	(5,724.64)
						(5,724.64)

Ivybridge Mill Group

3028	Stowford Mill, Harford Road, Ivybridge (27/1336/15/F)	04/05/18	Under Development	No restriction/committed end date	Ivybridge Mill Group Archives Contributions	(10,000.00)
						(10,000.00)

AONB Mitigation

3424	Noss Marina Bridge Road Kingswear (2161/17/OPA)	09/03/21	PIF	NA	Quay Wall Research Contribution	(4,881.14)
3424	Noss Marina Bridge Road Kingswear (2161/17/OPA)	09/03/21	PIF	NA	Intertidal Habitat Contribution	(43,930.21)
						(48,811.35)

TOTAL S106 DEPOSITS (WITH CONDITIONS)

(6,903,861.41)

S106 DEPOSITS (NO CONDITIONS)

PG28	Rathvendon, Bigbury (1023)				No conditions	(7,312.50)
PG36	Sedgewell Sands, Marine Drive				No conditions	(7,372.00)
2726	St Johns Ambulance, Dartmth 15/1389/12/F				Affordable Housing - provision, enhancement, management	(23,000.00)

TOTAL S106 DEPOSITS (WITH NO CONDITIONS)

(37,684.50)

Capital Grants Unapplied

	Fallapit House, East Allington				Affordable Housing	(87,124.50)
	Tesco Site, Kingsbridge					(30,000.00)

TOTAL CAPITAL GRANTS UNAPPLIED

(117,124.50)

TOTAL S106 DEPOSITS

(7,058,670.41)

Notes:

1. The deposits as at 30th November 2022 reflect income already received by the Council or where a debtor has recently been raised to a third party.

Report to: **Executive**

Date: **26 January 2023**

Title: **Draft Revenue and Capital Budget Proposals for 2023/24**

Portfolio Area: **Cllr J Pearce – Budget Setting Process**

Wards Affected: **All**

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

Author: **Lisa Buckle** Role: **Corporate Director for Strategic Finance**

Contact: Email: lisa.buckle@swdevon.gov.uk

RECOMMENDATIONS

1. That the Executive resolves to RECOMMEND to Council:-

- i) To increase Council Tax for 2023/24 by £5 (Band D of £185.42 for 2023/24 – an increase of less than 10 pence per week or £5 per year – equates to a 2.77% increase);
- ii) The financial pressures shown in Appendix A of £4,107,700;
- iii) The net contributions to/(from) Earmarked Reserves of £(412,000) as shown in Appendix D, including the proposed use of £500,000 of New Homes Bonus funding to fund the 2023/24 Revenue Budget as set out in 3.23 of the report and £400,000 from the Business Rates Retention Earmarked Reserve as set out in 3.17 of the report;
- iv) The savings/additional income of £2,422,000 as shown in Appendix A; and
- v) The recommendation of the s151 Officer to agree to take up the 'stepped pension contribution rates' being offered by the actuaries of the Devon Pension Fund, following the results of the Triennial Pension Revaluation (as per 3.24).

- vi) **That the Council should set its total net expenditure for 2023/24 as shown in Appendix B as £11,738,067.**
- vii) **The proposed Capital Programme Proposals for 2023/24 of £2,035,000 and the proposed financing of the Capital Programme as set out in Appendix E.**
- viii) **That Unearmarked Reserves should continue to have a minimum level of £1.5million (as set in the Medium Term Financial Strategy in September 2022), but an operating level of a minimum of £2million.**
- ix) **That the level of reserves as set out within this report and the assessment of their adequacy and the robustness of budget estimates are noted. This is a requirement of Part 2 of the Local Government Act 2003.**

2. To note that as part of the February 2023 Council report, a further formal Council resolution will be voted on by Members, regarding taking a formal resolution on charging second homeowners a 100% premium on council tax when the Levelling Up and Regeneration Bill becomes law.

1. Executive summary

- 1.1 The Council's Medium Term Financial Strategy (MTFS) is based on a financial forecast over a rolling three year timeframe to 2025/26. The Council adopted a three year timeframe for its MTFS in 2021, as this dovetailed to the timescales of the Corporate Strategy, 'Better Lives for All'.
- 1.2 The Council, along with other local authorities, has faced unprecedented reductions in Government funding. Between 2009/10 and 2020/21, the Council's Core Government funding has reduced by £4 million. The Council now receives minimal Revenue Support Grant (main Government Grant) of £138,000.
- 1.3 The Council has continued to work in partnership with West Devon Borough Council which has allowed South Hams to achieve annual savings of £3.9 million and more importantly protect all statutory front line services. Between both Councils the annual shared services savings being achieved are over £6 million per annum. However, the Councils continue to face considerable financial challenges as a result of uncertainty in the wider economy and constraints on public sector spending.
- 1.4 It is important to note that the Medium Term Financial Strategy (MTFS) sets out the budget strategy for the Council for the next three years, with regular reviews (at least annually) and updates when items are further known or are announced by the Government.

- 1.5 This is the starting point for developing a meaningful three year strategy that sets out the strategic intention for all of the different strands of funding available to the Council. The Council will then be able to rely on this to inform future decisions. The management of risk and promoting financial resilience is a key principle of our budget strategy and this has helped facilitate our response. Key to the authority's financial resilience are our reserves, which are at a prudent level.
- 1.6 The Fair Funding Review, business rates baseline reset, and other funding reforms now look set to be pushed back to 2025/26.
- 1.7 The key assumptions within the Budget Proposals are as below. Each of these is described in more detail in Section 3.
- The business rates baseline reset will be deferred until 2025/26 (with no negative Revenue Support Grant in 2023/24)
 - There will be a phasing in of negative Revenue Support Grant as part of the business rates baseline reset (predicted to be in 2025/26 at the earliest) with a transition period over three years, to avoid Local Authorities losing/gaining too much in one go. The modelling assumes negative RSG of £450,000 in 2025/26. Some of the negative RSG could be offset by growth.
 - A Council Tax increase of £5 has been modelled in Appendix B.
 - One more year of NHB has been announced for 2023/24
 - A business rates pooling gain of £300,000 has been modelled for 2023/24
 - A council tax surplus of £332,000 for 23/24 has been assumed, with a council tax collection rate of 98% (98.34% was achieved in 2021/22)
 - A 3% pay increase has been modelled from 2023/24 onwards (3% equates to £280,000 on total pay of £9.5m, prior to the waste service being brought back in-house. The waste service is shown separately.)
- 1.8 The report sets out proposals for the Council to achieve a balanced budget for 2023/24, as shown in Appendix B. The Council is currently forecasting a £299,562 budget gap by the following year, 2024/25. The cumulative aggregated Budget Gap by 2025/26 is £1.23million, if no action has been taken in each individual year to close the budget gap annually.

Budget Gaps	2023/24 £	2024/25 £	2025/26 £	Total Aggregated Budget Gap £
'New' Budget Gap each year	0	299,562	632,045	931,607
*Cumulative Budget Gap	0	299,562	931,607	1,231,169

* (Cumulative Budget Gap assumes annual new budget gaps have not been

addressed)

- 1.9 Below shows the summary of proposed changes to the Budget report for 2023/24, following the announcement of the Draft Local Government Finance Settlement. Proposals for a balanced budget are shown below:

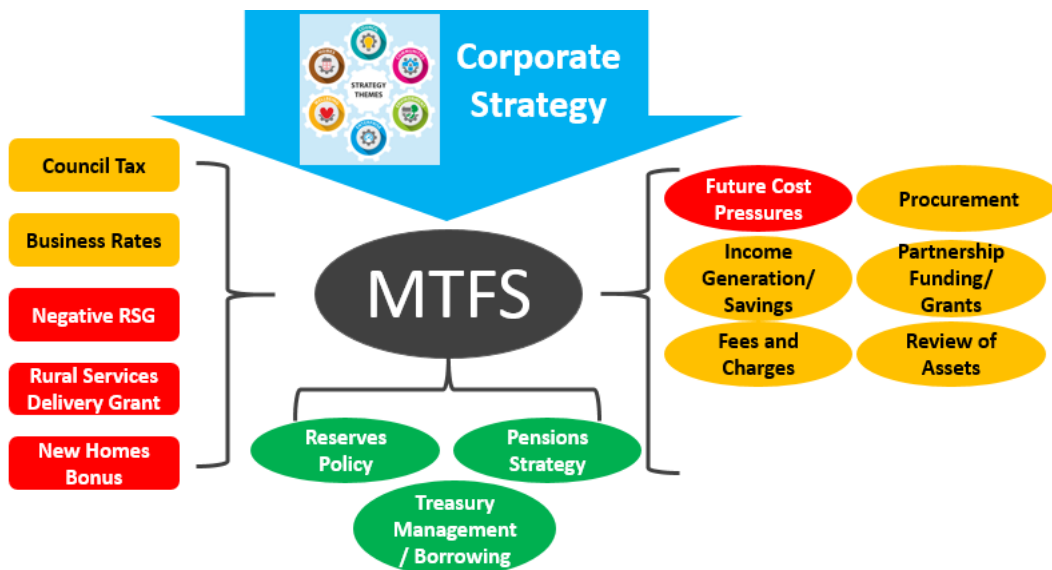
	£
<i>Budget gap for 23/24 reported in the Executive report in December 2022</i>	195,616
Additional cost pressures identified (£265,000)	
Waste collection, recycling and cleansing service – additional properties (extra properties for 23/24)	90,000
Business Rates Revaluation 2023 – increase in the Rateable Value of SHDC assets which are liable to business rates (industrial units, car parks etc.)	75,000
Actuarial Pension Revaluation – increase the cost pressure from £100,000 to £150,000 following the results of the pension actuarial revaluation – see 3.24	50,000
Increase the inflation provision on goods and services – this is all related to energy price increases	50,000
Changes to contributions to/from Earmarked Reserves	
Increase the contribution to the Elections Reserve (District Elections in May 2023)	30,000
Reduce the contribution from the Business Rates Retention Reserve (to fund the Base Budget in 23/24) from £0.5m to £0.4m – see 3.17	100,000
Changes arising out of the announcement of the Local Government Finance Settlement (£439,723 net gain)	
Funding from Funding Guarantee (3% increase in Core Spending Power) – a new Grant for 23/24	(747,929)
Reduction of New Services Grant from £182,000 to £74,907	107,093
Withdrawal of Lower Tier Services Grant from £100,000 to Nil	100,000
Reduction in the predicted amount of Rural Services Delivery Amount from £437,000 to £428,206	8,794
Homelessness Prevention Grant has been increased from £170,000 to £180,000	(10,000)
Decrease the predicted income from Business Rates from £2,550,000 to £2,447,681	102,319
Reduction in cost pressures	
National Insurance and National Living Wage – cost pressure has reduced from £150,000 to £75,000	(75,000)
Changes to income/ financing of the Revenue Budget identified	
Increase in the Taxbase for 23/24 from 39,539.70 to 39,949.00	(75,893)
<i>Revised Budget gap for 2023/24 as set out in this report (as at January 2023) - (A balanced budget position is presented for Members' consideration)</i>	Nil (Balanced Budget)

- 1.10 **The Draft Revenue Budget Proposals for 2023/24 are being considered by the Budget Advisory Committee on 19th January 2023. The recommendations from the Budget Advisory Committee and the minutes from the meeting, will be presented alongside this Executive report.**

2 COMPONENTS OF THE MEDIUM TERM FINANCIAL STRATEGY

- 2.1 The Diagram below sets out all of the component parts which constitute the make-up of a Medium Term Financial Strategy. Items in Green denote those elements where the Council has a large degree of control over the setting of policies and strategies. Items in Amber denote those components of the MTFs where the Council has a degree of control. Red items signal components where the Council has hardly any control over funding allocations which are decided by the Government and future cost pressures which can largely be outside of the Council’s control or influence.

2022/23 Net Budget £10.46 million



- 2.2 The key assumptions within the Budget Proposals are set out in Section 3.

OVERALL POSITION – BUDGET GAP

- 2.3 Financial modelling has been undertaken for the next five years to predict the Council’s financial situation for the short and medium term.
- 2.4 **Appendix A** to the Medium Term Financial Strategy sets out the Budget Pressures forecast for the next five years and the additional savings and income forecast. **Appendix B** illustrates the overall financial forecast for

the forthcoming five years. The Council's Net Budget is £10.46 million in 2022/23.

- 2.5 A Summary forecast is shown below of the potential budget situation if all of the budget pressures and the savings and income generation in Appendix A were approved. It also shows the situation if the Council Tax is increased by £5 per annum (shown in Appendix B).
- 2.6 The report sets out proposals for the Council to achieve a balanced budget for 2023/24, as shown in Appendix B. The Council is currently forecasting a £299,562 budget gap by the following year, 2024/25. The cumulative aggregated Budget Gap by 2025/26 is £1.23million, if no action has been taken in each individual year to close the budget gap annually.

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*Cumulative Budget Gap	0	299,562	931,607	1,231,169

* (Cumulative Budget Gap assumes annual new budget gaps have not been addressed)

- 2.7 The Council will continue to assess various options for closing the budget gap for 2024/25 onwards, and in the longer term, to achieve long term financial sustainability and further reports will be presented to Members.

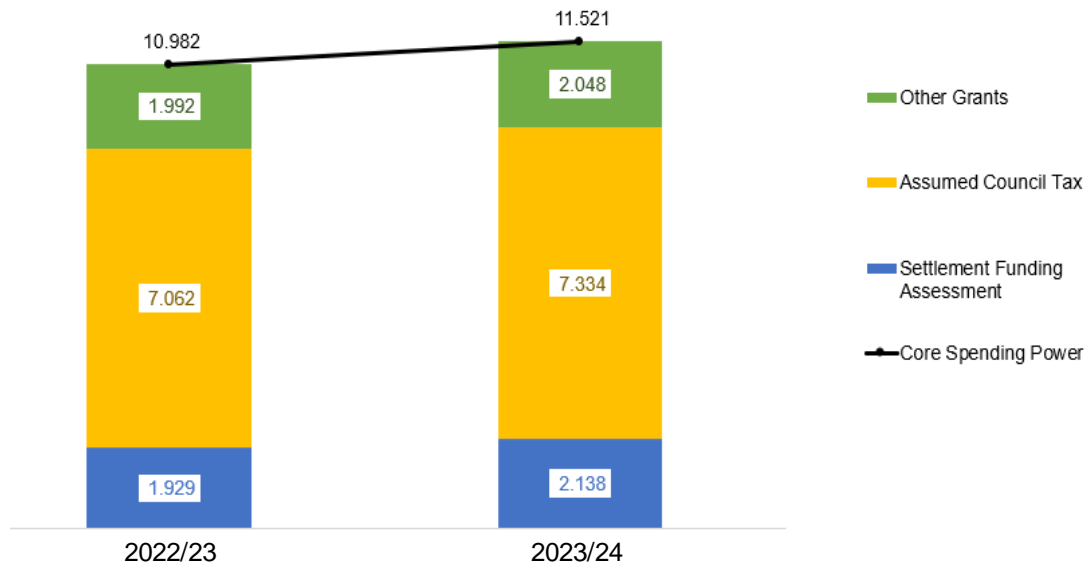
3 LOCAL GOVERNMENT FINANCE SETTLEMENT FOR 2023/24

- 3.1 On 19th December, the Government published for statutory consultation, the provisional local government finance settlement for 2023/24. This followed a policy statement published on 12 December, covering 2023/24 and 2024/25, which are the remaining years of the Spending Review 2021 period. This in turn was just after the Autumn Statement on 17 November, which set the overall level of available resources.
- 3.2 The provisional settlement is once again a holding position, designed for stability and certainty for planning purposes for 2023/24. The broad approach is based on a uniform roll-over of the core elements of the settlement. Finance reform has been deferred to at least 2025/26 and possibly later.
- 3.3 Detailed numbers are only available for 2023/24 in the Finance Settlement and there remains significant uncertainties for 2024/25, particularly for District Councils. These include the future of the New Homes Bonus Scheme, which is now simply a one-year retrospective

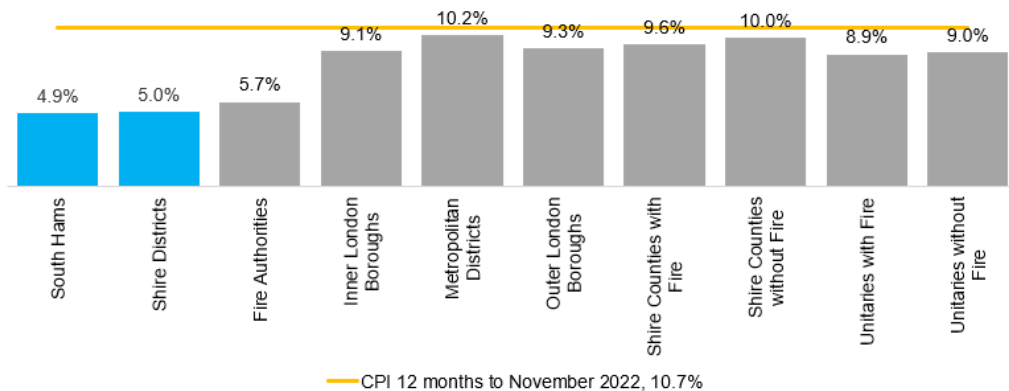
payment. There will be a future Government consultation on the New Homes Bonus scheme.

3.4 The 'Core Spending Power' is a headline figure used by MHCLG to represent the key revenue resources available to local authorities, including an estimate of actual and potential council tax, as below. The Council now receives no main Government grant (Revenue Support Grant).

3.5 **Core Spending Power for South Hams (which is a measure of how much extra funding a Council has received for next year) increased by 4.9% for 2023/24.** Core Spending Power is the term the Government use to say how much money Councils have to run their services.



The table below shows the change in Core Spending Power by Authority Type. Shire Districts on average received an increase in Core Spending Power of 5%. This compares to 10.2% for Metropolitan Districts.



Council Tax

- 3.6 The Council Tax Referendum limits for District Councils for 2023/24 is the higher of 2.99% or £5. At the Council meeting on 15 December 2022, it was resolved that the strategic intention be set to raise Council Tax by £5 for a Band D property for 2023/24 (rather than the maximum allowed of 2.99% which equates to an annual increase of £5.39).

A Band D council tax for the District Council of £185.42 in 2023/24 is shown in Appendix B (an increase of £5 for the year (less than 10 pence per week) which equates to a 2.77% increase. The Council's share of the council tax for 2023/24, will be set at the Council meeting on 16th February 2023. (A 1% increase in council tax generates £71,000 of extra council tax income).

Council Tax legislation sets out that Council Tax is partly a form of general taxation on a property and partly a tax on the people living in a property. Council Tax funds essential services in an area and the cost of public services is spread across all tax payers in the same way, regardless of which services they use or receive. Council Tax is a form of general taxation rather than a service charge.

- 3.7 The table below shows how an average Band D council bill is made up for South Hams District Council for 2022/23, compared to 2021/22. Of an average Band D Council Tax within the District of £2,155.30, an amount of £180.42 is the element of a council tax bill set by South Hams District Council. Therefore 8pence of every £1 paid (8%) in council tax is received by South Hams District Council to pay for our services. The rest of the council tax bill is set by Devon County Council, the Fire, the Police and Town and Parish Councils to fund the services they provide. In 2022/23, the council tax for an average Band D property in South Hams increased by £64.75 per annum (3.1% as shown below).

Precepting Authority	Band D 2021/22	Band D 2022/23	£ Increase	% Increase
South Hams District Council	£175.42	£180.42	£5.00	2.85%
Devon County Council Precept	£1,342.44	£1,372.59	£30.15	2.99%
Adult Social Care Precept *	£168.84	£183.87	£15.03	
Devon & Cornwall Police & Crime Commissioner	£236.56	£246.56	£10.00	4.23%
Devon & Somerset Fire & Rescue	£90.00	£91.79	£1.79	1.99%
Average Parishes/Towns	£77.29	£80.07	£2.78	3.60%

TOTAL	£2,090.55	£2,155.30	£64.75	3.10%

Town and Parish Precepts for 2022/23 are shown in Appendix F. The largest Parish Precepts are Totnes (£186.57), Dartmouth (£182.95) and Ivybridge (£134.91), with the smallest Precept being Woodleigh (£4.94) for a Band D property.

- 3.8 The District Council is responsible for collecting all the Council Tax debt of approximately £83m as South Hams DC is the Billing Authority. After keeping 8% of the council tax collected to run the Council's services, the rest is paid over to Devon County Council, the Police, the Fire and Town and Parish Councils. The collection rate for Council Tax for South Hams was 98.34% for 2021/22. This was 2.44% higher than the national average of 95.9%.
- 3.9 A council tax collection rate of 98% has been assumed for 2023/24.
- 3.10 It has been assumed that the number of properties within the District will increase by 500 per annum from 2023/24 onwards.
- 3.11 No council tax referendum principles will apply to Town and Parish Councils for 2023/24 onwards.

Business Rates and Negative Revenue Support Grant (RSG)

- 3.12 The Business Rates Reset will be delayed to 2025/26 at the earliest.
- 3.13 Pushing these major changes back to 2025/26 means that they can be aligned with the next spending review period (the current spending review runs to 2024/25). 2025/26 now looks like it is shaping up to be a very significant financial year for local government, incorporating a new spending review, the 2021 Census and funding reforms.
- 3.14 This means the Council wouldn't have to forego some of its business rates income (£450,000) by paying some of it back to Government in the form of 'negative government grant' in 2023/24 or 2024/25. Negative RSG is effectively the Council's further predicted funding cuts. The modelling assumes negative RSG of £450,000 in 2025/26. Some of the negative RSG could be offset by growth.
- 3.15 Estimates have been made of the business rates baseline funding levels for 2023/24 onwards and the relative deductions for negative RSG. For example in 2023/24, the £2.448m is the amount the Council is projected to retain from its business rates income collected of around £24 million (this equates to around 10p in every £1 collected of business rates).

- 3.16 The 2021/22 collection rate for South Hams for business rates was 98.13%. This was 2.63% higher than the national average of 95.5% for 2021/22.
- 3.17 It is recommended to take £400,000 funding from the business rates retention reserve in 23/24 to fund the base budget, with a further £400,000 in 24/25 and 25/26. The previous budget report for 2023/24 included a proposal to take £500,000 from this reserve in 23/24 to fund the base budget. It is recommended that this is reduced down to £400,000 now that the details of the Local Government Finance Settlement have been announced, in order to reduce the reliance on taking funding from reserves to fund the base budget for 2023/24.

This budget modelling would reduce the business rates retention reserve by £1.2m over the next 3 years to smooth the impact of the business rates baseline reset and the future loss of pooling gains. In addition, an amount of £3m has been approved to be utilised from the business rates retention reserve, to cover the transitional cost of the waste service coming back in-house in October 2022 onwards. This reserve is predicted to have more business rates income being set aside into the reserve in 23/24, due to the way that business rates income flows through the collection fund over a period of years.

Business Rates Income	2023/24 (£m)	2024/25 (£m)	2025/26 (£m)
			<i>Potential Baseline Reset</i>
Business Rates Income	2.448	2.450	2.50
Less: Negative Revenue Support Grant (RSG)			(0.45)
Anticipated Pooling Gain	0.300	-	-
Funding proposed to be taken from the Business Rates Retention Reserve to smooth the volatility in business rates income	0.400	0.400	0.400
Total Business Rates Income	3.148	2.85	2.45

- 3.18 **Business Rates Revaluation** – There will be a business rates revaluation from 1 April 2023, based on the rental market as at 1 April 2021. The purpose of a business rates revaluation is to update rateable values and therefore, business rates bills, to reflect changes. Transitional arrangements will be in place to support businesses to adjust to their new bills. The results of the Revaluation exercise have been finalised by the Valuation Office and the Council will have higher business rates bills for some of its operational assets such as industrial units, car parks and Follaton House. A cost pressure of £75,000 has been included within these budget proposals (for example the rateable value of Follaton House has increased from £305,000 RV to £375,000 RV).

Devon Business Rates Pool

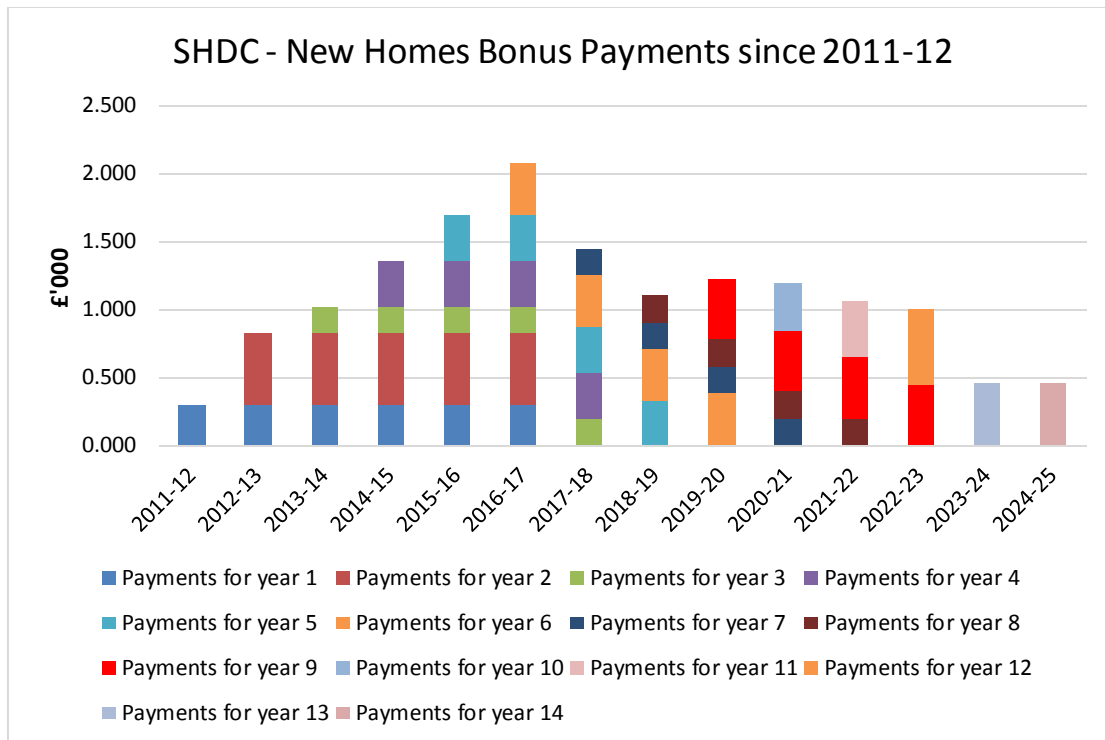
- 3.19 Council in December 2022 approved that South Hams District Council will continue to be part of a Devonwide Business Rates Pool for 2023/24. A business rates pooling gain of £300,000 has been modelled for 2023/24.

Rural Services Delivery Grant

- 3.20 Rural Services Delivery Grant will continue for 2023/24 at previous levels (£85m nationally – SHDC share of £437,000).

New Homes Bonus (NHB)

- 3.21 NHB has been 'rolled over' for another year, with no legacy payments being paid. The Council's provisional allocation is **£456,012 for 2023-24** (higher than the amount estimated in the previous budget report of £421,000). There is due to be a consultation on the future of the NHB scheme. A decision on whether NHB will continue into 2024-25 will be made before next year's finance settlement.
- 3.22 There is a net property increase of 454 properties in the 23/24 NHB calculation. When the baseline (0.4%) is deducted of 186 properties (0.4% of 46,551 overall Band D equivalent properties), this means that NHB is payable at 80% of £1,965 (national average Band D council Tax) x 268 additional Band D properties over the baseline. So for the first 186 extra properties, SHDC receives no NHB. (268 x £1965.71 x 80% = £421,000)
- 3.23 The budget report assumes that £500,000 of NHB funding is used in 2023/24 to fund the base budget. This would be £456,012 from the 23/24 allocation and £43,988 from the NHB Earmarked Reserve.



3.24 Triennial Pension Revaluation - Every three years, there is a valuation of the Pension Fund (administered by Devon County Council) to assess the Fund’s liability to meet future benefit payments, and whether there are enough assets to meet those liabilities. The valuation as at 31 March 2022 has been undertaken by Barnett Waddingham, a firm of actuaries. They have assessed that as at 31 March 2022, the Devon Pension Fund had discounted liabilities of £5.405 billion, with assets of £5.316 billion to meet the liabilities. This means the Fund has 98% of the assets it needs to meet the accrued pension liabilities. This percentage is known as the funding level, which is now 98%.

The result is an improvement from the last Valuation in 2019 when the Fund had a 91% funding level. The improvement is largely a result of investment returns, deficit contributions paid in by employers and revised demographic assumptions. The increased funding level is good news, demonstrating good progress towards a 100% funding level.

The results for the South Hams proportion of the Devon Pension Fund are shown below. The funding level of the SHDC Pension Fund is now **107.2%**.

Pension Revaluation Position for South Hams District Council

	At 31 March 2019	At 31 March 2022
	£000	£000
Assets	97,607	111,957
Liabilities	96,570	104,450
Surplus	1,037	7,507
Funding level	101.1%	107.2%

However the primary pension contribution rates are being increased by the actuaries across the Devon Fund. The Council currently pays a primary rate (employer's pension contribution rate) of 16.8% and this is being increased to 19.6% for the next 3 years.

In light of the Council's funding level of 107.2%, the s151 Officer has requested that a 'stepped contribution' rate is introduced over a 3 year period for the Council. This has been offered by the actuaries as being the stepped rates below:-

'Stepped rates for the primary rate'

Proposed rate 2023/24 – 17.8%

Proposed rate 2024/25 – 19.3%

Proposed rate 2025/26 – 20.8%

It is recommended by the s151 Officer that the Council accepts the offer of the stepped contribution rates from the actuaries. This would give a cashflow benefit of around £0.25m over the next two years and a cash benefit of over £100,000.

Other assumptions within the Medium Term Financial Strategy (MTFS)

- 3.25 The last pay award offer for 2022/23 has recently been agreed. The pay award is an increase of £1,925 on all NJC pay points 1 and above with effect from 1 April 2022 and an extra day of annual leave entitlement with effect from 1 April 2023. All employees on a NJC pay spine receive a minimum 4.04% pay increase, with a minimum of £10.50 hourly rate of pay. (The estimate of the National Living Wage, set at two-thirds of medium earnings for those aged 21 and over in 2024 is £10.95). For example, for Level 8, this would equate to a pay increase of around 9%.
- 3.26 The amount agreed for 2022/23 (as set out above) is higher than the amount that was previously provided for of a 2% provision.
- 3.27 The budget report includes a total provision for the 2022/23 pay award of £630,000 in 23/24. This is the amount that will be needed for the £1,925 pay award, which is over and above the 2% that was provided for in the 22/23 budget. This needs to be built into the 23/24 budget as a 'catch up' for the pay award for 22/23, as the 22/23 budget has already been set.
- 3.28 The Medium Term Financial Strategy is not an expression of Council Policy on pay awards, but a means of ensuring an appropriate provision is made as part of the overall financial planning of the Council.
- 3.29 The Consumer Price Index (CPI) has reached 10.7% (November 2022 CPI), which is a 40 year high. A significant part can be attributed directly to gas/electricity price inflation.

- 3.30 An extra £450,000 cost pressure for inflation on goods and services has been included within the cost pressures in Appendix A. For electricity alone, a 280% increase has been factored in equating to over £200,000 additional cost.
- 3.31 Interest rates are increasing and the Bank Base rate is currently 3.5% (a 0.5% increase was announced by the Bank of England on 15 December 2022). It is predicted that the Council's treasury management income will increase to £800,000 in 2023/24 and an extra £677,000 has been built into the MTFs for 2023/24 (the existing base budget is £123,000).

Better Lives for all – The Council's 20 year vision

- 3.32 Better Lives for All sets out our 20-year vision for South Hams and its communities. It forms the strategy for both the Council as an organisation and the South Hams as a place. The six areas of focus are supported by detailed annual delivery plans.

<https://www.southhams.gov.uk/better-lives-for-all>

Achieving our Vision

To support us in achieving our vision, we have aligned our actions to a number of themes.

Each theme will be led by an Executive Member and supported by a senior officer.

In the following pages, we set out our Thematic Delivery Plans for each area.

 <p>Adapting & mitigating climate change and increasing biodiversity</p> <p>An environment where people and nature thrive together</p>	 <p>Improving homes</p> <p>Better homes enabling better lives for all</p>	 <p>Protecting, conserving & enhancing our built and natural environment</p> <p>Planning for our future, celebrating our past</p>
 <p>Stimulating a thriving economy</p> <p>A district that attracts high quality employment opportunities and space for business to grow</p>	 <p>Strengthening community wellbeing</p> <p>Strong and prosperous communities where residents live healthy lives and are empowered to make a positive impact</p>	 <p>Delivering quality Council services</p> <p>Delivering quality services to our residents and communities</p>

Climate Change

- 3.33 The Council's annual delivery plan on 'Adapting and mitigating climate change and increasing biodiversity' sets out the Council's action plan for addressing climate change and the carbon/biodiversity impact.

OTHER BUDGET ITEMS

- 3.34 Waste and Recycling service – There was a separate report on the December Executive agenda on the waste and recycling service update.
- 3.35 The Levelling Up and Regeneration Bill is making its way through Parliament. The Government is aiming for Royal Assent in Spring 2023. There is a proposal within the bill to allow Billing Authorities the discretion to charge second home owners a council tax premium of 100% (so a second home dwelling would pay double the council tax charge). The Bill requires Billing Authorities to have a minimum period of 12 months between making its first determination and the financial year in which it takes effect.
- 3.36 Billing Authorities may be able to charge the premium to second home owners in 2024-25, but the timing will be very tight if Authorities only get the powers in Spring 2023. A Member decision would need to be taken on this as part of the future budget setting process. Modelling shows that extra council tax income of £730,000 could be generated.
- 3.37 **At Council on 15 December 2022, a motion was passed by Council, which resolved that:**
'This Council will adopt a 100% Council Tax premium on second homes as soon as legislation allows'.
- 3.38 As part of the February 2023 Council report, a formal Council resolution will be voted on by Members, regarding taking a formal resolution on charging second homeowners a 100% premium on council tax when the Levelling Up and Regeneration Bill becomes law.

4. Treasury Management and Borrowing Strategy

- 4.1 The Council has previously taken external treasury management advice on the Council's overall borrowing levels and debt levels. The Council set an Upper Limit on External Borrowing (for all Council services) as part of the Medium Term Financial Strategy of £75 million in 2019 and it is not proposed to change this limit at present.
- 4.2 In 2021/22 the long term borrowing of the Council decreased from £14,380,000 (20/21) to £14,284,000. Short term borrowing increased from £94,000 to £96,000 due to the maturity profile of borrowing. No further external borrowing took place during 2021/22.

5 FEES AND CHARGES

- 5.1 As part of the budget process, fees and charges will be reviewed. A delegation is in place to enable service managers to increase fees and charges by inflation where these are not material changes or increases.

- 5.2 During the 2021/22 Budget setting process (Development Management Committee and Overview and Scrutiny Committee on 14th January 2021), Members approved the following: 'delegated authority be given to the relevant Head of Practice, in consultation with the relevant lead Executive Member, to adjust Fees and Charges within their service area by inflation at suitable periodic intervals, with reports being presented to the Executive as appropriate'. The Head of Finance will co-ordinate this work with the relevant Heads of Service leads and the relevant Executive Members.

6 FINANCIAL SUSTAINABILITY AND TIMESCALES

- 6.1 The Council will continue to assess various options for closing the budget gap for 2024/25 onwards, and in the longer term, to achieve long term financial sustainability and further options will be presented to Members in further budget reports. This will consider ways to reduce the Council's operating costs and generating further income and savings.
- 6.2 Making the best use of our resources and setting a balanced budget annually is within the 'Delivering Quality Services' Delivery Plan of the Council's long term strategic vision, 'Better Lives for All'.

7 Earmarked and Unearmarked Reserves Policy

- 7.1 Unearmarked Reserves total £2.056 million as at 31 March 2022 (the Balance Sheet date). This position is after £280,000 has been transferred from Unearmarked Reserves to a Financial Stability Earmarked Reserve (Council 10 February 2022). This is a new reserve set up in 2021/22 as part of the 2022/23 Budget process to be available for any future financial pressures from local government funding reforms and any other budget pressures.
- 7.2 Earmarked Reserves total £20.059 million as at 31 March 2022. A full list of Reserves is shown in Appendix C. The proposed contributions to/from Earmarked Reserves are shown in Appendix D.
- 7.3 Earmarked Reserves includes £4.260m held in the Business Rates s31 Compensation Grant Reserve. This is due to a technical accounting adjustment where Councils were compensated for the business rates holidays that were announced by the Government for the retail, hospitality and leisure sectors in 2020/21 and 2021/22 (this funding is in the S31 Compensation Grant Reserve). The funding in this reserve will reverse back out again in the 2022/23 Accounts, to fund the deficit on the Collection Fund. Therefore, this is not money which is available for the Council to spend and it is important that this is not misinterpreted in the Accounts, as this is a national issue.
- 7.4 Reserve levels will be kept under constant review and will be reviewed throughout the budget setting process to consider commitments against Earmarked Reserves, their unallocated balance and the contributions to/from Earmarked Reserves for 2023/24 and future years also.

- 7.5 At Council on 10th February 2022, Members set a minimum balance for Unearmarked Reserves of £1.5million, with an operating level of a minimum of £2million. This was based on a risk assessment basis and a sensitivity analysis. This will be updated for the February 2023 Budget report. Therefore, the current level of £2.056million is still above these levels previously set.
- 7.6 Legislation does not prescribe how much the minimum level of reserves should be. The Section 151 Officer is tasked with recommending the minimum level of reserves required as part of the budget setting process having regard to elements of risk in the Council's finances (this was recommended at £1.5million being the minimum level in February 2022, with an operating level of £2million). Section 25 of the Local Government Act 2003 requires the Section 151 officer to report on the adequacy of the Council's financial resources on an annual basis.
- 7.7 The provision of an appropriate level of balances is a fundamental part of prudent financial management, enabling the Council to build up funds to meet known and potential financial commitments.
- 7.8 As highlighted above there is a high degree of uncertainty about future levels of funding for local government. However, the Section 151 Officer is keeping a close watch on developments and planning for this longer-term uncertainty. For example, the Council has a Financial Stability earmarked reserve to help secure financial stability for the longer term (see 7.1).

8 CAPITAL PROGRAMME AND PRUDENTIAL BORROWING

- 8.1 The Capital Programme is set by the Council and may be funded by sale proceeds from the disposal of assets (capital receipts), external grants and contributions, directly from revenue or from borrowing.
- 8.2 Capital projects will be scored on the following criteria:
- 1 - Health and Safety compliance
 - 2 - Essential to keep operational assets open
 - 3 - Fit with the Council's Delivery Plans for 'Better Lives for All'
 - 4 - To rationalise service delivery or service improvement
 - 5 - To generate income, capital value or to reduce revenue costs
- 8.3 It is important that future bids for capital are aligned with the review of the thematic delivery plans and aims within 'Better Lives for All'.
- 8.4 The capital bids are set out in Appendix E alongside ways the Capital Programme could be financed. The Capital Bids currently total £2,035,000. Business cases are attached in Appendices E1 to E5.
- 8.5 **Regeneration and Investment Strategy** – The Council has approved a Regeneration and Investment Strategy (Minute Reference CM 75/21,

Council 31/3/2022). To date, Investment Properties have a value of £18.61 million in aggregate as at 31.3.2022.

- 8.6 Purchases made within the strategy are capital expenditure. An income projection of £667,000 from the net ancillary income from investments in Investment property has been included within the 2022/23 Base Budget onwards.
- 8.7 The Council's Asset Base is £102.7 million as at 31 March 2022. The Council will continually review and challenge its asset base in order to deliver the optimum value for money from the Council's Assets.

9 FINANCIAL SUSTAINABILITY AND TIMESCALES

- 9.1 The MTF5 is the starting point for developing a meaningful three year strategy that sets out the strategic intention for different strands of funding available to the Council (Executive 15 September 2022).
- 9.2 The Council's budget is essentially fixed in cash terms and its ability to raise income is limited as there are national controls in place around council tax and business rates.
- 9.3 The Council will continue to assess various options for closing the budget gap for 2024/25 onwards, and in the longer term, to achieve long term financial sustainability and further reports will be presented to Members.
- 9.4 Making the best use of our resources and setting a balanced budget annually is within the 'Delivering Quality Services' Delivery Plan of the Council's long term strategic vision, 'Better Lives for All'.
- 9.5 Officers will continue to work with the Executive and the results of this will be incorporated into future Budget reports. This will consider ways to reduce the Council's operating costs and generating further income and savings.
- 9.6 An all Member Budget Workshop took place on Thursday 10th November.
- 9.7 The table below shows the budget timetable for the 2023/24 Budget process.

19 January 2023	Budget Advisory Committee comprising of all Non-Executive Members, to consider the 2023/24 Revenue and Capital Budget Proposals and make recommendations to the Executive on the Budget Proposals <i>NOTE: The Draft Revenue Budget Proposals for 2023/24 are being considered by the Budget</i>
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	<i>Advisory Committee on 19th January 2023. The recommendations from the Budget Advisory Committee and the minutes from the meeting, will be presented alongside this Executive report.</i>
26th January 2023	Executive – To recommend Final Budget Proposals to Council for 2023/24
13th February 2023 (9am)	Date which Council Procedure Rule 16 applies
16th February 2023	Full Council – To approve Final Budget Proposals for 2023/24 and set the SHDC share of the Council Tax
22 February 2023	Council Tax Resolution Panel – to agree the Council Tax Resolution for 2023/24 (This is SHDC share plus all other precepting authorities share).

Note 1- Council Procedure Rule 16 states that ‘Where a member intends to move a motion or amendment in relation to the Budget, the text of that motion or amendment must be put in writing and submitted to the Head of Paid Service by 9am on the third working day before the meeting, in order that officers may have sufficient time to consider and advise the Council of the financial implications of any such motion or amendment’. As per the timetable above, this would need to be submitted by 9am on Monday 13th February 2023.

10. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance		The Executive is responsible for recommending to Council the budgetary framework. It is the role of the Overview and Scrutiny Committee to scrutinise the Budget proposals being proposed by the Council on an annual basis. In accordance with the Financial Procedure Rules, Council must decide the general level of Reserves and the use of Earmarked Reserves.

		<p><i>The Draft Revenue Budget Proposals for 2023/24 are being considered by the Budget Advisory Committee on 19th January 2023. The recommendations from the Budget Advisory Committee and the minutes from the meeting, will be presented alongside this Executive report.</i></p> <p>The preparation of the Budget report is evidence of whether the Council has considered and taken into account all relevant information and proper advice when determining its financial arrangements in accordance with statutory requirements, and in particular, that it will set a lawful budget.</p>
Financial implications to include reference to value for money		<p>The report sets out proposals for the Council to achieve a balanced budget for 2023/24, as shown in Appendix B. The Council is currently forecasting a £299,562 budget gap by the following year, 2024/25. The cumulative aggregated Budget Gap by 2025/26 is £1.23million, if no action has been taken in each individual year to close the budget gap annually.</p> <p>As part of Grant Thornton’s external audit of the Statement of Accounts for 2021/2022, they will assess the arrangements the Council has in place for:-</p> <ul style="list-style-type: none"> • Improving economy, efficiency and effectiveness • Financial Sustainability • Governance <p>The outcome of Grant Thornton’s work in this area will be reported to Members at the Audit Committee meeting in March 2023.</p>
Risk		Each of the budget options taken forward by Members will consider the risks of the option.
Supporting Corporate Strategy		The majority of activities set out in the Council’s delivery plans can be delivered through refocusing and reprioritisation of existing resources however, in order to realise the ambition set out in the strategy, some of the activities will require additional resources.
Climate Change - Carbon / Biodiversity Impact		The Council declared a Climate Change and Biodiversity Emergency on 25 July 2019 and the potential for this to have significant financial implications for the Council was highlighted.

		<p>A Climate Change Action Plan was presented to Council in December 2019. Following this report, a strategy is being implemented as to how the Council can finance the items within the Action Plan, whether that is from external grant sources or some funding from the Council's own resources.</p> <p>The Council has Earmarked £400,000 in a Climate Change Earmarked Reserve as part of the 2020/21 Budget, with a further £200,000 being agreed as part of the 2021/22 Budget Process.</p> <p>Further detail is set out in the Council's 'Better Lives for All' Thematic Delivery Plan.</p>
Comprehensive Impact Assessment Implications		
Consultation and Engagement Strategy		<p>External consultation on the Council's Budget Proposals will be undertaken prior to the Budget being agreed by Council in February 2023.</p> <p>The Budget supports all of the Thematic Delivery Plans within the Council's strategic vision, 'Better Lives for all'. There was a public consultation on the Plan during the Summer 2021.</p>
Equality and Diversity		Equality Impact Assessments are completed for the budget proposals.
Safeguarding		None directly arising from this report.
Community Safety, Crime and Disorder		None directly arising from this report.
Health, Safety and Wellbeing		None directly arising from this report.
Other implications		None directly arising from this report.

Supporting Information

Appendices:

- Appendix A – Budget pressures and savings
- Appendix B – Modelling of the Budget Position
- Appendix C - Schedule of Reserves
- Appendix D – Contribution to/from Reserves
- Appendix E – Outline initial proposals for the Capital Programme for 2023/24
- Appendix F – Town and Parish Precepts for 2022/23

Background Papers:

None

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SOUTH HAMS DISTRICT COUNCIL - BUDGET PROPOSALS 2023/24
(This shows the changes to the existing Base Budget)

APPENDIX A

	BASE 2022/23	Yr1 2023/24	Yr2 2024/25	Yr3 2025/26
	£	£	£	£
BUDGET PRESSURES				
Inflation and increases on goods and services	110,000	450,000	250,000	110,000
Triennial Pension revaluation (increase in Pension Employer primary rate contributions)		150,000	150,000	250,000
Salaries - provision for pay award at 3% (£280,000) from 2023/24 onwards, total pay of £9.5m	185,000	280,000	280,000	280,000
Pay award 2022-23 - £1,925 per Scale Point (£630,000 is the amount over the current budget provision of £185,000 for 2022-23) - This will need to be built into the Base Budget in 2023-24	0	630,000	0	0
Increase in salaries - increments and pay and grading	0	200,000	0	0
The Planning Improvement Plan, Executive 26.5.22, noted that the cost of the staffing restructure, £98k per annum, will be funded for the first three years from the additional planning income held in the planning earmarked reserve.	164,000	98,000	0	0
Better Lives for All strategy - Council 23 September 2021 - £110,000 cost pressures for 22/23 and 23/24	110,000	0	(110,000)	
Waste collection, recycling and cleansing contract inflation (estimate of around 3%)	130,000			
Additional inflation for the waste service - 12.2% for 2022/23 (extra £360K) plus assume 5% for 2023/24 onwards (£205K)	0	565,000	205,000	205,000
Waste collection, recycling and cleansing service - Council 14 July 2022	0	1,250,000	0	0
Waste collection, recycling and cleansing service - additional properties	0	90,000	90,000	100,000
National Living Wage and National Insurance	140,000	75,000	75,000	75,000
Business Rates Revaluation 2023 - Increase in the Rateable Value of SHDC Assets which are liable to business rates	0	75,000	50,000	50,000
Dartmouth Lower Ferry - increase the R & M budget	0	80,000	0	0
Increased external audit fees (fees are increasing nationally)		75,000	0	0
Head of Revenues and Benefits Executive 7th April 2022	0	45,000	0	0
Housing Delivery Team Executive 26th May 2022	0	44,700	0	0
IT Support contracts	75,000			
Reduce the income budget for treasury management investment income	80,000			
Rough sleeper outreach worker (SHDC share of the cost is 60%), to be funded from Government Homelessness grant	24,000			
Community composting groups	10,000			
Salcombe Harbour recharges to the Council for staff time	16,600			
TOTAL BUDGET PRESSURES	1,044,600	4,107,700	990,000	1,070,000
Changes to contributions to Earmarked Reserves				
Reduce the contribution from the New Homes Bonus Reserve to fund the Revenue Base Budget (assumes a contribution of £0.5m in 22/23 and 23/24 onwards)	246,000	0	0	0
Dartmouth Ferry - increase annual contribution to reserve		30,000	30,000	0
Elections - increase the contribution to the Elections Reserve		30,000		
Contribution from Business Rates Retention reserve to smooth the volatility in business rates income from the baseline reset and the loss of a pooling gain (This would use £0.1m of the Reserve in 22/23, £0.4m in 23/24 and £0.4m in both 24/25 and 25/26)	(100,000)	(300,000)	0	0
Contribution from the Planning Reserve for the cost of the restructure within the planning service - Executive 26 May 2022 - to be funded for the first three years from the additional planning income held in the planning earmarked reserve		(98,000)		
Reduce contribution to Pension Reserve	0	(99,000)	0	0
Contribution to Joint Local Plan Earmarked Reserve	25,000	0	0	0
Contribution from Homelessness Reserve (to fund rough sleeper outreach worker)	(24,000)	0	0	0
Repairs and Maintenance Reserve - increase annual contribution in 2023-24	0	25,000	0	0
Total changes in contributions to Earmarked Reserves	147,000	(412,000)	30,000	

SOUTH HAMS DISTRICT COUNCIL - BUDGET PROPOSALS 2023/24
(This shows the changes to the existing Base Budget)

APPENDIX A

SAVINGS AND INCOME GENERATION IDENTIFIED

	BASE 2022/23	Yr 1 2023/24	Yr 2 2024/25	Yr 3 2025/26
Management fee income from external contracts such as leisure	0	0	(230,000)	(200,000)
IT FIT Project - software savings	(70,000)	(10,000)		
Establishment savings (salary savings) gained from IT and digital communications	(20,000)	(50,000)		
Employment Estates - additional rental income	(80,000)	(150,000)		
Extra recycling income - additional income has already been achieved in 2021-22	(70,000)	(90,000)		
Extra planning income (to fund four planning specialists and two legal specialists) - Planning Improvement plan - Executive 14.10.21	(164,000)			
Car parking income (from extra usage of the car parks particularly in the coastal areas)		(250,000)		
Dartmouth Lower Ferry (from extra usage of the Ferry and a review of charges for 2023)		(250,000)		
Extra treasury management income - to reflect increases in bank base rate		(677,000)		
Charged Garden Waste service		(575,000)		
Savings on Trade Waste tipping fees and extra income on recycling sacks, due to more trade waste being recycled. Extra income from Controlled Waste Regulations (CWR) properties . These savings were already achieved in 2021-22.		(190,000)		
Funding from Homelessness prevention government grant (this funds housing posts - funding to be reflected within the base budget)		(180,000)	(10,000)	
Discretion to charge up to an extra 100% extra council tax on Second Homes (timescale is that legislation maybe introduced for 24-25 but it also could be delayed to 25-26). See 3.37 of the covering report.			(730,000)	
TOTAL SAVINGS AND INCOME GENERATION	(404,000)	(2,422,000)	(970,000)	(200,000)

Line	Appendix B - Assumes Council Tax is increased by £5 each year	BASE	Yr 1	Yr 2	Yr 3
No.	Modelling for the financial years 2023/24 onwards	2022/23 £	2023/24 £	2024/25 £	2025/26 £
1	Base budget brought forward	9,676,767	10,464,367	11,738,067	11,488,505
2	Budget pressures (as per Appendix A)	1,044,600	4,107,700	990,000	970,000
3	Savings already identified (as per Appendix A)	(404,000)	(2,422,000)	(970,000)	(200,000)
4	Changes in contributions to Earmarked Reserves (App A)	147,000	(412,000)	30,000	0
5	Projected Net Expenditure:	10,464,367	11,738,067	11,788,067	12,258,505
	Funded By:- (See Note 1 below regarding New Homes Bonus funding)				
6	Council Tax income - Modelling a £5 increase in 2023/24 onwards	7,061,585	7,407,344	7,702,299	8,002,254
7	Collection Fund Surplus	181,000	332,000	200,000	200,000
8	Localised Business Rates (estimate of business rates resources received in the year)	2,274,139	2,447,681	2,450,000	2,500,000
9	Negative Revenue Support Grant (RSG) Adjustment - Change to Baseline Need from 25/26 onwards	0	0	0	(450,000)
10	Revenue Support Grant	0	138,000	146,000	146,000
11	Business Rates Pooling Gain	300,000	300,000	0	0
12	Rural Services Delivery Grant	428,206	428,206	428,206	428,206
13	Funding from Funding Guarantee (3% increase in Core Spending Power) - this is a new grant for 23/24 onwards. Assume discontinued when the Fair Funding Review is implemented in 25-26.	0	747,929	700,000	0
14	Less grants rolled into the Funding Guarantee amount	0	(138,000)	(138,000)	0
15	Transitional funding - assume the introduction of the business rates baseline reset and the Fair Funding Review will translate into some transitional funding being available to Councils				800,000
16	Lower Tier Services Grant	86,501	0	0	0
17	Services Grant	132,936	74,907	0	0
18	Total Projected Funding Sources	10,464,367	11,738,067	11,488,505	11,626,460
	Budget Gap per year				
19	(Projected Expenditure line 5 - Projected Funding line 18)	0	0	299,562	632,045
	Actual Predicted Cumulative Budget Gap	0	0	299,562	931,607
	Aggregated Budget Gap (if no action is taken in each individual year to close the budget gap annually)	0	0	299,562	1,231,169
	Modelling Assumptions:				
	Council Tax (Band D) (Modelling a £5 increase per year)	180.42	185.42	190.42	195.42
	Council Tax Base (Assumes an increase in Band D Equivalent properties of 500 per annum)	39,139.70	39,949.00	40,449.00	40,949.00

Note 1 - New Homes Bonus Funding

The modelling for 2023/24 onwards includes a contribution of £500,000 from New Homes Bonus to fund the Base Budget. Although the NHB scheme is due to be replaced after 2023/24, it is assumed that a successor scheme will be implemented that will also be based on housing growth.

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RESERVES - PROJECTED BALANCES (EXCLUDES SALCOMBE HARBOUR)						APPENDIX C
EARMARKED RESERVES	Cost Centre	Opening balance	Additions to Reserve	Predicted Spend	Closing balance	Comments
		01.04.2022 £000s	2022/23 £000s	2022/23 £000s	31.03.2023 £000s	
Specific Reserves - General Fund						
Affordable Housing (Capital)	S0822	(544)		544	0	Actual spend relates mainly to Capital Programme expenditure including St Ann's Chapel
Affordable Housing (Revenue)		0	(408)	60	(348)	This is a new reserve set up as part of the 2022/23 Budget process and has been created from a one off contribution from the New Homes Bonus funding in 2022/23. Predicted spend in 2022/23 relates to the Step on Deposit Scheme pilot (Council Feb 2022).
Beach Safety	S0839	(14)			(14)	
Capital Programme	S0820	(249)	(182)	431	0	Predicted spend relates to Capital Programme commitments and a transfer of £80k to the Repairs & Maintenance earmarked reserve in respect of Follaton House roof refurbishment and replacement lift
Community Composting	S0933	(200)		200	0	Council 10/02/22 approved a one off amount of £200k to be transferred into a Community Composting Earmarked Reserve in 2021/22.
Community Parks and Open Spaces	S0826	(46)	(17)	9	(54)	
COVID-19	S0815	(209)		175	(34)	This reserve was set up in 2020/21 to protect against future COVID losses. In 2022/23 £174,632 will be used to fund the shortfall in the leisure management fee income (Executive 3/3/22).
Dartmouth Ferry Repairs & Renewals	S0830	(530)	(117)		(647)	
District Elections	S0838	(20)	(10)		(30)	
Economic Initiatives	S0831	(23)			(23)	
Economic Regeneration (Business Rates pilot gain 2018/19)	S0858	(24)			(24)	
Emergency Climate Change Projects	S0852	(553)		233	(320)	The set up of this reserve was approved by Executive on 6/2/2020 E74/19, funded originally by a £400k contribution from the New Homes Bonus Reserve. Predicted spend for 2022/23 includes the Climate Change & Biodiversity Locality Fund and 'Better Lives for All' commitments.
Environmental Health Initiatives	S0857	(20)			(20)	
Financial Stability	S0868	(280)			(280)	This is a new reserve set up in 2021/22. Council 10/02/22 approved for £280k to be transferred from unearmarked reserves to a Financial Stability Earmarked Reserve, to be available for any future financial pressures from future local government funding reforms and any other budget pressures.
Grounds Maintenance	S0901	(149)		92	(57)	A new reserve set up in 2020/21 to hold the Grounds Maintenance in year surpluses to be reinvested back into the service (Executive 18/6/20). Commitments in 2022/23 relate to equipment purchases.
Homelessness Prevention	S0851	(234)		195	(39)	This reserve has been created following underspends on Homelessness Prevention Costs. The main commitment in 2022/23 relates to the Housing staffing costs (£151k) - Executive 26/5/22
Housing Capital Projects	S0854	(408)			(408)	
ICT Development	S0836	(89)	(50)	107	(32)	Predicted spend in 2022/23 includes Future IT project and hardware commitments
Joint Local Plan		0	(25)	24	(1)	
Land and Development	S0829	(72)	(7)	15	(64)	
Leisure Services	S0858	(41)		1	(40)	
Maintenance Fund	S0927	(78)		46	(32)	This is a new reserve set up in 2021/22 to hold service charge income.
Maintenance, Management and Risk Management Reserve (MMRM)	S0861	(66)	(29)		(95)	This reserve was set up in 2019/20 to manage the ongoing maintenance costs of the Council's Investment Property. The contributions to the reserve equate to 10% of the rental income
Marine Infrastructure	S0828	(184)	(58)	210	(32)	£200k has been committed for match funding for the Fish Quay funding bid - Council May 2022
Members Sustainable Community Locality	S0846	(49)			(49)	This reserve holds the unspent balances.
New Homes Bonus	S0804	(1,917)	(1,008)	1,969	(956)	The NHB allocation for 22/23 is £1,008m. Projected spend in 2022/23 relates to £500k contribution to the base revenue budget, £100k contribution to the Capital Programme and £407,557 contribution to the Affordable Housing Earmarked Reserve. In addition there are commitments from previous years for the Capital Programme budget. The remaining balance includes £235,016 unallocated from the 2020/21 New Homes Bonus and £122,274 from the 2021/22 New Homes Bonus with its future use to be decided when more details are known about the Spending Review for 2022/23 onwards and a replacement scheme for NHB.
On-Street Parking	S0834	(44)			(44)	
Pay & Display Equipment Renewals	S0833	(186)	(21)	32	(175)	This reserve provides for the periodic replacement of Pay & Display machines.
Pension Fund Strain Payments	S0810	(208)	(99)		(307)	This reserve is used to fund pension strain costs
Planning Policy & Major Developments	S0840	(531)	(50)	98	(483)	This reserve is for all planning matters and is also required to meet appeal costs. The predicted spend for 2022/23 relates to the Planning restructure. The cost of the first three years of this restructure is to be met from additional planning income in the Planning earmarked reserve (Executive 26/5/22)
Play Area Renewals	S0867	0	(128)		(128)	This is a new reserve to be set up to hold the anticipated underspend on Play Parks to be used for replacement play area equipment (Executive 22/10/20)
Recovery and Renewal Plan	S0864	(500)		158	(342)	This is a new reserve set up as part of the 2021/22 Budget to support the costs of the Recovery and Renewal Plan. Projected spend in 2022/23 relates to 'Better Lives for All' commitments.
Repairs & Maintenance	S0827	(374)	(173)	21	(526)	The additions to the reserve in 2022/23 mainly relate to the budgeted annual contribution (£80k) and a contribution from the Capital Programme earmarked reserve (£80k) towards the Follaton House roof refurbishment and replacement lift. £390k of this reserve balance is earmarked for Follaton House roof refurbishment and replacement lift.

Revenue Grants	S0821	(1,725)		292	(1,433)	This reserve comprises of government grants received for specific initiatives or new burdens and are held in the reserve for accounting purposes. £120,000 of this reserve has been earmarked to fund the Council's share (60%) of a 2 year fixed term senior role to drive customer service and operational efficiency (Executive 15/9/22 - Waste & Recycling Services Update). An estimated £30k has been included for 2022/23 - six months of this 2 year senior role. In addition a commitment of £73k relates to the funding of three housing posts which were made permanent in the 2020/21 budget process and are funded from the Flexible Homelessness Support Grant
Section 106 Deposits	S0842	(38)			(38)	This reserve comprises of deposits with no repayment conditions - created as a result of IFRS
Section 106 Monitoring	S0929	(158)		20	(138)	This reserve funds the cost of an officer to oversee the administration of S106 deposits and how they are spent
Section 106 Technical Support	S0862	(14)		14	0	To meet the salary costs of a S106 technical support officer.
Support Services Trading	S0856	(75)		39	(36)	This reserve was created from external work carried out in other Councils e.g. HR work with Councils also embarking on a Transformation Programme. The 2022/23 commitment relates to the purchase of Audio Visual equipment.
Sustainable Waste Management	S0837	(1,065)	(25)	400	(690)	This reserve was created for one-off waste management costs. This 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. This will contribute to the anticipated set up costs of bringing the service back in house in October 2022 and capital outlay (some of which will be spent in 2023/24).
Tree Maintenance	S0934	(60)		30	(30)	A new reserve set up in 2021/22 to hold in year surpluses generated to reinvest back into the Tree maintenance service.
Vehicles & Plant Renewals	S0832	(276)	(550)	550	(276)	Earmarked for the Fleet Replacement Programme. An annual contribution of £550k is made to this reserve.
Sub Total excluding the Business Rates Reserves		(11,253)	(2,957)	5,965	(8,245)	
Business Rates Retention	S0824	(4,546)		2,206	(2,340)	This relates to a timing issue on the accounting adjustments required for the localisation of business rates. This reserve also deals with any volatility in Business Rate income. In 2022/23 £100,000 has been earmarked to smooth the volatility in business rates. At Council on 14 July 2022, Members approved the use of £3million of this reserve, to fund the additional costs during the transitional phase of bringing the waste service back in house.
S.31 Compensation Grant (Business Rates)	S0866	(4,260)	(674)	3,472	(1,462)	This is a new reserve set up to hold the business rates S31 grants received in 2020/21 and 2021/22 to offset the business rate reliefs given to businesses during lockdown. Under current Collection Fund accounting rules, the S31 grants received will not be discharged against the Collection Fund deficit until the following year, 2022/23 and partly 2023/24. This reserve is not money which is available for the Council to spend and it is important that this is not misinterpreted in the Accounts, as this is a national issue.
TOTAL EARMARKED RESERVES		(20,059)	(3,631)	11,643	(12,047)	
TOTAL UNEARMARKED RESERVES (General Fund Balance)		(2,056)	46		(2,010)	This Unearmarked Reserve has a minimum balance of £1.5million and an operating level of £2 million (set by Members as part of the budget process). The predicted deficit for 2022/23 of £46,000 has been debited to this reserve.
TOTAL REVENUE RESERVES (EARMARKED AND UNEARMARKED RESERVES)		(22,115)	(3,585)	11,643	(14,057)	

ANALYSIS OF CONTRIBUTIONS TO/(FROM) EARMARKED RESERVES

Budget 2022/23			Estimate 2023/24		Estimate 2024/25	
To £	(From) £		To £	(From) £	To £	(From) £
181,600		Capital Programme	181,600		181,600	
16,900		Community Parks & Open Spaces	16,900		16,900	
10,000		District Elections	40,000		40,000	
117,000		Ferry major repairs & renewals	147,000		177,000	
	(500,000)	New Homes Bonus (assumes a replacement scheme in 24/25 onwards)		(500,000)		(500,000)
	(72,700)	Flexible Homelessness Gov Grant		(72,700)		(72,700)
	(100,000)	Business Rates Retention Reserve		(400,000)		(400,000)
20,800		Pay & Display Equipment	20,800		20,800	
99,000		Pension Fund Strain Payments	0		0	
80,000		Repairs and maintenance	105,000		105,000	
550,000		Vehicles & Plant Renewals and additions	550,000		550,000	
7,000		Land and Development Reserve	7,000		7,000	
50,000		IT Development Reserve	50,000		50,000	
25,000		Sustainable Waste Management	25,000		25,000	
50,000		Planning Policy and Major Developments	50,000		50,000	
		Planning Policy and Major Developments (to fund salary costs)		(98,000)		(98,000)
25,000		Joint Local Plan (to part fund salaries of the JLP team)	25,000		25,000	
2,000		Interest from Reserves	2,000		2,000	
1,234,300	(672,700)	TOTALS	1,220,300	(1,070,700)	1,250,300	(1,070,700)
561,600		GRAND TOTAL	149,600		179,600	

The change in contributions to Earmarked Reserves is the difference between £561,600 in 22/23 and £149,600 in 23/24, being a change of £412,000, as shown in Appendix A.

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Capital Bids for 2023/24					
Priority Criteria					
Statutory Obligations	1	Compliance, H&S, DDA			
	2	Essential to keep Operational Assets open			
Strategic Plan	3	Fit with the Council's Delivery Plans for 'Better Lives for all'			
Good Asset Management	4	Rationalise service delivery or service improvement			
	5	Generate income, capital value or reduce revenue costs			
Service	Site	Project	Lead officer	Capital Bids for 2023/24 £'000	Priority code
Assets		Kingsbridge Skate Park (replacement of existing skate park) - match fund contributions from the Lottery, local crowdfunding, Kingsbridge TC and S106 funding (See Business Case Appendix E1)	RS	30	2,3,4
Grounds Maintenance		Purchase of new bio shredder - Existing bioshredder has come to the end of its useful life and needs significant repairs. Provides support to community groups. (See Business Case Appendix E2)	DC	65	1,2,3,4,5
Assets		Undertaking decarbonisation studies of our principle assets and operational buildings so as to understand measures that can be implemented to reduce carbon emissions (Scope 2) from our buildings. The surveys will set out the measures needed, the costs of implementation and the ongoing operating and maintenance costs. This would enable us to apply for future Government capital grants to enable the works. (See Business Case Appendix E3)	LW	75	1, 3, 4, 5
Assets		Follaton House (Old House Ground Floor Area) - to ensure Follaton House is fit for purpose, meeting the needs of the organisation and in order to continue to provide good quality rental accommodation to our tenants, changes are required to the Old House Ground Floor Area (See Business Case Appendix E4)	LW	90	1,2,3,4,5
IT		IT automation software - to be utilised by multiple service areas to automate tasks. (See Business Case Appendix E5)	JD	25	3,4,5
Commercial Services		Waste Fleet Replacement/addition (already approved as part of Council Minute 41/18, Council 6.12.2018) - Included here for completeness	SM	550	1,2,3,4
Private Sector Renewals (inc Disabled Facility Grants) - funded by Government Grant funding from the Better Care Fund. This funding is passported from Devon County Council to South Hams DC to administer the scheme.		Annual Grant allocation from the Better Care Fund	IL	1,200	1, 3
Total				2,035	

TO BE FINANCED BY:-		
Allocation from the Capital Programme Earmarked Reserve (allocation for 2023/24 of £181,600) and the remainder of £103,400 from NHB funding (from previous years' allocations).	285	
Revenue contribution from the Vehicles and Plant Earmarked Reserve (see Appendix D)	550	
Better Care funding (Government grant scheme) for private sector renewals and disabled facility grants. This funding is passported from Devon County Council to South Hams DC to administer the scheme.	1,200	
Total financing for the Capital Programme	2,035	

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Appendix E1

South Hams District Council

Business Case Outline

The Business Case is used to obtain management commitment and approval for investment in business change including projects and programmes, through rationale for the investment. The Business Case provides a framework for planning and management of the business change. The ongoing viability of a project or programme will be monitored against the Business Case.

[Insert Project/Programme title here]			
Senior Responsible Officer:	Rob Sekula	Project Sponsor ELT Member:	Chris Brook
Date Updated:	09/12/2022	Version:	2.0
Programme/Project Description:	Kingsbridge skatepark replacement		
Reviewers:			
Author(s):	Rob Sekula, Principal Natural Resources and Greenspaces Officer		

Guidance

An outline business case is a document setting out the initial justification for investment of resources (people, time and money) into a project or change being considered. This outline business case is to be completed at the initial idea stage of any project.

Once approval has been given to the outline case, solution design work will begin and the project will undertake a more detailed Business case setting out full implementation and business running costs, the benefits of implementation and an assessment of how implementation would be managed and the associated change risks and issues.

Capital projects will be scored on the following criteria:

- Health and Safety compliance
- Essential to keep operational assets open
- Fit with the Council's Delivery Plans for 'Better Lives for All
- To rationalise service delivery or service improvement
- To generate income, capital value or to reduce revenue costs

It is important that future bids for capital are aligned with the review of the thematic delivery plans and aims within 'Better Lives for All'.



1. Project Summary – Project objectives and what it aims to achieve.

Replacement of the Kingsbridge skatepark within the Quay carpark.

2. Why we need the Project – Background and problem/opportunity to be addressed.

The existing skatepark is no longer fit for purpose. The ramps and surfacing are of limited interest and quality. The site does not support meaningful wheeled sports development in Kingsbridge. A modern facility is required to meet the needs of the community.

3. Project Scope – State what's IN and OUT of Scope.

The project encompasses removal of the existing skatepark ramps, and replacement with a sprayed concrete facility. The project will include some works to the adjacent trees and bank, to enhance the sense of place and maximise the usability of the site. Based on previous carparking surveys showing unused capacity, 9 spaces are proposed for removal to accommodate a more appropriate footprint for the skatepark facility.

4. Benefits – Brief indication of any potential financial and non-financial.

A sprayed concrete facility is relatively maintenance free. It is not considered that the facility would be any more/less expensive to run than the existing skatepark (albeit the existing skatepark is currently closed for the winter months due to tree debris, an issue we would seek to address through the project – see section 6).

The non-financial benefits are significant to Kingsbridge. A successful skatepark will be utilised by a range of wheeled sports of varied ages, both genders, socio-economic background, and of all abilities. Users vary from highly competitive to 'alternative' and everything in between. Commonly users are those that do not favour more organised or team types of sport.

Skateparks are free to use, and offer an accessible, affordable and town centre facility to users.

Outcomes relate to more regular participation in sport and physical activity, including improved health and wellbeing, with plenty of social interaction. In particular the nature of a good skatepark is that it fosters community cohesion, particularly across the age groups – an experienced young skater will be just as happy to teach an older beginner as vice versa.

One of the key barriers to participation is appropriate facility provision. A well designed skatepark will be welcoming, appeal to many, and will accordingly be well used with self-policing reducing potential for Anti-Social Behaviour (ASB tending to be from non-skaters and associated with a disused and neglected facility).



A well designed skatepark can regenerate an area, acting as a draw to locals and visitors and creating an inclusive public space within the urban environment. (Conversely, a fenced, aged or poorly designed and disused skatepark does the opposite).

5. Links and Dependencies – To other projects currently live.

Working with SHDC officers, the 'Kingsbridge Skatepark Community' group are leading the project locally, having undertaken consultation and recently started fundraising. They have fostered relationships with the Town Council (including securing a £50,000 contribution from the Town Council towards this project) and have been discussing aspirations with local businesses, Fusion, the police, SHDC Members. The group have set up a Crowdfunder page to raise funds towards the project (<https://www.crowdfunder.co.uk/p/kingsbridgeskatepark>).

SHDC has tendered a Kingsbridge Skatepark replacement project, and appointed a preferred contractor. The contractor is now working with Kingsbridge Skatepark Community on building up a strong evidence base as will be required to support a subsequent bid to the Lottery. They have hosted lessons at the Kingsbridge college and attended lunchtime skate sessions, consulting and collecting ideas from young people, not just about design, but trying to understand what young people think are the barriers to them using facilities like this, and how a space can be made to appeal to them.

SHDC officers will continue to work with the contractor and the Kingsbridge Skatepark Community to build up the evidence of need, design consultation, before applying for planning permission and applying for match funding from the Lottery.

6. Risks – Note of any significant potential risks.

The project will require some tree works to make the site appropriate, due to significant leaf and seed fall at present on the skatepark. Preliminary conversations with the Tree Officer have indicated an appropriate scope of work, noting that some trees are inappropriate in their current location (e.g. large Black poplar) and that there is scope for appropriate tree management which would lessen the impact of trees on the skatepark footprint.

Design options are also being investigated to seek to catch leaf/seed fall from trees which must remain. It is important that a design solution is found to reduce likelihood of debris on the skatepark.

The project will ultimately require both planning permission, and a substantial amount of match funding before it can be delivered.

7. Project Resources – What people will the project need?

SHDC officer time is already being spent on developing and delivering this project. The SHDC officer is being greatly assisted by local effort from the Kingsbridge Skatepark Community and the contractor who are drawing upon their local contacts to work the project up from the community. The Kingsbridge Skatepark Community have also commenced local fundraising including via Crowdfunder and will take the leading role in driving the project forward alongside the contractor.



8. Explain how the project meets the five criteria listed below.

<p>Health and Safety compliance</p>	<p>The new skatepark will be designed taking account of appropriate guidance and British Standards. Any such facility is subject to a Post Installation Inspection Report, and ongoing routine and annual safety inspections.</p> <p>The police have and will be consulted throughout the design process with a view to making a facility that is welcoming (trees being part of this discussion).</p>
<p>Essential to keep operational assets open</p>	<p>The existing skatepark is currently closed for safety purposes over the winter months. It is subject to considerable debris from the trees above, namely leaves, acorns, twigs. It is proposed to review the trees at the site, and preliminary advice has been obtained from the Tree Officer, and discussed with the Town Council and local representatives. The new facility would be available for use year-round.</p> <p>The existing skatepark has a deteriorating tarmac surface, and the features at the park are limited in offering. It neither delivers for wheeled sports enthusiast nor does it have the appeal to bring new participants into the sport.</p>
<p>Fit with the Council's Delivery Plans for 'Better Lives for All'</p>	<p>The project delivers against 'Strengthening community wellbeing' by investing and creating a community space, providing a free to access facility which supports active lifestyle choices, while fostering community cohesion across the age groups.</p>
<p>To rationalise service delivery or service improvement</p>	<p>The successful delivery of this project would mark a significant service improvement in terms of the wheeled sports offering to Kingsbridge and surrounds delivering on the benefits referenced in section 4 above.</p>
<p>To generate income, capital value or to reduce revenue costs</p>	<p>Sprayed concrete facilities are often touted as 'maintenance free' with no fixings such as railings or ramp plates.</p> <p>Ongoing costs would relate to inspection, removal of litter, sweeping (which would predominantly be undertaken locally/by users)</p>



Capital costs and revenue implications

In the table below, please detail the capital budget requirement over the next three financial years as well as any revenue implications (maintenance, repairs, etc...)

Financial year	Capital cost	Revenue implications
2023/24	£30,000	Officer time, ongoing inspection and maintenance
2024/25		
2025/26		
Total cost	£30,000	

Please detail in the box below how this project will be financed:

Financial Year	Capital grants/ contributions	S106	Reserves	Capital receipts	No funding source identified
2023/24	<p>£150,000 – application to be submitted after the planning process to Lottery Reaching Communities/ Sport England (with other various small funding applications)</p> <p>£3,000 local fundraising, and currently £21,000 pledged towards a £30,000 target on the Crowdfunder platform towards the project.</p> <p>£50,000 secured from Kingsbridge Town Council</p>	£25,437	£30,000 New Homes Bonus funding		
2024/25					
2025/26					

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Appendix E2

South Hams District Council

Business Case Outline

The Business Case is used to obtain management commitment and approval for investment in business change including projects and programmes, through rationale for the investment. The Business Case provides a framework for planning and management of the business change. The ongoing viability of a project or programme will be monitored against the Business Case.

Purchase of Bio shredder for Grounds Maintenance			
Senior Responsible Officer:	Dale Cropper	Project Sponsor ELT Member:	Steve Mullineaux
Date Updated:	(21/10/2022)	Version:	1.0
Programme/Project Description:	Purchasing of a new bio shredder to support the community composting groups, and the longer-term strategy for improving biodiversity across South Hams		
Reviewers:			
Author(s):	Dale Cropper – Operations Manager		

Guidance

An outline business case is a document setting out the initial justification for investment of resources (people, time and money) into a project or change being considered. This outline business case is to be completed at the initial idea stage of any project.

Once approval has been given to the outline case, solution design work will begin and the project will undertake a more detailed Business case setting out full implementation and business running costs, the benefits of implementation and an assessment of how implementation would be managed and the associated change risks and issues.

Capital projects will be scored on the following criteria:

- Health and Safety compliance
- Essential to keep operational assets open
- Fit with the Council's Delivery Plans for 'Better Lives for All
- To rationalise service delivery or service improvement
- To generate income, capital value or to reduce revenue costs

It is important that future bids for capital are aligned with the review of the thematic delivery plans and aims within 'Better Lives for All'.



1. Project Summary – Project objectives and what it aims to achieve.

Currently we use a bio shredder to support 6 local community composting groups. The existing bio shredder is coming to the end of its life and needs significant repairs. By purchasing a new unit, we can ensure that we can continue to service these community groups and their composting needs. As well as this, it will also support reduction in the amount of green waste generated on sites being tipped, which costs around £50 a tonne. Instead, we will be able to reuse this material for mulch and potentially composting, ensuring a greener outcome.

2. Why we need the Project – Background and problem/opportunity to be addressed.

The bio shredder grinds, mulches, and mixes biodegradable products from grass mowing, roots, tree lopping's and soil, and reduces the volume of material to allow it to be reloaded or applied elsewhere.

Without this purchase, we would be unable to continue with providing this support to community groups and will see increased green waste tipping costs. Once the full biodiversity strategy has been rolled out, it will also support delivery of this through being able to reduce green waste tipping costs.

3. Project Scope – State what's IN and OUT of Scope.

Purchase of a new unit is the only in scope requirement.

4. Benefits – Brief indication of any potential financial and non-financial.

- Reduction in green waste tipping costs
- Reduction in green waste volumes to be processed
- Continuing support provided to community composting groups
- An in-house solution to removal of green waste from sites.

5. Links and Dependencies – To other projects currently live.

Link to the Waste Community Composting Project and the Biodiversity Report.

6. Risks – Note of any significant potential risks.

The existing unit is at the end of its life and any breakdown could mean that we are both unable to support local composting groups but also that we will see substantial increases in green waste volumes and tipping costs as we are unable to process our green waste.

7. Project Resources – What people will the project need?

Funding of £65,000 for the purchase
Support from Dale Cropper and Scott Rogers in procuring a new unit.



8. Explain how the project meets the five criteria listed below.

Health and Safety compliance	Will reduce any risk of workplace injury by having a unit that is fit for purpose.
Essential to keep operational assets open	Without a new unit we will be unable to maintain current operations.
Fit with the Council's Delivery Plans for 'Better Lives for All'	Supports Quality Council Services - ensuring that we make the best use of the budget available, to ensure value for money. Will support the Climate and Biodiversity targets - ensuring that Climate Change and Biodiversity are priorities for all Council services, creating an environment where people and nature thrive together.
To rationalise service delivery or service improvement	Will ensure green waste tipping volumes and costs are kept to minimal standards.
To generate income, capital value or to reduce revenue costs	Will allow us to offer this service to towns and parishes and more community groups to generate income.

Capital costs and revenue implications

In the table below, please detail the capital budget requirement over the next three financial years as well as any revenue implications (maintenance, repairs, etc...)

Financial year	Capital cost	Revenue implications
2023/24	£65,000	
Total cost	£65,000	

Please detail in the box below how this project will be financed:

Financial Year	Capital grants/ contributions	S106	Reserves	Capital receipts	No funding source identified
2023/24			£65K New Homes Bonus funding		

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Appendix E3

South Hams District Council

Business Case Outline

The Business Case is used to obtain management commitment and approval for investment in business change including projects and programmes, through rationale for the investment. The Business Case provides a framework for planning and management of the business change. The ongoing viability of a project or programme will be monitored against the Business Case.

De-carbonisation Plans			
Senior Responsible Officer:	Gavin Priest	Project Sponsor ELT Member:	Laura Wotton
Date Updated:	18/12/22	Version:	2.1
Programme/Project Description:	Decarbonisation Surveys – South Hams District Council Assets		
Reviewers:			
Author(s):	Assets team		

Guidance

An outline business case is a document setting out the initial justification for investment of resources (people, time and money) into a project or change being considered. This outline business case is to be completed at the initial idea stage of any project.

Once approval has been given to the outline case, solution design work will begin and the project will undertake a more detailed Business case setting out full implementation and business running costs, the benefits of implementation and an assessment of how implementation would be managed and the associated change risks and issues.

Capital projects will be scored on the following criteria:

- Health and Safety compliance
- Essential to keep operational assets open
- Fit with the Council's Delivery Plans for 'Better Lives for All
- To rationalise service delivery or service improvement
- To generate income, capital value or to reduce revenue costs

It is important that future bids for capital are aligned with the review of the thematic delivery plans and aims within 'Better Lives for All'.



1. Project Summary – Project objectives and what it aims to achieve.

To commission and oversee, surveys that will establish the energy usage and energy losses of our buildings and recommend measures that could be implemented in a phased approach that will reduce both.

The commission will set out; specific recommendations, what impact they will have in reducing carbon and running costs, and how much they will cost to install. Examples may include the installation of alternative heating systems or improved insulation. An assessment of Return on Investment will also be made.

The commission will include:

- Follaton House
- Waste Transfer Depots
- Property Services Depot
- Commercial Properties
- Industrial Units & Industrial Estates

N.B. Leisure Centres within South Hams and operated by Fusion are already being covered by a separate decarbonisation programme.

2. Why we need the Project – Background and problem/opportunity to be addressed.

Aligned to our Corporate Strategy, we are committed to getting the Council to carbon neutral by 2030, including our Scope 1 & 2 emissions. Emissions from our buildings represent a significant part of our scope 2 emissions and need to be reduced by implementing improvement measures.

These measures are building specific and require detailed investigation and modelling work to ensure the correct measures are identified. The cost of implementation and operating costs of the measures needs to be understood.

The increase in the cost of gas and electricity, provides the economic backdrop and imperative to reduce gas and electricity usage, whilst providing the opportunity to investigate alternative renewable energy sources where feasible.

3. Project Scope – State what's IN and OUT of Scope.

IN: Surveys of the buildings, interrogation of existing utility usage, baseline consumption measures, improvement options with ROI's, priority implementation works.

OUT: Undertaking of improvement works.



4. Benefits – Brief indication of any potential financial and non-financial.

Reduction in carbon emissions, reduction in utility bills, meeting our corporate strategy

5. Links and Dependencies – To other projects currently live.

State any links and dependencies with other projects and organisations.

Leisure Centre Decarbonisation Project.

6. Risks – Note of any significant potential risks.

No risks to undertaking the surveys other than the need to resource the project from within Assets.

7. Project Resources – What people will the project need?

Gavin Priest – Principal Building & Facilities Officer
External Consultant

8. Explain how the project meets the five criteria listed below.

Health and Safety compliance	N/A
Essential to keep operational assets open	Yes, due to improved running costs
Fit with the Council's Delivery Plans for 'Better Lives for All'	Yes
To rationalise service delivery or service improvement	Yes, improved working environment for building users.
To generate income, capital value or to reduce revenue costs	Yes - reduced costs, reduced carbon emissions, increased tenant opportunities.

Capital costs and revenue implications

In the table below, please detail the capital budget requirement over the next three financial years as well as any revenue implications (maintenance, repairs, etc...)

Financial year	Capital cost	Revenue implications
2023/24	£75k (survey work only)	
Total cost	£75k	



Please detail in the box below how this project will be financed:

Financial Year	Capital grants/ contributions	S106	Reserves	Capital receipts	No funding source identified
2023/24			£75K Capital Programme Earmarked Reserve		
2024/25					
2025/26					



Appendix E4

South Hams District Council

Business Case Outline

The Business Case is used to obtain management commitment and approval for investment in business change including projects and programmes, through rationale for the investment. The Business Case provides a framework for planning and management of the business change. The ongoing viability of a project or programme will be monitored against the Business Case.

Assets HQ Improvements			
Senior Responsible Officer:	Gavin Priest	Project Sponsor ELT Member:	Laura Wotton
Date Updated:	20/12/22	Version:	2.0
Programme/Project Description:	Follaton House (Old House Ground Floor Area)		
Reviewers:			
Author(s):	Assets team		

Guidance

An outline business case is a document setting out the initial justification for investment of resources (people, time and money) into a project or change being considered. This outline business case is to be completed at the initial idea stage of any project.

Once approval has been given to the outline case, solution design work will begin and the project will undertake a more detailed Business case setting out full implementation and business running costs, the benefits of implementation and an assessment of how implementation would be managed and the associated change risks and issues.

Capital projects will be scored on the following criteria:

- Health and Safety compliance
- Essential to keep operational assets open
- Fit with the Council's Delivery Plans for 'Better Lives for All
- To rationalise service delivery or service improvement
- To generate income, capital value or to reduce revenue costs

It is important that future bids for capital are aligned with the review of the thematic delivery plans and aims within 'Better Lives for All'.



1. Project Summary – Project objectives and what it aims to achieve.

In order to ensure our headquarter building, Follaton House is fit for purpose, meets the needs of the organisation and continues to provide good quality rental accommodation to our tenants, changes are required in communal areas and meeting rooms in the Old House Ground Floor Area.

Work has already been completed to SHDC's office agile area and the Council Chamber at Follaton House but a continuing programme of repairs are required, mainly in the Old House (Grade 2*) as follows:

Follaton House (Old House Ground Floor Area):

- Old House Ground Floor Area £40k
- Main Lobby (former reception) – estimated costs £35k
- Site Signage – estimated £15k

2. Why we need the Project – Background and problem/opportunity to be addressed.

Aligned to our Corporate Strategy, we are committed to maximising Council assets and providing quality customer services.

3. Project Scope – State what's IN and OUT of Scope.

IN:

- Old House Ground Floor Area £40k
- Main Lobby (former reception) – estimated costs £35k
- Site Signage – estimated £15k

OUT: Old House Roof repairs, car park resurfacing, boiler upgrades, EV and PV upgrades

4. Benefits – Brief indication of any potential financial and non-financial.

Quality accommodation which meets the need of the organisation, our staff, customers and tenants.

5. Links and Dependencies – To other projects currently live.

None



6. Risks – Note of any significant potential risks.

No risks to undertaking the works other than the need to resource the project from within Assets.

7. Project Resources – What people will the project need?

Gavin Priest – Principal Building & Facilities Officer
Property Services
External Contractors

8. Explain how the project meets the five criteria listed below.

Health and Safety compliance	Yes, by providing a fit for purpose environment to latest regulations
Essential to keep operational assets open	Yes
Fit with the Council's Delivery Plans for 'Better Lives for All'	Yes
To rationalise service delivery or service improvement	Yes
To generate income, capital value or to reduce revenue costs	Yes (3rd party occupation of buildings and limited voids). Attraction of additional tenants, services.

Capital costs and revenue implications

In the table below, please detail the capital budget requirement over the next three financial years as well as any revenue implications (maintenance, repairs, etc...)

Financial year	Capital cost	Revenue implications
2023/24	£90K	
Total cost	£90k	

Please detail in the box below how this project will be financed:

Financial Year	Capital grants/ contributions	S106	Reserves	Capital receipts	No funding source identified
2023/24			£90K Capital Programme Earmarked Reserve		

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Appendix E5

South Hams District Council Business Case Outline

The Business Case is used to obtain management commitment and approval for investment in business change including projects and programmes, through rationale for the investment. The Business Case provides a framework for planning and management of the business change. The ongoing viability of a project or programme will be monitored against the Business Case.

Future IT and Customer Services development			
Senior Responsible Officer:	Steve Mullineaux	Project Sponsor ELT Member:	Jim Davis
Date Updated:	20/10/2022	Version:	2.0
Programme/Project Description:	Provision of software robots to automate admin processes		
Reviewers:			
Author(s):	Jim Davis: Head of Customer Service Improvement		

Guidance

An outline business case is a document setting out the initial justification for investment of resources (people, time and money) into a project or change being considered. This outline business case is to be completed at the initial idea stage of any project.

Once approval has been given to the outline case, solution design work will begin and the project will undertake a more detailed Business case setting out full implementation and business running costs, the benefits of implementation and an assessment of how implementation would be managed and the associated change risks and issues.

Capital projects will be scored on the following criteria:

- Health and Safety compliance
- Essential to keep operational assets open
- Fit with the Council's Delivery Plans for 'Better Lives for All
- To rationalise service delivery or service improvement
- To generate income, capital value or to reduce revenue costs

It is important that future bids for capital are aligned with the review of the thematic delivery plans and aims within 'Better Lives for All'.



1. Project Summary – Project objectives and what it aims to achieve.

There are two parts of the application. Provision of software robots to be utilised by multiple service areas to automate tasks. These will be actively utilised to speed up tasks at point of use (CST, for example, allowing quicker return to phone calls), and passively utilised to automate admin tasks (moving data from customer submissions into back office systems).

Licensing of a secure payments system to speed up CST call/wrap time.

2. Why we need the Project – Background and problem/opportunity to be addressed.

One approach to improvement is the use of capital to replace labour and effort to increase productivity per unit of time. Software robots achieve this aim not by improving or changing processes but by moving work from higher cost employees to automation software that can work 24/7. We have had limited success with this in the past but they were bought to solve a singular problem rather than being multi-functional, and focused on solving entire problems rather than reducing effort and use in a mixed environment. They provide benefits in three main ways; automating data entry and repetitive tasks, reduce licensing costs as 1 login can return information for 20+ CST staff rather than a license for each staff member, live support for CST when entering information on multiple systems. The software can be tasked to perform the same tasks as a normal API integration without needed IT support or maintenance by interacting purely through the front end of different systems. The software can be tasked 24 hours a day to complete work in any applicable system.

This project delivers a best in class solution to speed up phone calls and ensure swifter payments.

3. Project Scope – State what's IN and OUT of Scope.

Assessment of software automation from multiple suppliers.

4. Benefits – Brief indication of any potential financial and non-financial.

Quicker call and wrap times with additional customer support as customers can receive live support throughout the process rather than being handed off to another line. 0.2-0.3FTE time saving in CST (4-5mins on wrap waiting for payment to complete currently).

Software automation, when coupled with intelligent processes, has the potential to save around 5 FTEs across the authority if applied to all relevant based on existing processes. Redesigning processes to enable further automation would deliver further benefits. Eliminating the need for direct API integration would reduce IT workload in delivering integration and ongoing support.



5. Links and Dependencies – To other projects currently live.

Linked to Future IT program and integrates well with Liberty Create. Will add a significant additional benefit to the Revenues optimisation project and the EH & Licensing project currently being scope and being delivered Q4 22/23

6. Risks – Note of any significant potential risks.

Expected time savings may not materialise, but the range of possible applications make this unlikely. IT software automation may be spread across a large number of roles so driving cashable savings.

7. Project Resources – What people will the project need?

Business Development Team, IT infrastructure and applications support, CST Team Leaders

8. Explain how the project meets the five criteria listed below.

Health and Safety compliance	Reduce risk of data breaches and risk of error by individual officers. Repetitive tasks reduced, enabling staff to focus on what matters.
Essential to keep operational assets open	
Fit with the Council's Delivery Plans for 'Better Lives for All'	Improving Council Services
To rationalise service delivery or service improvement	Reduces CST effort and automates tasks delivered by Case Managers currently. By removing basic tasks it delivers significant capacity improvements and focus on value adding work.
To generate income, capital value or to reduce revenue costs	Automation actions will have ongoing staff savings that increase as more actions are undertaken. High uptake would enable additional savings and more automation can be purchased as required.

Capital costs and revenue implications

In the table below, please detail the capital budget requirement over the next three financial years as well as any revenue implications (maintenance, repairs, etc...)

Financial year	Capital cost	Revenue implications
2023/24	£25,000	
2024/25		
2025/26		
Total cost	£25,000	



Please detail in the box below how this project will be financed:

Financial Year	Capital grants/ contributions	S106	Reserves	Capital receipts	No funding source identified
2023/24			£25,000 New Homes Bonus funding		
2024/25					
2025/26					

COMPARISON OF PARISH/TOWN PRECEPTS IN 2021/22 AND 2022/23

Parish/Town	2021/22	2022/23	Increase/	Increase/	2021/22	2022/23	Increase/	Increase/
	Parish	Parish	(Decrease)	(Decrease)		Parish	Parish	(Decrease)
	Precept	Precept	in Precept	in Precept	Band D	Band D	in Band D	in Band D
	£	£	£	%	Council Tax	Council Tax	Council Tax	Council Tax
					£	£	£	%
Ashprington	10,186	10,186	0	0%	40.57	39.91	(0.66)	(2%)
Aveton Gifford	25,500	27,000	1,500	6%	66.10	69.89	3.79	6%
Berry Pomeroy	12,467	17,956	5,489	44%	30.58	42.90	12.32	40%
Bickleigh	87,775	98,500	10,725	12%	66.83	73.66	6.83	10%
Bigbury	18,500	19,795	1,295	7%	44.24	47.25	3.01	7%
Blackawton	16,500	17,500	1,000	6%	42.96	42.86	(0.10)	0%
Brixton	34,000	36,245	2,245	7%	40.76	38.28	(2.48)	(6%)
Buckfastleigh West	5,683	5,938	255	4%	49.70	51.85	2.15	4%
Buckland-Tout-Saints	4,841	5,170	329	7%	44.34	45.96	1.62	4%
Charleton	8,700	9,000	300	3%	31.33	32.00	0.67	2%
Chivelstone	5,750	5,750	0	0%	30.88	30.63	(0.25)	(1%)
Churchstow	10,780	11,427	647	6%	45.16	46.51	1.35	3%
Cornwood	21,015	27,320	6,305	30%	51.36	65.84	14.48	28%
Cornworthy	7,500	7,500	0	0%	40.18	39.82	(0.36)	(1%)
Dartington	30,200	30,850	650	2%	37.50	37.49	(0.01)	0%
Dartmouth	490,000	490,000	0	0%	183.53	182.95	(0.58)	0%
Dean Prior	4,500	5,250	750	17%	57.73	67.02	9.29	16%
Diptford	13,100	14,100	1,000	8%	50.19	51.75	1.56	3%
Dittisham	12,000	12,000	0	0%	35.76	34.87	(0.89)	(2%)
East Allington	19,000	20,000	1,000	5%	60.22	62.51	2.29	4%
East Portlemouth	7,900	8,058	158	2%	44.61	45.03	0.42	1%
Ermington	19,440	18,274	(1,166)	(6%)	51.14	47.00	(4.14)	(8%)
Frogmore & Sherford	8,500	9,000	500	6%	38.12	39.68	1.56	4%
Halwell & Moreleigh	9,400	10,000	600	6%	43.72	45.95	2.23	5%
Harberton	18,930	18,930	0	0%	36.69	36.09	(0.60)	(2%)
Harford	990	990	0	0%	27.18	26.86	(0.32)	(1%)
Holbeton	14,375	15,381	1,006	7%	46.67	48.59	1.92	4%
Holne	6,735	7,006	271	4%	50.59	52.10	1.51	3%
Ivybridge	502,412	530,215	27,803	6%	131.13	134.91	3.78	3%
Kingsbridge	175,000	193,920	18,920	11%	82.08	88.21	6.13	7%
Kingston	10,450	10,600	150	1%	52.05	52.62	0.57	1%
Kingswear	43,207	46,443	3,236	7%	56.39	59.90	3.51	6%
Littlehempston	3,457	3,543	86	2%	33.26	33.34	0.08	0%
Loddiswell	34,232	37,655	3,423	10%	74.36	80.26	5.90	8%
Malborough	31,780	34,958	3,178	10%	66.17	68.46	2.29	3%
Marldon	26,154	45,650	19,496	75%	30.22	52.12	21.90	72%
Modbury	47,000	50,765	3,765	8%	60.26	63.27	3.01	5%
Newton & Noss	66,806	73,650	6,844	10%	57.88	62.59	4.71	8%
North Huish	4,000	4,000	0	0%	18.83	18.81	(0.02)	0%
Rattery	7,000	8,000	1,000	14%	33.20	37.23	4.03	12%
Ringmore	6,350	7,500	1,150	18%	52.27	59.23	6.96	13%
Salcombe	92,550	77,050	(15,500)	(17%)	48.74	40.22	(8.52)	(17%)
Shaugh Prior	12,852	13,366	514	4%	44.66	45.65	0.99	2%
Slapton	14,713	23,044	8,331	57%	55.45	86.10	30.65	55%
South Brent	76,750	83,625	6,875	9%	78.41	85.20	6.79	9%
South Huish	17,698	20,353	2,655	15%	40.37	45.73	5.36	13%
South Milton	4,557	6,836	2,279	50%	18.37	27.47	9.10	50%
South Pool	6,120	6,650	530	9%	52.24	54.32	2.08	4%
Sparkwell	11,873	12,242	369	3%	25.11	25.63	0.52	2%
Staverton	19,025	20,434	1,409	7%	54.00	57.09	3.09	6%
Stoke Fleming	22,261	24,410	2,149	10%	37.50	39.95	2.45	7%
Stoke Gabriel	35,000	49,000	14,000	40%	48.16	64.01	15.85	33%
Stokenham	44,650	43,680	(970)	(2%)	41.81	40.17	(1.64)	(4%)
Strete	13,130	14,000	870	7%	45.78	46.35	0.57	1%
Thurlestone	30,000	33,000	3,000	10%	39.80	42.30	2.50	6%
Totnes	545,986	545,986	0	0%	189.13	186.57	(2.56)	(1%)
Ugborough	26,570	28,300	1,730	7%	30.86	31.46	0.60	2%

COMPARISON OF PARISH/TOWN PRECEPTS IN 2021/22 AND 2022/23

Parish/Town	2021/22	2022/23	Increase/	Increase/	2021/22	2022/23	Increase/	Increase/
	Parish	Parish	(Decrease)	(Decrease)		Parish	Parish	(Decrease)
	Precept	Precept	in Precept	in Precept	Band D	Band D	in Band D	in Band D
	£	£	£	%	Council Tax	Council Tax	Council Tax	Council Tax
					£	£	£	%
Wembury	33,000	50,444	17,444	53%	22.67	34.34	11.67	51%
West Alvington	16,888	21,110	4,222	25%	63.48	79.28	15.80	25%
Woodleigh	528	554	26	5%	4.92	4.94	0.02	0%
Yealmpton	54,000	54,000	0	0%	57.26	56.65	(0.61)	(1%)
Total	2,960,266	3,134,109	173,843	6%				

Report to: **Executive**
Date: **26 January 2023**
Title: **Write Off Report 2021/22**
Portfolio Area: **Support Services – Cllr Bastone**
Wards Affected: **All**
Urgent Decision: **N** Approval and clearance obtained: **Y**

Date next steps can be taken: Upon the expiry of the call-in period (5.00pm on Monday, 6 February 2023)

Author: **Lisa Buckle** Role: **Section 151 Officer**
Contact: **Ext. 1413 lisa.buckle@swdevon.gov.uk**

RECOMMENDATIONS:

That the Executive:

- 1. notes that, in accordance with Financial Regulations, the Section 151 Officer has authorised the write-off of individual South Hams District Council debts totalling £109,470.76 as detailed in Tables 1 and 2.**
- 2. approves the write-off of individual debts in excess of £5,000 totalling £132,033.97, as detailed in Table 3.**
- 3. agrees, in principle, to approve a supplementary Write Off Policy, which will be brought to the next meeting of this Committee for implementation effective from 1 April 2023.**

1. Executive summary

- 1.1 The Council is responsible for the collection of: Housing Rents, Sundry Debts including Housing Benefit Overpayments, Council Tax and National Non-Domestic Rates.
- 1.2 The report informs Members of the debt written off for these revenue streams. Debts up to the value of £5,000 can be written off by the s151 Officer, under delegated authority. Permission needs to be sought from the Executive to write off individual debts with a value of more than £5,000.

- 1.3 This report covers the period 1st October 2021 to 31st March 2022 and the total debt to be written off is £241,504.73. The primary reason for this increase is due to individuals and businesses using insolvency measures such as bankruptcy, liquidation, debt relief orders and individual voluntary arrangements as a way of discharging their indebtedness.
- 1.4 The Council previously approved a corporate debt recovery policy with Write Off procedures also being set out within Financial Procedure Rules. To supplement these arrangements, it is recommended that a separate Write Off policy is agreed to ensure a consistency of approach across all Council services.

2. Background

- 2.1 The Council's sound financial management arrangements underpin delivery of all the Council's priorities, including the commitment to providing value for money services.
- 2.2 This report forms part of the formal debt write off procedures included in these financial arrangements.
- 2.3 The Council's collection rate for 2021/22 for Council Tax was 98.3% which is 2.5% higher than the national average of 95.8%.
- 2.4 The Council's collection rate for Business Rates was 98.1% which is above the national average of 95.5%. Debts outstanding for 2021/22 will continue to be pursued.
- 2.5 Debts are recovered in accordance with the Council's Recovery Policy which is published on our website.
- 2.6 Alongside the Recovery Policy, it is recommended that Members, at a future meeting, consider a supplementary policy framework for the writing off of debt. Effective and transparent write off policies and procedures contribute to the efficient management of debt.
- 2.7 The supplementary write off policy will ensure consistent debt recovery processes and procedures and all officers will better understand their roles and responsibilities in the process thus ensuring the effective management of debt.
- 2.8 The writing off of debt which is irrecoverable is recognised as good practice by the Department for Housing Levelling Up and Communities, the Chartered Institute for Public Finance and Accountancy and the Department for Work and Pensions. Debts are only considered for write off after taking all possible steps to collect. It is important to ensure that processes and procedures are frequently reviewed to ensure maximum effectiveness in debt collection and recovery.

- 2.9 A supplementary policy will ensure that a professional, consistent and timely approach is taken to the writing off of debt.

3. Outcomes/outputs

- 3.1 In accordance with good financial management principles, the Council makes appropriate bad debt provisions for all revenue streams detailed in this report. This provision recognises that a proportion of the Authority's debts will prove irrecoverable and ensures that the value of debtors within the Authority's accounts is a fair reflection of the amount that will eventually be recovered.
- 3.2 All debts, taxes and rates within the Service's control are actively pursued, and in most instances are collected with little difficulty. In cases where payment is not received on time, a reminder will be issued promptly to the debtor. If this fails to secure payment, a final reminder and/or a summons will also be issued and if necessary, the debt passed to an appropriate collection agent such as the Civil Enforcement Agents or the Council's Legal Department to secure payment.
- 3.3 Sometimes, however, if the debtor is having difficulty making the payment, special arrangements are used to effect recovery, and this may mean extending the period of time to collect the debt.
- 3.4 In some cases, pursuit of an outstanding debt is not possible for a variety of reasons, such as bankruptcy or liquidation and such cases with arrears under £5,000 can be written off by the Section 151 Officer under delegated authority. Cases where the debt exceeds £5,000 must, however, be approved by the Executive prior to the debt being written off.
- 3.6 A record is kept of debts written off, together with the reason for doing so, so that if there is a realistic chance of recovery in the future a debt may be resurrected and pursued again.
- 3.7 The Service has access to Experian's Citizenvue database which is currently the most reliable means of tracing absconded debtors. Each case is checked against this system before a decision is taken to write off the debt. A periodic review of write offs against this system may also be carried out to resurrect debts where appropriate.

4. Options available and consideration of risk

- 4.1 The Executive can either approve the debt being written off or not. Should the write off of an individual debt not be approved, it will remain on the appropriate system as an outstanding balance. In cases of insolvency, there is no option available to the Council but to stop any action to collect the debt. With any case where the debt remains on the appropriate Council system, it may result in additional time and cost spent to pursue the debts when there is no realistic prospect of recovery.

5. Proposed Way Forward

- 5.1 The Executive approves the write off of individual debts in excess of £5,000 as detailed in Table 3.
- 5.2 The Executive notes it will be asked to consider a supplementary write off policy setting out write off processes and procedures, thus ensuring consistency in the writing off of debt owed to the Council.

6. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance		<p>The relevant powers for this report are contained within the following legislation;</p> <p>Section 151 Local Government Act 1972 Section 44 Local Government Finance Act 1988 (Non-Domestic Rates) Section 14 Local Government Finance Act 1992 (Council Tax)</p>
Financial implications to include reference to value for money		<p>The Executive notes that, in accordance with Financial Regulations, the Section 151 Officer has authorised the write-off of individual South Hams District Council debts totalling £109,470.76 as detailed in Tables 1 and 2.</p> <p>It is recommended that the Executive approves the write off of individual debts in excess of £5,000 totalling £132,033.97, as detailed in Table 3.</p> <p>The total debts to be written off are £241,504.73.</p>
Risk		<p>Any risk to reputation is managed carefully by prompt recovery of amounts due wherever possible.</p> <p>This risk is also mitigated by taking a balanced view and ensuring that resources are not expended on debts which are not cost effective to pursue.</p> <p>The obvious risk of debtors subsequently being able to pay a debt which has been written off is mitigated by the activity outlined in Part 3.</p>
Supporting Corporate Strategy		Delivering efficient and effective services

Climate Change - Carbon / Biodiversity Impact		No direct carbon/biodiversity impact arising from the recommendations
Comprehensive Impact Assessment Implications		
Equality and Diversity		All enforcement action that is taken prior to this point is undertaken in accordance with legislation and accepted procedures to ensure no discrimination takes place.
Safeguarding		None
Community Safety, Crime and Disorder		None
Health, Safety and Wellbeing		None
Other implications		A bad debt provision is built into the financial management of the Authority

Supporting Information

Appendices:

Table 1 – Council debt under £5,000 written off by the Section 151 Officer

Table 2 – Non-Domestic Rate debt under £5,000 written off by the Section 151 Officer

Table 3 – Summary of items over £5,000 where permission to write off is requested

Table 4 – National & Local Collection Statistics re 2021/22 Collection Rates

Table 5 – Quarterly income in 2021/22 relating to all years

Table 6 – Previous Year Write Off Totals

Background Papers:

There are none

TABLE 1 SUMMARY OF SOUTH HAMS DISTRICT COUNCIL DEBT UNDER £5,000 WRITTEN OFF BY S151 OFFICER

TYPE OF DEBT	NUMBER OF CASES		No of people / business	REASON FOR WRITE OFF	Financial Year 2021/22			Totals for Comparison purposes			
	<£1000	>£1000			Quarter 3 & 4	Full Year Total		Equivalent Quarters 2020/21		Grand Total 2020/21	
					Amount (£)	Cases	Amount	Cases	Amount	Cases	Amount
HOUSING BENEFIT	2	1		Overpaid Entitlement	2,044.61	13	3,355.22	15	3,224.92	41	10,461.25
	1	-		Insolvency / Bankruptcy	921.17	5	7,434.39	4	4,652.57	11	10,334.69
	-	-		Absconded	-	-	-	-	-	-	-
	4	-		Deceased	580.36	6	817.11	4	3,955.79	7	5,099.18
	5	-		Not cost effective to pursue	69.87	9	81.08	9	126.40	18	183.19
	23	1		Uncollectable old debt	8,462.98	28	10,662.60	10	6,521.52	26	9,444.46
Total	35	2			12,078.99	61	22,350.40	42	18,481.20	103	35,522.77
COUNCIL TAX	1	-		Absconded	187.03	10	3,344.26	18	5,127.63	44	20,967.29
	27	21		Insolvency / Bankruptcy	52,294.52	65	71,046.38	39	39,709.82	82	82,141.83
	7	-		Deceased	450.47	17	13,270.48	12	5,370.66	12	5,370.66
	140	-		Small balance	818.47	152	838.53	107	98.25	113	101.78
	13	1		Other (inc. CTR overpayment)	3,794.41	15	4,110.06	5	1,266.97	8	4,072.42
	273	-		Uncollectable old debt	11,874.64	276	14,057.65	6	2,025.39	13	3,552.30
Total	461	22			69,419.54	535	106,667.36	187	53,598.72	272	116,206.28
SUNDRY DEBTS	-	-	-	Absconded	-	52	6,191.57	2	730.15	4	1,013.32
	-	-	-	Insolvency / Bankruptcy	-	7	3,011.07	3	844.70	5	1,857.70
	-	-	-	Not able to recover	-	9	682.85	3	1,282.80	16	4,851.53
	-	-	-	Other	-	-	-	6	1,223.67	7	2,423.67
	17	-	15	Not economical to collect	3.73	99	2,279.32	188	12,415.64	255	14,818.47
	-	-	-	Deceased	-	5	499.06	-	-	-	-
Total	17	-			3.73	172	12,663.87	202	16,496.96	287	24,964.69
Grand Total	513	24			81,502.26	768	141,681.63	431	88,576.88	662	176,693.74

TABLE 2 SUMMARY OF NON DOMESTIC RATE DEBT UNDER £5,000 WRITTEN OFF BY S151 OFFICER

TYPE OF DEBT	NUMBER OF CASES		No of people / business	REASON FOR WRITE OFF	Financial Year 2021/22			Totals for Comparison purposes			
	<£1000	>£1000			Quarters 3 & 4	Cumulative Total		Equivalent Quarters 2020/21		Grand Total 2020/21	
						Amount (£)	Cases	Amount	Cases	Amount	Cases
NON-DOMESTIC RATE	-	-		Absconded	-	-	-	-	-	-	-
	4	10	14	Insolvency / Bankruptcy	27,966.99	16	33,086.33	4	8,577.71	5	10,777.71
	2	-	2	Other (inc. small balances)	1.51	2	1.51	3	0.93	4	0.94
	-	-		Uncollectable old Debt	-	-	-	1	143.81	1	143.81
	-	-		Deceased	-	-	-	1	135.23	1	135.23
Total	6	10	16		27,968.50	18	33,087.84	9	8,857.68	11	11,057.69

TABLE 3 SUMMARY OF ITEMS OVER £5,000 WHERE PERMISSION TO WRITE OFF IS REQUESTED

TYPE OF DEBT	NUMBER OF CASES	REASON FOR WRITE OFF	Financial Year 2021/22			Totals for Comparison purposes			
			Quarters 3 & 4	Cumulative Total		Equivalent Quarters 2020/21		Grand Total 2020/21	
				Amount (£)	Case	Amount	Cases	Amount	Cases
NON-DOMESTIC RATE	11	Insolvency / Bankruptcy	102,833.59	15	137,870.43	3	33,604.12	4	209,556.4
	-	Absconded	-	-	-	-	-	-	-
	-	Uncollectable old Debt	-	-	-	-	-	-	-
	-	Other	-	-	-	-	-	-	-
Total	11		102,833.59	15	137,870.43	3	33,604.12	4	209,556.4
HOUSING BENEFIT	-	Deceased	-	-	-	-	-	-	-
	2	Overpaid Entitlement	29,200.38	3	35,328.72	-	-	-	-
	-	Uncollectable	-	-	-	-	-	-	-
	-	Insolvency / Bankruptcy	-	-	-	-	-	-	-
Total	2		29,200.38	3	35,328.72	-	-	-	-
COUNCIL TAX	-	Absconded	-	-	-	-	-	-	-
	-	Insolvency / Bankruptcy	-	-	-	-	-	1	6,657.2
	-	Other (inc. CTR overpayment)	-	-	-	-	-	-	-
Total	-		-	-	-	-	-	1	6,657.2
SUNDRY DEBTORS	-	Insolvency / Bankruptcy	-	-	-	-	-	2	17,323.6
	-	Uncollectable old debt	-	-	-	-	-	-	-
	-	Absconded	-	-	-	-	-	1	7,869.7
	-	Deceased	-	-	-	-	-	-	-
Total	-		-	-	-	-	-	3	25,193.3
Grand Total	13		132,033.97	18	173,199.15	3		8	241,406.9

33,604.12

TABLE 4 NATIONAL & LOCAL COLLECTION STATISTICS RE 2021-22 COLLECTION RATES

Total amount collected in 2021-22 relating to 2021-22 financial year only (net of refunds relating to 2021-22)

	Council Tax			Non Domestic Rates		
	Collectable Debit i.r.o. 21/22 - £000s	Net Cash Collected* i.r.o. 21/22 - £000s	Amount Collected i.r.o. 21/22 - %age	Collectable Debit i.r.o. 21/22 - £000s	Net Cash Collected* i.r.o. 21/22 - £000s	Amount Collected i.r.o. 21/22 - %age
All England (National Average)	35,341,791	33,874,616	95.8	21,752,246	20,776,105	95.5
Shire Districts	14,763,647	14,352,313	97.2	6,346,429	6,156,361	97.0
East Devon	126,747	125,322	98.9	27,482	26,760	97.4
Exeter	76,883	74,209	96.5	58,968	57,946	98.3
Mid Devon	63,679	61,560	96.7	12,500	12,322	98.6
North Devon	74,340	72,028	96.9	24,152	23,538	97.5
Plymouth	145,806	141,062	96.8	68,823	67,719	98.4
South Hams	83,346	81,964	98.3	23,611	23,170	98.1
Teignbridge	105,041	102,860	97.9	23,804	23,563	99.0
Torbay	94,060	89,590	95.3	23,111	20,908	90.5
Torrige	51,510	50,250	97.6	8,900	8,761	98.4
West Devon	45,967	44,955	97.8	8,246	7,724	93.7

* Net Cash Collected is total 2021-22 receipts net of refunds paid, in respect of 2021-22 only

TABLE 5 QUARTERLY INCOME IN 2021-22 RELATING TO ALL YEARS

Total amount collected in 2021-22 relating to any financial year (net of all refunds in 2021-22)

	Council Tax Net Cash Collected* £000s	Non Domestic Rates Net Cash Collected* £000s
Quarter 1 - Receipts collected between 1 st April – 30 th June	24,542	6,651
Quarter 2 - Receipts collected between 1 st July – 31 st September	22,001	5,673
Quarter 3 - Receipts collected between 1 st October – 31 st December	23,981	6,703
Quarter 4 - Receipts collected between 1 st January – 31 st March	12,475	4,758

* Net Cash Collected is total receipts in 2021-22 net of refunds paid, irrespective of the financial year (previous, current or future years) to which they relate

TABLE 6 PREVIOUS YEAR WRITE OFF TOTALS

		2020-21	2019-20	2018-19	2017-18	2016 - 17	2015 - 16
HOUSING BENEFIT	Under £5,000 cases	35,522.77	100,182.18	71,150.67	151,891.76	68,357.34	57,038.07
HOUSING BENEFIT	£5,000 or over cases	0.00	7,615.46	30,773.79	63,513.87	5,394.07	7,177.42
Total		35,522.77	107,797.64	101,924.46	215,405.63	73,751.41	64,215.49
COUNCIL TAX	Under £5,000 cases	116,206.28	111,054.11	94,052.07	95,979.12	93,486.69	54,831.67
COUNCIL TAX	£5,000 or over cases	6,657.17	14,327.98	17,985.43	0.00	0.00	0.00
Total		122,863.45	125,382.09	112,037.50	95,979.12	93,486.69	54,831.67
SUNDRY DEBTS	Under £5,000 cases	24,964.69	22,296.30	38,131.86	102,792.98	1,321.50	9.03
SUNDRY DEBTS	£5,000 or over cases	25,193.34	9,814.41	41,940.58	73,929.08	0.00	0.00
Total		50,158.03	32,110.71	80,072.44	176,722.06	1,321.50	9.03
HOUSING RENTS	Under £5,000 cases	*	*	0.00*	128.29	270.00	0.00
HOUSING RENTS	£5,000 or over cases	*	*	0.00*	0.00	0.00	0.00
Total		*	*	0.00*	128.29	270.00	0.00
NON DOMESTIC RATES	Under £5,000 cases	11,057.69	31,067.77	13,655.99	20,832.66	32,812.78	37,074.12
NON DOMESTIC RATES	£5,000 or over cases	209,556.44	244,190.88	82,356.99	20,030.54	47,128.00	252,084.33
Total		220,614.13	275,258.65	96,012.98	40,863.20	79,940.78	289,158.45
GRAND TOTAL		429,158.38	540,549.09	390,047.38	529,098.30	248,770.38	408,214.64

*Housing Rents write offs now included within Sundry Debts figures

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Report to: **Executive**
Date: **26 January 2023**
Title: **Council Tax Reduction Scheme 2023-24 and other Council Tax Discounts and Premiums**
Portfolio Area: **Benefits - Cllr Hopwood**

Wards Affected: **All**

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

Date next steps can be taken: Any recommendations will be considered at the Full Council meeting to be held on 16 February 2023.

Author: **Geni Hotchkiss** Role: **Head of Revenues and Benefits**

Contact: geni.hotchkiss@swdevon.gov.uk

RECOMMENDATIONS

It is RECOMMENDED that the Executive:

- 1. Notes the contents of the report.**
- 2. RECOMMENDS to Council a local Council Tax Reduction Scheme for 2023/24 as follows:**
 - Make no changes to Band 1 of the current banded scheme.**
 - Uplift Bands 2, 3 and 4 by 20% (above current inflation) and, as detailed in paragraph 3.15, to take into account the Cost of Living crisis.**
 - Replace the current range of earnings disregards with a single £25.00 disregard.**
 - Make changes to the Minimum Income Floor by adjusting the income calculation for self-employed claimants who receive carer's allowance, personal independence payments or disability living allowance.**
- 3. RECOMMENDS to Council that delegated authority is given to the Director of Strategic Finance, in consultation with the Lead Member for Benefits and the Head of Revenues and**

Benefits to agree the uprating of working age regulations incorporated into the local Council Tax Reduction Scheme in line with those announced by the Department for Work and Pensions.

- 4. RECOMMENDS to Council that officers are instructed to take immediate steps to apply the £25 Council Tax Support Fund payment to eligible council taxpayers, which was announced by the Government on 19 December 2022, and bring forward proposals for a discretionary scheme in late spring 2023.**
- 5. The adoption of the Council Tax discounts as follows effective from 1 April 2023:**
 - (a) The discount for unoccupied and substantially unfurnished properties is 100% for a maximum period of 1 month.**
 - (b) The discount for unoccupied and substantially unfurnished properties for 1 month to 2 years is zero.**
 - (c) The discount for properties which are vacant and require major repair work to render them habitable is 50% for maximum period of 12 months.**
 - (d) The discount for unoccupied furnished properties (second homes) is zero.**
 - (e) An empty homes premium of an additional 100% is levied on properties that have remained unoccupied and substantially unfurnished for at least two years, but less than five years.**
 - (f) An empty homes premium of an additional 200% is levied on properties that have remained unoccupied and substantially unfurnished for at least five years, but less than ten years.**
 - (g) An empty homes premium of an additional 300% is levied on properties that have remained unoccupied and substantially unfurnished for at least ten years.**
- 6. That, in principle, the following additional council tax premiums be applied from 1 April 2024, or earlier if allowed, subject to the required legislation being in place:**
 - 100% premium for properties which have been unoccupied and substantially unfurnished for a period of between 1 and 2 years.**
 - 100% premium for second homes.**

1. Executive summary

- 1.1 There is a requirement to have a Local Council Tax Reduction Scheme to support residents who qualify for assistance in paying Council Tax. The Local Government Finance Act 1992 requires each billing authority in England to make a scheme specifying the reductions which are to apply to amounts of council tax payable

by persons, or classes of persons, whom the authority considers are in financial need (“a council tax reduction scheme”).

- 1.2 The LCTRS must be approved and in place by 11 March each year and prior to that the authority must consult with major preceptors and any other person who may have an interest in any proposed changes to the scheme.
- 1.3 At its meeting on 13 October 2022, Executive Committee gave its approval to consult on changes to the LCTRS for 2023-24, to ensure the Council provides as much support as possible to residents during the Cost-of-Living crisis.
- 1.4 This report provides Members with a summary of the consultation. Members are asked to consider the content of this report and to recommend to Council a local Council Tax Reduction Scheme for the financial year 2023-24.
- 1.5 The report also provides details of the Council Tax Support Fund announced by the Government on 19 December 2022 and the steps officers propose to take to implement it.
- 1.6 With changes to council tax premiums proposed in the Levelling Up and Generation Bill, the report also sets out the current council tax discounts and any proposed changes if legislation is laid in time, i.e., before the council tax set for 2023-24 is set by the Council.

2. Background

- 2.1 Since April 2013, the Council has been required to establish a local Council Tax Reduction Scheme to help working age residents on a low income to pay their council tax. This scheme replaced the national scheme for Council Tax Benefit which was fully funded by central government.
- 2.2 The Council is also required to administer the prescribed government Council Tax Reduction Scheme for pension age residents and is not able to make any changes to this scheme.
- 2.3 It is an annual requirement for Councils to review their working age Council Tax Reduction Scheme and decide whether to continue with the same scheme or revise it.
- 2.4 In 2019, the Council introduced a banded scheme which assessed the maximum level of Council Tax Reduction based on the net income of the claimant and, if applicable, their partner.
- 2.5 With the increased pressure on household budgets because of the cost-of-living crisis, the Council has recognised that it needs to provide as much support as possible to those who need it most.

- 2.6 One of the ways to do this is to review how support is given through the Council Tax Reduction Scheme and approval was given by the Executive Committee at its meeting of 13 October for officers to consult on changes to the Council Tax Reduction Scheme for 2023-24.
- 2.7 In light of the proposals in the Levelling-up and Regeneration Bill to allow Councils to reduce the length of time a property has to be unoccupied before a premium can be applied and also the proposal to allow a premium on second homes, the report also sets out the council tax discounts proposed for the 2023-24 financial year.

3. Proposed Council Tax Reduction Scheme for 2023-24

- 3.1 The public consultation 'Have Your Say on the Council Tax Reduction Scheme 2023-24' ran from Monday 17 October 2022 to Sunday 27 November 2022.
- 3.2 The proposals consulted on were as follows:
 - Make no changes to Band 1 of the current scheme.
 - Uplift Bands 2, 3 and 4 by 20% (above current inflation) to take into account the Cost-of-Living crisis.
 - Replace the current range of earnings disregards with a single £25.00 disregard.
 - Make changes to the Minimum Income Floor by adjusting the income calculation for self-employed claimants who received carer's allowance, personal independence payments or disability living allowance.
- 3.3 The response rate to the consultation was low with 58 responses, however it is almost double the number of responses received when the Council first consulted on a possible banded scheme in October 2018.
- 3.4 The Council wrote to all the major preceptors seeking their views on the proposed changes to the scheme. Devon County Council confirmed that they have no objections to the proposals, based on the cost estimates provided in the consultation letter. Devon and Somerset Fire and Rescue have also confirmed that they are content with the proposals.

Summary of consultation responses

- 3.5 The public consultation received 58 responses, with 89.66% of respondents saying they live in the South Hams. Most respondents (71.79%) were not currently receiving council tax reduction.
- 3.6 There were 57 responses to the proposal to change income bands, broken down as follows:

Response	Response number	Percentage
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Yes	40	70.18%
No	9	15.79%
Don't know	8	14.04%

- 3.7 The proposal to remove the current earnings disregards and replace them with a standard earnings disregard for all working age applicants received 47 responses which were broken down as follows:

Response	Response number	Percentage
Yes	34	72.34%
No	9	19.15%
Don't know	4	8.51%

- 3.8 The proposal to make changes to the Minimum Income Floor for those claimants who are self-employed and receiving carer's allowance, personal independence payments or disability living allowance, received 44 responses.

Response	Response number	Percentage
Yes	31	70.45%
No	6	13.64%
Don't know	7	15.91%

- 3.9 Although the number of responses to the consultation was low, there was a clear majority in favour of all three proposals.
- 3.10 There was majority support for the proposal to uplift income bands by 20%, with 70.18% of respondents in favour of this proposal.
- 3.11 There was support for the proposal to remove the current range of earnings disregards and replace them with a single one of £25.00, with 72.34% of respondents being in favour of this proposal.
- 3.12 The third proposal, which seeks to provide more support to self-employed claimants with caring responsibilities and/or disabilities again had a similar level of support. 70.45% of respondents were in favour of this proposal.
- 3.13 Having taken into consideration the responses to the public consultation, the Council recognises that one of the best ways it can support residents during the current cost of living crisis is to introduce a revised council tax reduction scheme for working age claimants for 2023-24, including an above inflation uplift on income bands.
- 3.14 In transitioning to the revised banded scheme there could be some initial confusion from claimants. However by simplifying the current scheme and ensuring we publicise it effectively, it will be

easier for residents to make a claim and administrative costs will also be reduced.

3.15 The proposed weekly income bands, effective from 1 April 2023, are detailed in the table below:

		Single	Couple	Family (1 child)	Family (1 child +)
Band	Reduction				
1	85%	£0.00 to £95.00	£0.00 to £138.00	£0.00 to £220.00	£0.00 to £355.00
2	80%	£95.01 to £132.00	£138.01 to £180.00	£220.01 to £282.00	£355.01 to £385.00
3	50%	£132.01 to £192.00	£180.01 to £240.00	£282.01 to £342.00	£385.01 to £435.00
4	25%	£192.01 to £246.00	£240.01 to £294.00	£342.01 to £396.00	£435.01 to £480.00

4. Council Tax Support Fund

- 4.1 Alongside the provisional Local Government Finance Settlement on 19 December 2022, the Government announced £100m of additional funding for local authorities to support the most vulnerable households in England with their council tax bills.
- 4.2 The funding allows councils to deliver additional support to households already receiving council tax support (reduction) as well as offering resources and flexibility to determine local approaches to support other vulnerable households in the area.
- 4.3 Guidance and provisional allocations have been published, with the final allocation to be confirmed at the Final Local Government Finance Settlement. The Council's provisional allocation is £130,930.
- 4.4 The guidance outlines the underpinning principles for use of the fund and expected eligibility criteria. Funding will be allocated to councils based on their share of local council tax support claimants according to the latest data. The Government expects local authorities to use most of their funding to reduce council tax bills for current working age and pension age Local Council Tax Support (LCTS) claimants by up to £25. Councils can use their remaining allocation as they see fit to support vulnerable households with council tax bills.

- 4.5 The discount should apply to current LCTS claimants that will have an outstanding council tax liability for the 2023-24 financial year. Where the council tax liability for 2023-24 is, following the application of council tax reduction (support), less than £25 their bill will be reduced to nil. Where the liability for 2023-24 is already zero no reduction to the council tax bill will be available.
- 4.6 We will need changes to our council tax software to implement the reduction, however as the scheme is similar to the Council tax: COVID-19 hardship fund 2020-21, our software supplier is currently working on extending this functionality. They are, however, awaiting confirmation of the final requirements from DLUHC (Department for Levelling Up, Housing and Communities) to enable them to make the required changes in time to apply the reduction to the council tax annual bills for 2023-24.
- 4.7 At the time of writing, we have 3,426 residents who likely to be eligible for the £25 payment. The council tax reduction caseload can change daily and, as the qualifying date for the reduction will be 1 April 2023, it is recommended that officers make the mandatory awards and then bring forward proposals to Members in late spring 2023 on how to best distribute the balance of the funding.

5. Council Tax Discounts and Premiums

- 5.1 The Local Government Finance Act 2012 abolished certain council tax discounts with effect from 1 April 2013 and replaced them with discounts which can be determined locally.
- 5.2 Prior to 1 April 2013, billing authorities could charge up to a maximum 100% council tax on dwellings that had been empty for more than two years. From April 2013, billing authorities were given new powers to charge a premium of up to 50% of the council tax payable. Further legislation was then introduced allowing a 100% empty homes premium to be levied from 1 April 2019.
- 5.3 From 1 April 2020 an additional power was given to increase the premium to 200% for dwellings that have been unoccupied and substantially unfurnished for a period of over 5 years.
- 5.4 From 1 April 2021, a further power was granted to increase the council tax empty homes premium to 300% for properties that have been unoccupied and substantially unfurnished for more than 10 years.
- 5.5 The original legislation and subsequent amendments were introduced with the express intention of bringing empty properties back into use. To supplement these existing powers, the legislation to allow a premium on second homes and a reduction in the length of time a dwelling has to be unoccupied and unfurnished before a premium can be applied, is contained within the Levelling-up and

Regeneration Bill which is currently making its way through Parliament.

5.6 The Bill has completed its passage through the House of Commons and has its second reading in the House of Lords on 17 January 2023.

5.7 Unless there are changes to the bill as it progresses through Parliament, the changes cannot take effect before 1 April 2024. If the bill is not changed, the premium for second homes can only be implemented with at least one year’s notice. At the time of writing there are 3,710 second homes in the district.

5.8 Any decision to apply the reduction in the qualifying period for the empty homes premium will need a decision before the financial year to which it relates.

6. Proposed way forward

6.1 The Council Tax Reduction Scheme for 2023-24 is agreed as set out in the consultation. The revised income bands will ensure that the Council continues to provide as much support as possible to low-income households, particularly during the cost of living crisis.

6.2 Steps are taken as soon as possible to support vulnerable households with their 2023-24 council tax bills through the Government’s recently announced Council Tax Support Fund.

6.3 The Council considers the introduction of a council tax premium for second homes and a reduction in the time a property needs to be unoccupied for before an empty homes premium can be applied, as soon as the legislation allows.

7. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	The Welfare Reform Act 2012 abolished Council Tax Benefit and instead required each billing authority to design a scheme specifying the reductions which are to apply to amounts of Council Tax. The prescribed regulations set out the matters that must be included in such a scheme. All authorities in England are required to have a scheme identifying the

		<p>reductions payable by their constituents who are in financial need under Section 13A of the Local Government Finance Act 1992 (updated in 2012). Schedule 1A paragraph 5 of the Act states that for each financial year, Councils must consider whether to revise their scheme or replace it with another scheme and that such decisions need to be made by 11 March in the financial year preceding that for which the revision or replacement scheme is to take effect. If the Council does not make/revise its scheme by 11 March 2023, a default scheme will be imposed on the Council which will be effective from April 2023. The Local Government Finance Act 2012 amended the Local Government Finance Act 1992. Section 13A of the Local Government Finance Act 1992 (as amended) requires each billing authority to make a scheme specifying the reductions which are to apply to the amount of Council Tax payable.</p> <p>Government expects councils to deliver the Council Tax Support Fund using their discretionary powers under Section 13A (1) (c) of the Local Government Finance Act 1992.</p> <p>Section 11B of the Local Government Finance Act 1992 (as amended) allows the Council to charge a council tax premium. Section 67(2) of that Act provides that the power to decide to charge a premium can only be exercised by full Council. Further, The Rating (Property in Common Occupation) and Council Tax Empty Dwellings Act 2018 allows billing authorities, from 1 April 2020, to apply a premium of an additional 200% of the council tax due where a dwelling has been empty for five years and over. A premium of an additional 300% can be applied where the dwelling has been empty for ten years and over from April 2021.</p>
Financial implications to include reference to value for money	Y	<p>The cost of the Council Tax Reduction Scheme is met by South Hams District Council, and the major presenting authorities, in proportion to their share of the council tax. The CTR Scheme is reflected within the Tax Base calculation as a discount. Previous CTR schemes have always been modelled on a cost neutral basis, in that the cost of the scheme was the equivalent of the level of Government funding. Increasing the Band Thresholds would increase the cost of the scheme by around £52,000. The scheme is projected to cost £5.719million as opposed to the current £5.667 million. SHDC's share of the increase in cost is around 8% of this i.e., £4,160. It is envisaged that increasing the Band Thresholds would increase the</p>

		council tax collection rate for residents in receipt of CTR. The Council Tax Collection Fund is in surplus by £2.74m as at 31.3.2022. A distribution of the surplus will be made to all major presenting authorities as part of the 2023/24 Budget setting process. This can be a way of financing the additional cost of the 2023/24 CTR scheme of £52,000, as although the scheme will cost more, preceptors will be receiving a larger distribution of a collection fund surplus than usual due to the level of the surplus on the fund.
Risk	Y	To reduce the cost to the Council, changes would have to be made to the level of support made to working age claimants. Most local authorities have already incorporated a reduced level of support into their local schemes and they should be reviewed on an annual basis. There is a risk that the cost of maintaining the current local scheme will increase if the number of claimants rises due to the state of the local and national economy.
Supporting Corporate Strategy	Y	Supporting the Council's response to the cost-of-living crisis. Supporting the Council's Quality Council Services.
Consultation & Engagement Strategy	Y	Public consultation has been carried out to inform the content of this report.
Climate Change - Carbon / Biodiversity Impact	N	There are no known impacts because of this report.
Comprehensive Impact Assessment Implications		
Equality and Diversity	Y	The local Council Tax Reduction Scheme only applies to impacts a specific group of people, namely working age residents on low incomes. The proposals set out in this report improve accessibility to the scheme through a simplified process and improve the support available to those on the lowest incomes.
Safeguarding	N	None as a direct result of this report, however the local Council Tax Reduction Scheme may help keep vulnerable children and adults safe.
Community Safety, Crime and Disorder	N	None as a direct result of this report, however some of the recommendations may help to reduce crimes such as domestic violence.
Health, Safety and Wellbeing	Y	Financial wellbeing is crucial to the wellbeing of our residents and the recommendations in this report are designed to support this.
Other implications	N	None.

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Report to: **Executive**

Date: **26 January 2023**

Title: **Housing Crisis – Changes to Financial Assistance and Enforcement Policies.**

Portfolio Area: **Housing – Cllr Pearce**

Wards Affected: **All**

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

Date next steps can be taken: Council meeting to be held on 16 February 2023.

Author: **David Sexton** Role: **Principal Environmental Health Officer**

Contact: **email: dave.sexton@swdevon.gov.uk**

RECOMMENDATIONS:

That the Executive Committee RECOMMEND to Council:

- 1. That the existing 2019-2022 Homes Assistance Policy is updated with the revised Better Care Fund Financial Assistance Policy 2022**
- 2. To approve and implement the electrical safety standards Civil (Financial) Penalty Policy and incorporate into the council's enforcement policy, to allow officers to impose fines where necessary to landlords and improve Private Rented Properties.**
- 3. To approve and implement the energy efficiency standards Civil (Financial) Penalty Policy, and incorporate into the council's enforcement policy to allow officers to impose fines where necessary to landlords and improve Private Rented Properties.**

1. Executive summary

- 1.1 The purpose of this report is to consider updating two housing policies and to inform Members of the Council's approach to dealing with mould and damp complaints from residents of rented properties.
- 1.2 The policies that are being updated will have the combined effect of helping to address the Council's climate emergency by reducing carbon emissions from housing and to contribute to an improvement of

health and wellbeing of our residents by improving the quality of housing in the area.

- 1.3 To be able to make a positive difference to climate change and health and wellbeing Members are asked to update two separate policies; the Homes Assistance Policy with a new Better Care Fund (BCF) Financial Assistance policy, and to update the Council's Enforcement Policy to include civil penalty fines for breaches of Electrical Safety and Energy Performance Certificate Regulations.
- 1.4 The purpose of the change to the Better Care Fund (BCF) Financial Assistance policy is to remove some bureaucracy on lower price, higher volume adaptations (eg bathroom and lift adaptations). Means testing is currently one of major parts of the grant application process. Removing means testing from bathroom and internal lifts will mean the grant processing is quicker for many applicants. This will mean that we will be able to provide adaptations more quickly to vulnerable residents, and where it applies, speed up the transfer of care from hospital to home.
- 1.5 The proposal to increase grant amounts reflect the need to cover the costs from increase in the cost of labour and material over the past year. The grant regime is funded by Central Government's Better Care Fund and the increase in price of adaptations will be covered by this funding.
- 1.6 The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 have formalised electrical safety requirements in domestic rented properties. The regulation now clearly states landlord responsibilities and allow Local Authorities to issue civil penalties for non-compliance.
- 1.7 Councils have powers to enforce the Energy Efficiency (Private Rented Property) (England and Wales) Regulations. It allows Local Authorities to issue fines for rental properties which do not have a compliant Energy Performance Certificate (EPC).
- 1.8 The aim of updating the enforcement policy is to increase the range of measures open to the Council for tackling non-compliant landlords and to increase the Council's capacity to undertake enforcement where there is clear evidence that offences have been committed. The civil penalty is an alternative to prosecution and requires the same evidential standard.
- 1.9 There is a risk that non-compliant landlords may remove the property from the rental sector. The Environmental Health team will continue to carry out enforcement in a balanced and pragmatic manner. We would always encourage compliance first and when available signpost to financial help.

Damp and Mould

- 1.10 The Council has recently responded to a letter from the Secretary of State regarding his questions around the Council's approach to dealing with damp and mould following the tragic death of Awaab Ishak as a direct result of mould in his family home in Rochdale.
- 1.11 The letter set out the Council's work to ensure that damp and mould in properties where we have an enforcement activity is dealt with quickly and effectively.
- 1.12 Our approach will be two-fold, firstly ensuring that we are responding to complaints from tenants in private sector housing in an effective manner and engaging fully with partner organisations and Registered Providers we have already started to receive letters from our local RPs about action they are taking in their own stock.
- 1.13 Secondly, we will continue to improve the fabric of all housing in the Council's area by applying for and effectively using Government Retrofit Grant schemes, such as Green Homes Grants and Home Upgrade grants.

Better Care Fund Financial Assistance policy.

2. Background

- 2.1 In 2015 the Government introduced the Better Care Fund (BCF) to bring health and social care together in an integrated way. The Fund is a combination of government funding from the Department of Health and the then Department for Communities and Local Government, now the Department for Levelling Up, Housing and Communities. The BCF includes the grant allocation for disabled facilities grants (DFG). The Integration and Better Care Fund policy (2017-19) framework document lists the conditions that the Better Care Fund must be used to address and this includes Local Authorities working together on a jointly agreed plan.
- 2.2 The development of the Devon Housing Assistance policy with the other Devon districts is in response to the condition to work together on a jointly agreed plan. The policy allows the Council to fully utilise the Better Care Fund allocation to meet specific needs in its area, including those that may fall outside of the scope of the statutory Disabled Facilities Grant (DFG).
- 2.3 The Better Care Fund provides more funding to the Devon Local Authorities than is currently required to meet the demand for mandatory DFGs. A wider Devon policy was developed in 2017 to allow the Devon councils to spend the BCF on grant assistance that helps a wider range of households and meets more of the BCF objectives.

2.4 The current assistance packages are:

Mandatory Disabled Facilities Grant (DFG)
Accessible Homes Grant (including house move)
Home Improvement Loan
Healthy Homes grant
ECO flex top up

2.5 These assistance packages are described in more detail in Appendix 1.

3. Outcomes/outputs

3.1 The revised policy aims to provide a consistent approach to the delivery of the Better Care Fund across Devon that satisfies the terms of the funding agreement.

3.2 The policy will provide the flexibility and discretion for the councils to provide appropriate assistance to meet the following objectives:

Objective 1 - Assist disabled residents to remain in their own homes through supporting the provision of adaptations (so far as this is necessary, appropriate and reasonably practicable) to prevent admissions to care and to assist with delayed transfers where possible.

Objective 2 – Safeguard the health and well-being of vulnerable residents by removing unnecessary hazards to health and safety in the home to reduce avoidable emergency admissions

Objective 3 – Provide adaptations that are suitable for the future by ensuring the scheme of works is dementia aware.

Objective 4 – assist vulnerable people to afford to heat their homes through appropriate energy efficiency and heating measures.

3.3 These objectives meet the priorities detailed by the Better Care Fund and the Devon Local Authorities.

3.4 The measure of success will be the number of DFG's provided and the total spend of the Better Care Fund allocation.

3.5 Locality officers will also receive training so that when they are in homes they can identify potential risks and sign post to help.

3.6 Current spend and committed budget this year (upto quarter 3) is £816,598.19 out of a total budget of £1,203,537.

4. Options available and consideration of risk

4.1 Council could decide not to adopt the new policy and carry on only providing grants under the previous policy. This would be difficult to justify as the Government have made extra funds available based on assessment of local need and this would be a missed opportunity to

assist more of our vulnerable residents. If funding reduces in the future, the council will be able to reintroduce means testing.

- 4.2 The proposed policy will give more flexibility from the previous policy, to how grants are administered. It is not anticipated that there will be big increase in applications as there will still need to be an occupational therapist (OT) referral/consultation. Where applications are made for particular bathrooms, we will be able to process them faster as we are removing an administrative step. There is a risk that more affluent residents will access the grants, however previous experience of removing the means testing from stair lifts, has not supported this. This will also speed up the transfer of care from hospitals, where an adaptation is required.

5. Proposed Way Forward

The total grant that residents are eligible for will be increased to allow for increasing costs associated with labour and materials due to the current financial climate. This will allow for works to remain in scope for the budget and reduce where appropriate residents' contributions.

Specific changes to each are of the grants in the Policy are detailed below;

5.1 Changes to Accessible Homes Grant (AHG)

- 5.1.1 To include non-means testing for through floor lifts, bathrooms and applications for children. This will allow quicker processing of grants for residents. Most applications for children are big adaptations, for example extensions for extra care rooms. Previously for children the DFG element was non means tested and accessible home grant element was means tested.
- 5.1.2 The accessible home grant will be increased from £20000 to £30000 to reflect increase in labour and material costs.

5.2 Changes to Healthy Home Grant

- 5.2.1 Amount increased from £5000 to £10000 to reflect increase in labour and material costs.
- 5.2.2 Allow more flexible help to households for example to make their home more safe (slip, trips and falls, dementia sufferers)

5.3 Changes to ECO flex top ups

- 5.3.1 Grant name changed to Warm Up grants
- 5.3.2 Amount increased from £2000 to £3000 to reflect increase in labour and material costs.

5.4 Examples

Adaption	Example of Cost	Grant	Means test
Bathroom	£6000	AHG	No
Children care room	£50000	DFG (£30000) AHG (£20000)	No
Extension (adult)	£55000	DFG (£30000) AHG (£25000)	Yes
External Ramp	£10000	DFG	Yes

6 Recommendation

- 6.1 The recommendation from this section of the report is that the existing 2019-2022 Homes Assistance Policy is updated with the revised Better Care Fund Financial Assistance Policy 2022

Changes to the Council's Enforcement Policy, Electrical Safety Regulations

7 Background

- 7.1 The council has a statutory duty to enforce The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020, which came into force on 1 June 2020. The regulations place mandatory duties on private landlords to maintain electrical safety standards in all privately rented homes from 1 April 2021.
- 7.2 Persons from vulnerable groups can have limited housing choices, therefore the introduction of these regulations can enhance the property conditions for these groups. The legislation has been introduced to protect tenants from suffering harm as a consequence of being exposed to unsafe electrical installations.
- 7.3 The regulations require Landlords to ensure that the fixed electrical installations in their properties are inspected and tested at least every 5 years by a competent electrician. The initial inspections need to be carried out before any new tenancy is granted from 1 July 2020, and by 1 April 2021 for existing tenancies. The Regulations introduce measures that are intended to be implemented by landlords from 1 July 2020:
- Landlords are required to provide their tenants with electrical safety reports: in the case of new tenants, before they move in; to existing tenants within 28 days of receiving it; and to any prospective tenant within 28 days of their request to view the report;
 - The Council has the power to demand sight of the report and the landlord must provide this within 7 days of the request. Failure to do so could result in a penalty charge;

- c) If the Council has reasonable grounds to believe that the landlord is in breach of the Regulations, it also has the power to serve a remedial notice on the landlord to compel them to comply with the Regulations;
- d) Landlords have 28 days to remedy the breach, and if the work is not carried out in time then the Council has the power to carry out the required works themselves (on providing prior written notice to the landlord) and recover their costs from the landlord;
- e) Landlords failing to provide tenants with an electrical safety report at the start of their tenancies will be in breach of the regulations and may face a civil penalty of up to a maximum of £30,000, with the potential for multiple penalties to be imposed for a continuing failure.

7.3 Local housing authorities have been empowered to impose financial penalties of up to £30,000 on private landlords who breach their duties under the regulations. However, before the council can impose such penalties it must first adopt a policy to determine the level of penalty that should be imposed for breaches that have been identified.

7.4 The criminal standard of proof is required before issuing a financial penalty under The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020. This means that the Council must be able to demonstrate beyond all reasonable doubt that a breach of the regulations has occurred.

8. Outcomes/outputs

8.1 Non-compliance with Housing Act notices, regulations and licensing requirements can result in the local housing authority prosecuting the offender. Section 126 and Schedule 9 of the Housing and Planning Act 2016 allows a civil penalty to be imposed by the local housing authority for offences under the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020.

8.2 The amount of the penalty is to be determined by the local housing authority with a maximum amount of £30,000. The Council must have regard to Guidance given by the Secretary of State about the exercise of its functions in relation to the issuing of civil penalties and local housing authorities are expected to develop and document their own policy on determining the appropriate level of civil penalty. The Council's charging scheme is set out in enclosed civil penalty policy.

8.3 Income received from a civil penalty can be retained by the local housing authority provided that it is used to further the local housing authority's statutory functions in relation to their enforcement activities covering the private rented sector.

8.4 A civil penalty should not be seen as a lesser option compared to prosecution and to help ensure that the civil penalty is set at the

appropriate level The Statutory Guidance requires a local housing authority to have regard to the following factors when deciding the appropriate level of penalty

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

- 8.5 A civil penalty is an alternative to prosecution so a local housing authority is not permitted to impose a civil penalty and prosecute for the same offence. A civil penalty requires the same burden of proof as a prosecution, the evidence must meet the criminal standard of proof "beyond reasonable doubt". In considering the decision to prosecute or not, the Council must also consider is there is sufficient evidence for there to be a realistic prospect of conviction and if the prosecution is in the public interest.
- 8.6 Local authorities are also expected to develop and document their own policy on when to prosecute and when to issue a civil penalty and decide on which option on a case by case basis. The private sector housing civil penalty policy was approved in 2018.
- 8.7 There is a prescribed process for levying civil penalties which must be followed precisely as laid out in the Statutory Guidance. Recipients of a civil penalty have the right to appeal to the First-tier Tribunal where the soundness of the decision to impose a civil penalty, the decision relating to the amount and any deviations from the prescribed process can be rigorously reviewed. The Tribunal has the power to confirm, vary (increase or reduce) or cancel the civil penalty that the Council has issued.
- 8.8 The recommendation from this section of the report is to approve and implement the electrical safety standards Civil (Financial) Penalty Policy, to allow officers to impose fines where necessary to landlords and improve Private Rented Properties.

Changes to the Council's Enforcement Policy, Minimum Energy Efficiency Standards (Energy Performance Certificates)

9. Background

- 9.1 Councils have a statutory duty to enforce the Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015

(amended in 2016 and 2019). (See 'background papers' for access to a copy of the Regulations). Subject to relevant exemptions these regulations set a minimum level of energy efficiency that:

- a) Since 1 April 2018, landlords of relevant domestic private rented properties must not grant a tenancy to new or existing tenants if their property has an EPC rating of F or G (as shown on a valid EPC for the property);
- b) From 1 April 2020, landlords must not continue letting a relevant domestic property which is already let if that property has an EPC rating F or G (as shown on a valid EPC for the property). Where a property is sub-standard, landlords must normally make energy efficiency improvements which raise the EPC rate to minimum E before they let the property. In certain circumstances, landlords may be able to claim an exemption from this prohibition on letting a sub-standard property.

Where a valid exemption applies, landlords must register the exemption on the National PRS Exemptions Register.

Council Officers are authorised to check for different forms of noncompliance with the Regulations and issue penalties for non-compliance. The Council's Environmental Health Department undertakes housing enforcement in the private rented sector and would be the team that would enforce these regulations.

- 9.2 To undertake this enforcement action, the Council must publish a Civil Penalty Policy, which sets out the protocol for how the Council will undertake the enforcement duties and arrive at decisions, ensuring they are fair and accountable. The financial penalties below were developed, utilising good practice from other Local Authorities, including guidance from the Department for Business, Energy and Industrial Strategy (BEIS).
- 9.3 There are four breaches under the regulations for which a private landlord may be imposed with a financial penalty. Regulation 40 sets out the breaches and the statutory maximum amounts that may be imposed in respect of each type of breach. These are:
 - a) Breaching the prohibition on letting a property with an F or G rating, in contravention of Regulation 23, for less than three months:
Statutory maximum financial penalty **£2,000** ;
 - b) Breaching the prohibition on letting a property with an F or G rating, in contravention of Regulation 23, for three or more months:
Statutory maximum financial penalty **£4,000** ;
 - c) Registering false or misleading information on the PRS Exemptions Register under
Regulation 36(2): Statutory maximum financial penalty **£1,000**;

- d) Failing to provide information to the council demanded by a Compliance Notice, in contravention of Regulation 37(4)(a): Statutory maximum financial penalty **£2,000**.

In respect of any one tenancy, a private landlord cannot, owing to Regulation 40(6), be subject to multiple financial penalties that exceed a total of more than £5,000.

10 Outcomes/outputs

- 10.1 Using government funding the council, has worked with Tamar Energy Communities to develop an online tool to help identify non-compliant properties. Using the national Energy Performance Certificate Database, landlords of F and G certificates identified as rental are being contacted. This has given us the platform to implement this enforcement tool.
- 10.2 Landlords will be given an appropriate time, to respond, either showing evidence that they now have a compliant EPC, or to set out a plan to achieve the required energy efficiency level. They will be warned that if they continue to be in breach after the time given, an investigation will follow and formal enforcement action will be considered, both under the Regulations and the Housing Act 2004. A compliance notice will be served first.
- 10.3 For the purposes of this policy, the “first breach” means the first breach by the private landlord of any duty under the regulations, and does not refer to the first breach under each specific type of breach. For example, a private landlord may first fail to comply with a Compliance Notice, and be subject to a (first breach) financial penalty of £1,000. If it is later found that the private landlord has, for more than three months, been in breach of the prohibition on letting substandard property, this breach will not be a first breach, and so a further financial penalty of £4,000 will be payable.
- 10.4 **Proposed Penalties**

Renting out a non-compliant property (in breach less than 3 months), up to max £2000	
1st Offence	
EPC Rating F	£1,250
EPC Rating G	£1,500
Subsequent Offence(s)	
EPC Rating F	£1,750

EPC Rating G	£2,000
Renting out a non-compliant property (in breach for 3 months or more), up to max £4000	
1st Offence	
EPC Rating F	£2,500
EPC Rating G	£3,000
Subsequent Offence(s)	
EPC Rating F	£3,500
EPC Rating G	£4,000
Providing false, or misleading, information, Up to max £1000	
1st Offence	£750
Subsequent Offence(s)	£1,000

10.5 The recommendation from this section of the report is to approve and implement the energy efficiency standards Civil (Financial) Penalty Policy, to allow officers to impose fines where necessary to landlords and improve Private Rented Properties.

11. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	<p>The council has a statutory duty to provide DFG's</p> <p>Article 3 of the Regulatory Reform (Housing assistance) (England and Wales) Order 2002 gives a local housing authority power to provide financial assistance for the purpose of improving living conditions in their area. Such assistance may not be given unless the local housing authority has adopted a policy for the provision of such assistance, and they have given the public notice of such adoption.</p> <p>The legislative provisions governing disabled facilities grants (DFGs) are contained in the Housing Grants, Construction and Regeneration Act 1996 (as amended) (HGCRA 1996).</p>

		<p>The proposed amendments to the Council's Private Sector Housing Enforcement Policy and the new proposed policy on financial penalties are compliant with the relevant legislative changes and statutory guidance to which the Council must have regard.</p>
Financial	Y	<p>Currently the BCF is administered through Devon County Council and funds are allocated to the eight Devon Council Districts in line with a Devon Allocation Formula. In previous years there had been an underspend in the total Devon allocation, so the District Councils and Devon County Council have agreed a policy of allocating funding depending on the demand in the Local Authority area. If some Councils spend their initial allocation, they can be topped up with underspend from other Councils. The revised policy will give flexibility and ability to spend the better care fund allocation. There is currently no direct capital contribution made into the budget by the councils.</p> <p>Although highly unlikely there is a risk that the funding from the better care fund will stop and thus stopping DFG function.</p> <p>These new penalties will help generate additional income for the enforcement service. It is difficult to estimate how many charges would be made and from this how many would be fully paid.</p> <p>It is likely that by introducing the new charges there will be a high level of compliance so a reduction in the number of fines issued.</p>
Risk	Y	<p>There is a risk that with reduced performance that applications are not processed in the require timescale, failing to process applications quickly may result in a backlog of applications Councils are permitted to claim a percentage of the BCF capital that can be put into the revenue budget to cover staff costs. This means that the Council will have the capacity to deal with an increased demand without an increase in the staffing budget.</p> <p>There is a likelihood that some landlords may challenge remedial notices or civil penalties imposed. Landlords have a legal route to request the Local Authority to review any civil penalty notice and can further appeal the notice to a First-tier Tribunal. Such challenges can be time consuming for the officers</p>

		<p>involved, however Specialists have experience of handling such reviews in a time efficient manner. To limit the number of appeals as far as possible and ensure high quality of evidence in all cases, the Specialists undertake a rigorous case review. The same safeguards will be implemented for any Civil Penalty Offences. To defend an appeal in a First-tier Tribunal is not more time consuming than taking cases to court.</p>
<p>Comprehensive Impact Assessment Implications</p>		
<p>Equality and Diversity</p>		<p>The grant funding will become more accessible and benefit more households.</p> <p>Residents from vulnerable groups can sometimes have limited housing choices. Families with young children, older persons and those with a disability can find themselves in poor quality accommodation. The existing policy may restrict funding and services available and there may be some households on low income who do not meet the qualification criteria and therefore are unable to access the funding despite still being in need. The option of a Home Improvement Loan is available to such households. This is a necessary restriction due to the amount of funding available which must be targeted on a priority basis and the funding criteria imposed by the BCF.</p> <p>Residents from vulnerable groups can sometimes have limited housing choices. In particular, families with young children, older persons and those with a disability can find themselves in poor quality accommodation. The policy aims to safeguard the health, safety and welfare of the following characteristics; Age and Disability.</p> <p>Poor housing conditions can negatively affect the health, safety and well-being of all residents, irrespective of age. However, certain housing deficiencies can have a more serious and harmful impact on individuals of particular ages. For example, older persons will suffer more in cold homes.</p>

		Enforcement through civil penalties is more efficient and provides better value for money than traditional enforcement through prosecution
Safeguarding		<p>The policy identifies resident in rental properties as a beneficiary of assistance. The policy also aims to safeguard residents by making their homes safer for them to live in.</p> <p>The policy specifically identifies disabled residents as a beneficiary of assistance. The policy also aims to safeguard disabled residents by making their homes safer for them to live in.</p>
Community Safety, Crime and Disorder		Is there any potential positive or negative impact on crime and disorder reduction? No
Health, Safety and Wellbeing		<p>The policy will have a direct impact on the health and wellbeing of residents. Increased allocation of grant funding to allow residents to live longer and more safely in their own homes will</p> <p>The change in policy will provide a more efficient way of enforcing housing standards and thus improve the health, safety and wellbeing of tenants. have a direct impact upon numbers of GP appointments, social care, numbers of hospital admissions etc.</p> <p>For example, removing the means testing requirement for eligibility for an adapted bathroom means that more vulnerable residents can access the help. Having a level access shower can drastically reduce the risk to falling in the bathroom and consequently reduce the number of admissions to hospital</p>
Other implications		<p>The proposal will enable an increased number of adaptations and number of people that will benefit from the service.</p> <p>Reputation – This proposal demonstrates the Council’s commitment to improve the DFG service by making it more accessible to residents.</p> <p>This proposal is changing working practices for staff, but not affecting the overall job role or number of posts</p>

		<p>Political – The proposal will enable an increased number of adaptations and number of people that will benefit from the service.</p> <p>Reputation – This proposal demonstrates the Council's commitment to improve the private rental sector.</p>
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Supporting Information

Attached Documents

- Appendix 2 BCF Financial Assistance Policy
- Appendix 3 Electrical Safety Standard in the Private Rental Sector Financial Penalty Policy
- Appendix 4 Minimum Energy Standard and Energy Performance Certificate Enforcement Policy
- Appendix 5 Civil Penalty Policy

Appendix 1 Current BCF Policy

- 1.0 The **Disabled Facilities Grant** programme is mandatory and a statutory function of the local housing authority. The delivery of this function is governed by the Housing Grants, Construction and Regeneration Act 1996. Referrals can only be made from Devon County occupational therapists after the resident has had a social care assessment.
- 2.0 The **Accessible Homes Grant** enables the Council to provide additional grant funding in addition to the mandatory Disabled Facilities Grant subject to the conditions in 3.0.
- 3.0 This grant is currently available in the following circumstances:
- Where a mandatory grant has been approved but the cost of the work exceeds £30,000
 - Where there are works that may not be covered by the DFG in relation to adapting the home and making it safe.
 - Where the means test identifies that a contribution is required.
 - Where moving house more appropriate than adapting the existing property.
- 4.0 The **Healthy Homes grant** is a flexible grant to provide urgent/essential repairs to the home to ensure the health, safety and welfare of the occupier.
- 5.0 Lendology (formerly known as Wessex Loans) currently administers loans on behalf of the council within the requirements of this policy. The **Home Improvement Loan** is a flexible product that can be used for the following purposes:
- Home repairs and improvements
 - Adaptation works where grant is not available
 - To cover a client contribution to a grant
 - To cover the cost of the work over the grant maximum.
 - To bring empty homes back into use
 - For landlords to carry out repairs or improvement to rented accommodation
 - For energy efficiency improvements
- 6.0 **ECO top up grant** is to provide top up funding for energy efficiency measures where Energy Company Obligation (ECO) Flex funding and the HHCRO scheme ("Home Heating Cost Reduction Obligation", also known as the "the Affordable Warmth Obligation") have been provided by energy providers (via installers) but the available funding does not cover the full cost of the work.
- 7.0 The eligibility for ECO Flex funding itself is subject to a separate Statement of Intent issued by each Local Authority setting the local

criteria. ECO funding is not provided by the Local Authority. It is accessed through the national Energy Company Obligation scheme and normally through installers.

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Working together



South Hams
District Council



West Devon
Borough
Council

Financial Assistance Policy

For the Better Care Fund

Date: September 2022

Contents

1	Introduction	4
1.1	Purpose	4
1.2	Review	4
1.3	Funding	4
2	Context	4
2.1	Housing and Health	4
2.2	Better Care Fund	5
2.3	Delayed transfers of care	6
3	Priorities	7
3.1	General	7
4	Mandatory Disabled Facilities Grants	8
4.1	Background	8
4.2	Eligibility	8
4.3	Conditions	8
5	Accessible Home Grants	11
5.1	Background	11
5.2	Eligibility	11
5.3	Conditions	12
6	Accessible Homes Grant – Stair lift Grant	13
6.2	Eligibility	13
6.3	Conditions	13
7	Accessible Homes Grant – Bathroom Adaptation Grant	15
7.2	Eligibility	15
7.3	Conditions	15
8	Accessible Home Grants: Moving Application	17
8.1	Background	17
8.2	Eligibility	17
8.3	Eligible Expenses – owner occupier	18
8.4	Eligible expenses – tenant	18
8.5	Conditions	18
9	Healthy Homes Grants	20
9.1	Background	20
9.2	Eligibility	20
9.3	Conditions	21

10	Home Improvement Loans	22
10.1	Background	22
10.2	Eligibility	22
10.3	Conditions	22
11	Warm Up Grants	Error! Bookmark not defined.
11.1	Background	23
11.2	Eligibility	23
11.3	Conditions	23
12	Miscellaneous	25
12.1	Exceptions to this policy	25
12.2	Appeals and complaints	25
13	Appendix A: Eligible works	26
13.1	Disabled Facilities Grant and Accessible Homes Grant	26
13.2	Purposes for which a grant must or may be given	26
14	Notes:	28

1 Introduction

1.1 Purpose

- 1.1.1 This policy is required under Article 4 of the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002ⁱ. The Order provides councils with the discretion to develop schemes to provide financial assistance to deal with a range of housing issues.
- 1.1.2 This policy sets out the areas on which the council will focus Better Care Fund resources in order to improve housing conditions across the district. With limited resources available it is essential that funding is targeted to those areas that contribute to the delivery of the Better Care Fund, and local district council priorities.
- 1.1.3 This policy provides the council with the flexibility and discretion to provide appropriate assistance to meet the aims and priorities set out in section 3 below and has been developed in association with Devon County Council and all the district councils in the county.

1.2 Review

- 1.2.1 This policy will be reviewed as required by regulatory changes and/or financial allocations.

1.3 Funding

- 1.3.1 The assistance contained within this policy is only available subject to the availability of funding. Where funding is limited priority for spend will be given to the Mandatory Disabled Facilities Grant.

2 Context

2.1 Housing and Health

- 2.1.1 Housing is a key determinant of health, and by promoting good quality housing this policy can contribute to reducing health inequalities for residents.
- 2.1.2 In 2002, flexibilities were introducedⁱⁱ enabling councils to use government grant that has been allocated for disabled facilities grants to be used more intelligently to deliver adaptations for disabled people outside of the mandatory grant regime.

- 2.1.3 Research has shown that there is a direct impact on the health and well-being of residents resulting from the homes in which they live; therefore, poor housing can contribute to poor health.
- 2.1.4 Each year hazards in the home result in unnecessary injuries, episodes of ill-health, and harm to mental health and in many cases the occupiers do not link the poor condition of their homes with a potential negative impact on their health. The poorest housing stock can be found in the private sector, and in some cases residents who own their own home are not able to maintain them and as a result hazards can develop.
- 2.1.5 An estimated 50,100 excess winter deaths were recorded in England and Wales in 2017/18 as reported by the Office of National Statistics (ONS)ⁱⁱⁱ. Many of these people die unnecessarily as a result of living in cold homes.

2.2 Better Care Fund

- 2.2.1 In 2015 the government introduced the Better Care Fund in an attempt to bring health and social care together in an integrated way. The fund is a combination of government funding from the Department of Health and the Department for Communities and Local Government and includes the grant allocation for Disabled Facilities Grants (DFG). The 2017-19 Integration and Better Care Fund policy framework document lists the conditions that the better care fund must be used to address.
- 2.2.2 These are:
- **Condition 1:** Plans to be jointly agreed – The plan to use the Better Care Fund allocation must be jointly agreed and signed off by the Health and Wellbeing Board, and constituent councils and clinical commissioning groups. The local housing authority must also be involved due to the inclusion of the Disabled Facilities Grants allocation, which forms part of the fund
 - **Condition 2:** NHS contribution to social care is maintained in line with inflation. The funding must be used to contribute to the maintenance of adult social care services in each local authority, which also has a health benefit. However, beyond this broad condition, the Department of Health and Social Care (DHSC) wants to provide flexibility for local areas to determine how this investment in adult social care services is best used.
 - **Condition 3:** Agreement to invest in NHS commissioned out of hospital services, which may include 7 day services and adult social care. This should be achieved by funding NHS commissioned out-of-hospital services, which may also include 7-day services and adult social care, as part of the agreed Better Care Fund plan.
 - **Condition 4:** Managing Transfers of Care - Plans should set out how local partners will work together to fund and implement transfers of care effectively.
- 2.2.3 More detail can be found in the Integration and Better Care Fund Policy Framework.

2.2.4 Based on these broad conditions, Devon County Council and the District Councils have identified an opportunity to provide additional grant and loan products to meet these conditions and deliver against the Devon Health and Wellbeing Board priorities.

2.3 Delayed transfers of care.

2.3.1 Delayed transfers of care, occur when a patient is medically ready to leave in patient care but is still occupying a bed. According to NHS England, a patient is ready to depart when:

- a. A clinical decision has been made that the patient is ready for transfer AND
- b. A multi-disciplinary team decision has been made that the patient is ready for transfer, AND
- c. The patient is safe to discharge/transfer.

2.3.2 In 2016/17 there were 2.3 million delayed days in England with 1.3 million of these attributable to the NHS, averaging around 6,200 delayed transfers of care per day with around 3,600 of these attributable to the NHS.

2.3.3 The longer a person stays in hospital the more detrimental this can be in terms of morale, mobility, and an increase in the risk of hospital-acquired infections.

2.3.4 Older people are particularly susceptible to negative effects around mobility with studies suggesting that a wait of more than two days negates the benefit of intermediate care, and a wait of seven days or more is associated with a 10% decline in muscle strength.

2.3.5 Delayed transfers of care are also costly for hospital trusts as insufficient beds can mean elective procedures need to be cancelled, resulting in the hospital trust losing these as a source of income.

2.3.6 A survey in 2015 by the Guardian found that at least 10% of beds were occupied by patients who were ready to be discharged and the NHS providers' audited accounts for 2016/17 estimated that delayed transfers of care cost £173 million.

2.3.7 Much of the recent debate around delayed transfers of care attributes rising numbers to pressures in social care.

2.3.8 The number of delayed days attributable to waits for care packages or equipment and adaptation is over 500,000; up around 50% from the previous year (based on 2016/17 data).

3 Priorities

3.1 General

3.1.1 In Devon, the Better Care Fund priorities aim to achieve the following outcomes:

- Reduced admissions to residential and nursing care homes
- Reduce delayed transfers of care
- Reduce avoidable emergency admissions
- Increase dementia diagnosis rates

3.1.2 To meet these priorities this policy aims to focus on the following areas:

- **Objective 1** – Assist disabled residents to remain in their own homes through supporting the provision of adaptations (so far as this is necessary, appropriate and reasonably practicable) to prevent admissions to care and to assist with delayed transfers where possible.
- **Objective 2** – Safeguard the health and well-being of vulnerable residents by removing unnecessary hazards to health and safety in the home to reduce avoidable emergency admissions
- **Objective 3** – Provide adaptations that are suitable for the future by ensuring the scheme of works is dementia aware.
- **Objective 4** – Assist vulnerable people to afford to heat their homes through appropriate energy efficiency and heating measures.

4 Mandatory Disabled Facilities Grants

4.1 Background

4.1.1 The delivery of the disabled facilities grant programme is mandatory and a statutory function of the local housing authority. The delivery of this function is governed by the Housing Grants, Construction and Regeneration Act 1996.

4.2 Eligibility

4.2.1 Any disabled resident seeking financial assistance with the cost of adaptations to their home must be assessed by an Occupational Therapist (OT) working on behalf of, or approved by Devon County Council.

4.2.2 For the purposes of the Disabled Facilities Grant a person is considered disabled if they meet any of the following criteria:

- their sight, hearing or speech is substantially impaired,
- they have a mental disorder or impairment of any kind, or
- they are physically substantially disabled by illness, injury, impairment present since birth, or otherwise.

4.2.3 A person under the age of eighteen shall be considered disabled if:

- they are on a register of disabled children maintained under paragraph 2 of Schedule 2 to the Children Act 1989, or
- they are in the opinion of the social services authority a disabled child as defined for the purposes of Part III of the Children Act 1989 (local authority support for children and their families).

4.2.4 All owner-occupiers, tenants, licensees or occupiers who meet the above criteria are eligible to apply for a Disabled Facilities Grant.

4.3 Conditions

4.3.1 All Disabled Facility Grants other than those for children are subject to a test of financial resources, which is prescribed by The Housing Renewal Grants Regulations 1996.

4.3.2 The grant maximum is £30,000.

4.3.3 The disabled person must intend to occupy the property as their only or main residence for a period of five years after the works are complete (or such shorter period as the person's health or other relevant circumstances permit).

4.3.4 In order to make an application the applicant must supply the following:

- A completed and signed application form
- Evidence of financial situation
- Evidence of ownership of the property or the right to reside at the property
- Permission for the works to be carried out (if applicable)
- For more complex works; a detailed schedule of works and plans that must be agreed by the council
- Any planning or building regulation approvals
- Tenders for the works unless using an agreed procurement framework.

4.3.5 Only the works agreed by the council will be covered by the grant.

4.3.6 If the grant is approved there are 12 months to complete the works.

4.3.7 The works must be completed by the contractor stated on the approval document

4.3.8 No grant works should proceed until the grant application has been processed and all relevant planning, Building Regulation or landlord approval has been obtained.

4.3.9 If the applicant has a financial contribution towards the cost of adaptations they must ensure they have funds in place to cover their share of the costs before the work begins on site.

4.3.10 Subject to conditions, a loan from Lendology Community Interest Company may be available to cover an assessed financial contribution to a grant. See section 8 for further details.

4.3.11 Unforeseen and additional costs will only be paid for where they are necessary to complete the adaptation and must be agreed by the council before they are undertaken.

4.3.12 Any increase in the grant may have an impact on the charge placed against the property (see 4.3.16)

4.3.13 Applicants who are successful in their application for assistance will be required to maintain the adaptation.

4.3.14 The contract for the works is the responsibility of the applicant.

4.3.15 In all but the most exceptional cases, the council will seek to pay any approved grant funds directly to contractors on satisfactory completion of works.

4.3.16 No grant will be paid until a satisfactory invoice has been received and the works have been carried out to the satisfaction of the Council.

4.3.17 Only works falling within the mandatory elements, as specified in Appendix A, will be covered by the grant^{iv}.

4.3.18 Lifts (stair lifts, step lifts and through floor lifts) and other equipment funded through the DFG process will belong to the applicant. Servicing and upkeep is

the responsibility of the applicant. The Council only usually remove lifts or other equipment if they are able to be economically refurbished and reused, or in the case of a moving grant, equipment may be removed to be re-used in the 'new' property if considered an effective use of resources.

- 4.3.19 Where the grant is in excess of £5,000 a local land charge will be placed on the property for the amount over £5,000 up to a maximum of £10,000. This charge will remain on the property for a period of 10 years.
- 4.3.20 Where the cost of the work exceeds the mandatory grant limit of £30,000 the applicant may be eligible to an Accessible Homes Grant (see section 5), subject to available funds.

5 Accessible Home Grants

5.1 Background

5.1.1 The Accessible Homes Grant is available as a top-up to the mandatory Disabled Facilities Grant. The Accessible Homes Grant is subject to available funding.

5.1.2 This grant is available in the following circumstances:

- Where a mandatory grant has been approved but the cost of the work exceeds £30,000
- Where there are works that may not be covered by the Disabled Facility Grant in relation to adapting the home and making it safe.
- In relation to fees associated with feasibility works to determine if the adaptation can proceed.
- Where the means test identifies that a contribution is required (see 5.2.4).
- Where moving house is more appropriate than adapting the existing property (see 7 for Moving Applications).

5.2 Eligibility

5.2.1 To be eligible for this grant the applicant must meet the following:

- The applicant must be eligible to apply for a mandatory Disabled Facilities Grant

5.2.2 All applicants are subject to the DFG means test, except the parents and/or guardians of a disabled child, where a means test is not required for the mandatory DFG. Adult applicants will have been means tested as part of the formal Disabled Facility Grant application. In the case of a child's application the means test will not be applied to the parents or guardians of the disabled child.

5.2.3 As an alternative to the adaptation of an applicant's home, consideration will be given to the option of re-housing to more appropriate or adapted accommodation.

5.2.4 An applicant will only be eligible to apply for additional grant to cover any identified contribution where the amount of assessed contribution the applicant has to pay represents at least a third or more of the applicant's savings. For example:

An applicant has a means tested contribution of £1500.00. If the applicant has savings of £4500 or less, they will be able to access additional grant to cover the contribution; subject to grant limits and finance availability.

This is a taper, so in the above example, if the applicant had £5000 in savings, they would be expected to pay £500.

5.3 Conditions

- 5.3.1 The grant maximum is £30,000. Anything over £30,000 will not attract any further public grant.
- 5.3.2 Where additional funding is required to cover eligible costs over £60,000 (£30,000 from the Disabled Facilities Grant and up to £30,000 from the Accessible Homes Grant) an application for a Disabled Facilities Loan can be made.
- 5.3.3 Evidence supplied by the Disabled Facility Grant applicant will be used to support the application for the Accessible Home Grant.
- 5.3.4 In addition to any land charge placed on the property under other sections of this policy, a local land charge will be placed on the property for the full value of the awarded Accessible Homes Grant. The charge(s) will be repayable if the property is sold, assigned or transferred within 10 years of the grant being completed.
- 5.3.5 Only the works agreed by the council will be covered by the grant
- 5.3.6 Eligible works must be completed within 12 months of the grant being approved.
- 5.3.7 The works must be completed by the contractor stated on the approval document, unless otherwise agreed with the council.
- 5.3.8 No grant works should proceed until the grant application has been processed and all relevant planning, Building Regulation or landlord approval has been obtained.
- 5.3.9 Unforeseen and additional costs will only be paid for where they are necessary to complete the adaptation and must be agreed by the council before they are undertaken.
- 5.3.10 Any increase in the grant may have an impact on the charge placed against the property.
- 5.3.11 Applicants who are successful in their application for assistance will be responsible for maintaining the adaptation.
- 5.3.12 The contract for the works is the responsibility of the applicant.
- 5.3.13 The grant will normally be paid direct to contractors in all but the most exceptional cases.
- 5.3.14 The council will only offer grant funding for those works that are considered appropriate, reasonable and practicable to meet the needs of the disabled person.
- 5.3.15 In all but the most exceptional cases, the council will seek to pay any approved grant funds directly to contractors on satisfactory completion of works.
- 5.3.16 No grant will be paid until a satisfactory invoice has been received and the works have been carried out to the satisfaction of the council.

6 Accessible Homes Grant – Stair lift Grant

6.1.1 This grant provides internal and external straight track or curved track stair lifts and through-floor lifts without a means test for the applicant.

6.1.2 This grant includes provision of rented stair lifts for end of life care, or other reason, as specified by the Occupational Therapist.

6.2 Eligibility

6.2.1 To be eligible for this grant the following must be in place:

- Any disabled resident seeking financial assistance with the cost of adaptations to their home must be assessed by an Occupational Therapist (OT) working on behalf of, or approved by Devon County Council.
- Where additional works are required to install the stair lift or provide accessible washing facilities these will be covered as part of this grant.
- Where an applicant requires multiple adaptations, the stair lift (or other eligible lift) will be provided through this grant and the other adaptations through the DFG or accessible homes grant where the applicant is eligible.

6.3 Conditions

6.3.1 The applicant must have permission from the owner of the property for the work to be carried out. The council will require an owner's certificate if the property is rented.

6.3.2 The applicant intends to live in the property as their only or main residence for the period of 5 years or for a shorter period as health or other relevant circumstances permit.

6.3.3 The final approved sum will be based on competitive contracting through the council's procurement system, or other process.

6.3.4 Only the works agreed by the council will be covered by the grant.

6.3.5 The works must be completed by the contractor stated on the approval document, unless otherwise agreed with the council.

6.3.6 No grant works should proceed until the grant application has been processed and all relevant planning, Building Regulation or landlord approval has been obtained.

6.3.7 Unforeseen and additional costs will only be paid for where they are necessary to complete the adaptation and must be agreed by the council before they are undertaken.

- 6.3.8 Applicants who are successful in their application for assistance will be required to maintain the equipment and any associated works and have it regularly serviced at their cost.
- 6.3.9 The contract for the works is the responsibility of the applicant.
- 6.3.10 In all but the most exceptional cases, the council will seek to pay any approved grant funds directly to contractors on satisfactory completion of works.
- 6.3.11 No grant will be paid until a satisfactory invoice has been received and the works have been carried out to the satisfaction of the applicant and Council.
- 6.3.12 In addition to any land charge placed on the property under other sections of this policy, where the grant is in excess of £5,000 a local land charge will be placed on the property for the amount over £5,000 up to a maximum of £10,000. This charge will remain on the property for a period of 10 years.

7 Accessible Homes Grant – Bathroom Adaptation Grant

7.1.1 This grant provides level access showers, automatic wash-dry WCs and other bathroom adaptations without a means test for the applicant.

7.2 Eligibility

7.2.1 To be eligible for this grant the following must be in place:

- Any disabled resident seeking financial assistance with the cost of adaptations to their home must be assessed by an Occupational Therapist (OT) working on behalf of, or approved by Devon County Council.
- Where additional works are required to install the stair lift or provide accessible washing facilities these will be covered as part of this grant.
- Where an applicant requires multiple adaptations, the bathroom adaptations will be provided through this grant and the other adaptations through the DFG or accessible homes grant where the applicant is eligible.

7.3 Conditions

7.3.1 The applicant must have permission from the owner of the property for the work to be carried out. The council will require an owner's certificate if the property is rented.

7.3.2 The applicant intends to live in the property as their only or main residence for the period of 5 years or for a shorter period as health or other relevant circumstances permit.

7.3.3 The final approved sum will be based on competitive contracting through the council's procurement system, or other process.

7.3.4 Only the works agreed by the council will be covered by the grant.

7.3.5 The works must be completed by the contractor stated on the approval document, unless otherwise agreed with the council.

7.3.6 No grant works should proceed until the grant application has been processed and all relevant planning, Building Regulation or landlord approval has been obtained.

7.3.7 Unforeseen and additional costs will only be paid for where they are necessary to complete the adaptation and must be agreed by the council before they are undertaken.

- 7.3.8 Applicants who are successful in their application for assistance will be required to maintain the equipment and any associated works and have it appropriately serviced at their cost.
- 7.3.9 The contract for the works is the responsibility of the applicant.
- 7.3.10 In all but the most exceptional cases, the council will seek to pay any approved grant funds directly to contractors on satisfactory completion of works.
- 7.3.11 No grant will be paid until a satisfactory invoice has been received and the works have been carried out to the satisfaction of the applicant and Council.
- 7.3.12 In addition to any land charge placed on the property under other sections of this policy, where the grant is in excess of £5,000 a local land charge will be placed on the property for the amount over £5,000 up to a maximum of £10,000. This charge will remain on the property for a period of 10 years.

8 Accessible Home Grants: Moving Application

8.1 Background

8.1.1 This grant may be available to assist a disabled person to move to more suitable accommodation subject to available funding.

8.2 Eligibility

8.2.1 An applicant will be eligible for this grant

- Where the Occupational Therapist and the Council consider re-housing to be more appropriate than adapting the existing accommodation.
- Where the landlord has refused permission for any adaptation works to be carried out and therefore it is no longer feasible for the occupier to remain in the property.
- Where it is possible to carry out works at the existing property the total cost incurred in the eligible 'moving on' expenses and any estimated eligible adaptation costs at the 'new' property should not be greater than the cost of adapting the applicant's current home.
- Where the 'new' property, in the opinion of the Council, provides a long term, sustainable home for the person for whose benefit the works are required.
- Adaptations at the 'new' property will be subject to the Statement of Needs and a new DFG application. Adaptations may exceed the mandatory DFG grant and any top-up assistance available, so this should be considered by the applicant prior to moving.
- If the property is within a neighbouring authority covered by this policy then the new authority will need to ensure the new property is suitable. This should also be agreed with the Occupational Therapist. The applicant must ensure that the relevant council's officers and Occupational Therapist have been consulted.

8.2.2 In determining the 'reasonable expenses' regard shall be given to the following criteria:

- The cost of the eligible works at the applicant's existing property are not deemed reasonable, or;
- The eligible works at the applicant's existing home are not technically feasible, or;
- The adaptation of the applicant's existing property does not provide a sustainable, long term solution for their housing needs, or;
- The landlord of the property refuses to give permission for the necessary works to be carried out.

8.3 Eligible Expenses – owner occupier

8.3.1 Expenses that can attract a grant under this section may include the cost of:

- Any arrangement fee charged by a lender to cover the formation of a mortgage.
- Conveyancing fees.
- Land Registry Fee
- Local Authority Searches
- Stamp Duty
- Valuation, Homebuyers or Full Structural Survey
- Professional or other removal costs
- Estate Agent Commission.

8.3.2 The maximum grant payable for eligible expenses under this heading for an owner occupier is £10,000.

8.4 Eligible expenses – tenant

8.4.1 For a tenant the expenses that can attract a grant under this section may include the cost of:

- Letting agent fees
- Rent deposit
- Professional or other removal fees

8.4.2 The maximum grant payable for eligible expenses under this heading for a tenant is £5,000.

8.5 Conditions

8.5.1 Grant assistance is only payable to an owner occupier upon the successful completion of the purchase of the 'new' property and the disabled person then occupying that property as their only and main residence.

8.5.2 When moving to rented accommodation the applicant must obtain permission from the landlord for any adaptations to be carried out before the grant will be paid.

8.5.3 To qualify for this grant the applicant must have been resident in the existing property for at least 2 years prior to making an application to move.

8.5.4 The applicant must intend to live in the new property as their only or main residence for a period of 5 years (or such shorter period as the person's health or other relevant circumstances permit).

8.5.5 For owner occupiers a local land charge will be placed against the property for a period of 5 years for the total amount of grant awarded.

9 Healthy Homes Grants

9.1 Background

9.1.1 The Healthy Homes grant is a flexible grant to provide urgent/essential repairs to the home to ensure the health, safety and welfare of the occupier(s).

9.1.2 This includes assisting an occupier with infestations, accumulations (hoarding) and personal circumstances (for example dementia) where the condition of the dwelling will lead to a delayed transfer of care (hospital discharge) or potential avoidable hospital admission.

9.2 Eligibility

9.2.1 To qualify for this grant the applicant must either:

- a. have been declined by Lendology CIC for a Home Improvement Loan
- b. be in receipt of one of the following benefits:

- Housing Benefit
- Disability Living Allowance
- Personal Independent Payment with the daily living component
- Attendance Allowance
- Pension Credit
- Income Support
- Council tax benefit (not the single person discount)
- Universal Credit

(Universal Credit replaces the following means tested benefits: Housing Benefit, Income Related Employment Support Allowance, Income Based Job Seekers Allowance, Child Tax Credit, Working Tax Credit and Income Support)

- c. otherwise be in financial hardship following as assessment by:

- Lendology CIC
- The council's Housing Options or other relevant team
- Citizens Advice, or
- Other third party commissioned by the council to work in a community support role.

- 9.2.2 A grant can be awarded in addition to a loan from Lendology CIC if the amount of loan available is not enough to cover the cost of addressing the eligible works.
- 9.2.3 Healthy Homes Grant can be used to fund repairs to disabled adaptations where the equipment or other works are out of warranty or guarantee.
- 9.2.4 This grant can be used to fund temporary measures or items that can be removed to allow the occupier to return home as part of end of life care. Works will be funded by DFG or Accessible Homes in the first instance, if eligible.
- 9.2.5 Subject to available funds, non-means tested grants will be available, on the recommendation of the MARAC (Multi-Agency Risk Assessment Conference) to provide a secure sanctuary room within an applicant's property where there is a demonstrable risk that the householder is at risk of violence from a partner/former partner and that providing a sanctuary room is the most satisfactory course of action. In such cases, each grant will be assessed on its own merit and will fund the structural work to a property as recommended by the police up to a maximum of £20,000.

9.3 Conditions

- 9.3.1 Households are able to apply for a 'Healthy Homes grant' on multiple occasions; except where stated otherwise, the maximum grant available is £10,000 in any two year period.
- 9.3.2 Unless stated otherwise, for owner occupiers a local land charge will be placed against the property for a period of 5 years. For the total amount of the grant.
- 9.3.3 A local land charge will not be placed against the property if the purpose of the grant is to repair disabled adaptations already subject to a charge. This will apply to the cost of those repairs only, if the grant is being used for multiple reasons.
- 9.3.4 A local land charge will not be placed on the property if the purpose of the grant is to provide equipment or works to help with end of life care.
- 9.3.5 For tenants the grant will only be available where the landlord is not responsible for the works required. As such, the grant will be limited to providing assistance with infestations and accumulations (hoarding) where the condition of the dwelling will lead to a delayed transfer of care (hospital discharge) or potential avoidable hospital admission, where the landlord is not responsible for the works.
- 9.3.6 An applicant can apply for a loan for any substantial work beyond removing the immediate health and safety risk.

10 Home Improvement Loans

10.1 Background

10.1.1 Lendology CIC (formerly known as Wessex Resolutions Community Interest Company (WRCIC)) is a not-for-profit company contracted by the council to deliver loans to residents in the district.

10.1.2 Lendology CIC administer loans within the requirements of this policy. Home Improvement Loans are flexible and can be used for the following purposes:

- Home repairs and improvements to bring the dwelling up to the Decent Homes Standard.
- Adaptation works where grant is not available
- To cover a applicant contribution to a grant
- To cover the cost of the work over the Disabled Facilities Grant and/or Accessible Homes Grant maximum.
- To bring empty homes back into use
- For renewable energy enhancements and energy efficiency improvements
- For landlords to carry out repairs or improvements to rented accommodation to address either:
 - a. Assessed failures of the Decent Homes Standard, or;
 - b. Works to meet requirements of the Management Regulations, or;
 - c. Works to meet requirements of other regulations placing duties on managers of rented accommodation

10.2 Eligibility

10.2.1 This will vary and is based on the individual circumstances of each applicant. Loan advisors from Lendology CIC will carry out an assessment and provide independent advice on ethical and responsible lending and the most appropriate product to suit the needs of the applicant.

10.3 Conditions

10.3.1 Conditions may vary depending on the loan product selected and the individual circumstances of each applicant.

10.3.2 Loans are subject to status. Lendology may insist on loans being protected at the Land Registry by a Title Restriction. Missing payments could affect your credit rating and ability to obtain credit in the future.

11 Warm Up Grant

11.1 Background

11.1.1 These grants, up to a maximum £3,000 per property, provide top up funding for energy efficiency measures where energy providers are part funding energy efficiency measures under their Energy Company Obligation (ECO) or other energy efficiency funding.

11.1.2 Warm Up funding can also be used in conjunction with Healthy Homes Grants (based on eligibility for Healthy Homes), where the hazard(s) being rectified require energy efficiency works or upgrading of heating/hot water provision.

11.1.3 Works will generally include:

- Mains gas boiler replacement
- Insulation measures (e.g. loft, cavity wall, solid wall, flat roof & room in roof)
- Non-gas boiler replacements
- Replacement storage heaters
- Renewable installations (e.g. solar panels and air-source heat pumps)
- Energy efficiency works

11.2 Eligibility

11.2.1 Applicants must have been identified either through the council's Energy Company Obligation flexible eligibility Statement of Intent which can be found on the council's website, or by an assessment of an officer of the council under the Healthy Homes policy.

11.2.2 To qualify for the top-up a survey must be carried out by the energy provider, an officer of the council, a local installer, or their agent and qualifying works identified. Provisions will be in place to ensure value for money.

11.2.3 For owner occupiers a maximum of up to £3,000 is available.

11.2.4 If more than £3,000 is needed then the applicant should apply for a Lendology CIC loan (see section 10) subject to availability and eligibility

11.3 Conditions

11.3.1 Once an 'Energy Efficiency grant' has been awarded to a household, no further 'Energy Efficiency grant' will be available for the same household in the same property for a period of 4 years.

11.3.2 The contract for the works is the responsibility of the applicant.

- 11.3.3 In all but the most exceptional cases, the council will seek to pay any approved grant funds directly to contractors on satisfactory completion of works.
- 11.3.4 No grant will be paid until a satisfactory invoice has been received and the works have been carried out to the satisfaction of the applicant and Council.

12 Miscellaneous

12.1 Exceptions to this policy

- 12.1.1 The council accept that applications may be received for adaptations or works not covered by the circumstances listed above or outside the eligibility criteria listed. In all cases, these will need to be formally determined.
- 12.1.2 Any such application will be assessment by the Private Sector Housing Lead or equivalent.
- 12.1.3 Such applications will be determined with reference to relevant priorities as laid out in relevant the council Policies.
- 12.1.4 Disabled Facilities Grants that meet the following criteria will not be subject to a test of financial resources:
- Grants for community equipment (aids and minor adaptations) if the cost of the adaptation is £1,000 or less^y.

12.2 Appeals and complaints

- 12.2.1 Where the applicant has a complaint about the manner in which the council is applying this policy, then they should follow the Council's formal complaints process.
- 12.2.2 Where the complaint is in respect of works, the complaint should be made to the contractor in the first instance, if this does not resolve the problem then the council should be contacted for advice.

13 Appendix A: Eligible works

13.1 Disabled Facilities Grant and Accessible Homes Grant

- 13.1.1 An assessment by an agreed Occupational Therapist must be carried out. The Occupational Therapist will then recommend the type of adaptation required.
- 13.1.2 Minor works are assessed by the Occupational Therapist and may be dealt with outside of the grant process.
- 13.1.3 In order to decide on an eligible scheme there is a two stage process:
- a. The Occupational Therapist assesses what is 'necessary and appropriate' to meet the needs of the disabled occupant.
 - b. The Environmental Health and Community Safety service assess what measures are reasonable and practicable to meet the identified needs in practice.
- 13.1.4 During both of the stages of this process the Occupational Therapist and Environmental Health and Community Safety service will work closely with the applicant to ensure, as far as possible, that their input is taken into account.

13.2 Purposes for which a grant must or may be given

- 13.2.1 The following (11.2.3 – 11.2.14) are the purposes for which a mandatory Disabled Facilities Grant are available, as contained in legislation.
- 13.2.2 Each adaptation criteria is provided with an example. The examples are intended to give a brief idea of the type of work available. In each case, the eligible works will be decided through the process laid out in 12.1, above.
- 13.2.3 Facilitating access by the disabled occupant to and from the dwelling, or the building in which the dwelling or, as the case may be, flat is situated;
- *For example, ramping and/or handrails to the main external door.*
- 13.2.4 Making the dwelling safe for the disabled occupant and other persons residing with them;
- *For example, upgrading of the electrical installation, where the current installation is considered unsafe for the disabled occupant.*
- 13.2.5 Facilitating access by the disabled occupant to a room used or usable as the principal family room;
- *For example, alterations to facilitate wheelchair access to a living room.*
- 13.2.6 Facilitating access by the disabled occupant to, or providing for the disabled occupant, a room used or usable for sleeping;
- *For example, alterations to facilitate wheelchair access to a bedroom.*

- 13.2.7 Facilitating access by the disabled occupant to, or providing for the disabled occupant, a room in which there is a lavatory, or facilitating the use by the disabled occupant of such a facility;
- *For example, installation of a stairlift to facilitate access to a first floor WC.*
- 13.2.8 Facilitating access by the disabled occupant to, or providing for the disabled occupant, a room in which there is a bath or shower (or both), or facilitating the use by the disabled occupant of such a facility;
- For example, installation of a level-access shower.
- 13.2.9 Facilitating access by the disabled occupant to, or providing for the disabled occupant, a room in which there is a wash hand basin, or facilitating the use by the disabled occupant of such a facility;
- *For example, provision of an accessible wash hand basin, including any alterations necessary to facilitate access.*
- 13.2.10 Facilitating the preparation and cooking of food by the disabled occupant;
- *For example, installing low-level food preparation areas.*
- 13.2.11 Improving any heating system in the dwelling to meet the needs of the disabled occupant or, if there is no existing heating system there or any such system is unsuitable for use by the disabled occupant, providing a heating system suitable to meet his needs;
- *For example, upgrading/replacing of boilers/radiators where the property has been extended as part of a wider adaptation.*
- 13.2.12 Facilitating the use by the disabled occupant of a source of power, light or heat by altering the position of one or more means of access to or control of that source or by providing additional means of control;
- *For example, alterations to the height and/or position of light switches and power points to make them accessible to the disabled person.*
- 13.2.13 Facilitating access and movement by the disabled occupant around the dwelling in order to enable them to care for a person who is normally resident there and is in need of such care;
- *For example, widening of doorways.*
- 13.2.14 Facilitating access to and from a garden by a disabled occupant; or making access to a garden safe for a disabled occupant;
- *For example, providing access to an area of the garden suitable for the disabled occupant.*

14 Notes:

ⁱ Article 4 of the Regulatory Reform (Housing Assistance) (England and Wales) Order 2002. Available from:
<http://www.legislation.gov.uk/uksi/2002/1860/article/4/made>

ⁱⁱ The Regulatory Reform (Housing Assistance) (England and Wales) Order 2002. Available from:
<http://www.legislation.gov.uk/uksi/2002/1860/contents/made>

ⁱⁱⁱ Office for National Statistics, 2020. Available from:
<https://www.ons.gov.uk/peoplepopulationandcommunity/birthsdeathsandmarriages/deaths/bulletins/excesswintermortalityinenglandandwales/2017to2018provisionaland2016to2017final>

^{iv} Section 23 of the Housing Grants, Construction and Regeneration Act 1996. Available from:
<http://www.legislation.gov.uk/ukpga/1996/53/section/23> **AND** regulation 3 of The Disabled Facilities Grants (Maximum Amounts and Additional Purposes) (England) Order 2008. Available from:
<http://www.legislation.gov.uk/uksi/2008/1189/article/3/made>

^v Regulation 4 of the Care and Support (Preventing Needs for Care and Support) Regulations 2014. Available from:
<http://www.legislation.gov.uk/uksi/2014/2673/made>

The Electrical Safety Standards in the Private Rented Sector Financial Penalty Policy

The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 are designed to ensure electrical safety within the private rented sector in England by requiring landlords to have the fixed electrical installation within rented properties inspected at least every five years.

A private landlord (as defined in section 122(6) of the Housing and Planning Act 2016) who grants or intends to grant a specified tenancy must ensure that the fixed electrical installation is safe during the period of the tenancy.

The regulations set out excluded tenancies which include amongst others, registered providers of social housing, shared accommodation with a landlord or landlord's family, long leases, student halls of residence, hostels and refuges, care homes, hospitals and hospices and other accommodation relating to healthcare provision.

Landlord duties - testing & certification.

Duty for first inspection and testing of the electrical installation

- a) New, specified tenancies, granted or intended to be granted on or after 1st July 2020
- b) 1st April 2021 - Existing tenancies must be inspected before this date.

Repeat inspections are required at least every 5 years (sooner if the report recommends a lesser period).

Ensure that the electrical safety standards are met during any period when the premises are occupied under a specified tenancy.

Inspections & tests must be undertaken by a competent person who is part of the electrical safety industry competent-person scheme.

The inspection report will show that the installation is one of the following:

- a) Safe and no further action is required
- b) Danger is present and there is a risk of injury (Code 1 (C1)). In this situation the cause of the danger would be rectified by the competent person before leaving the property
- c) The installation poses a potential danger (Code 2 (C2))
- d) Further investigation is required without delay (FI)
- e) Improvement to the installation is recommended (Code 3 (C3)); however, this is not sufficient to deem the installation as unsatisfactory.

Where the inspection report shows a C1, C2 or FI outcome, the landlord must ensure that suitable remedial works or investigations are undertaken. A C3 outcome is advisory and therefore works do not have to be completed.

- a) A copy of the inspection certificate must be provided by the landlord to:
- b) Each existing tenant within 28 days of the inspection
- c) A new tenant before they occupy the property, or
- d) A prospective tenant within 28 days of receiving a request for the report
- e) The Council within seven days of receiving a request for the certificate in writing

A copy of the report must be kept by the landlord until the next report is due; then a copy of the existing report should be provided to the person undertaking the next inspection.

Where the work undertaken reveals further issues that require either further remedial work or further investigation, this should be addressed within a further period of 28 days (or shorter period, where this is required).

The person completing the works should supply the landlord with a confirmation that the works have been completed (so the installation is now safe) or further work/investigation is needed. The landlord must provide a copy of this confirmation together with the original inspection certificate to each tenant and to the Council within 28 days of the work being undertaken.

Where further work or investigation is required, the requirements to complete work and provide the necessary confirmation are repeated (as per the original inspection).

Council duties - Remedial Notice.

Where the Council believes that the landlord has breached one or more of their duties, (excluding provision of certificates), the Council must serve a remedial notice on the landlord within 21 days of deciding that it has reasonable grounds for service.

The notice includes:

- a) the remedial action required to be taken within 28 days of service
- b) Details of how to make representations
- c) Explanation of the penalties (including the potential maximum penalty) that may result from non-compliance.

The landlord may make written representations within 21 days, if made the notice is suspended until the representations have been considered.

The Council must consider any representations and confirm that outcome of those considerations, in writing, within seven days of the end of the representation period.

Landlord duties - Remedial Notice

A landlord must comply with a remedial notice where either no representations are made or the notice is confirmed (after consideration of the representations) unless they are able to claim that they have taken all reasonable steps e.g. tenant has prevented access.

Council power to arrange remedial action.

Failure to comply with a remedial notice also allows the Council to undertake remedial works in default, with the consent of the tenants. Before doing so, the Council must be satisfied on the balance of probability that there has been a breach of the remedial notice.

Before undertaking such works, the Council must serve a notice of intention to take remedial action (NIRA) on the landlord. The notice includes:

- a) The nature of the proposed remedial work
- b) The date when the work will be undertaken
- c) Information on the right of appeal against the decision to do the work

Works are to be undertaken within 28 days of the end of the remedial notice expiry date (or within 28 days after confirmation of notice, if appealed).

The tenants must be given at least 48 hours' notice of the remedial works.

Appeal against Council remedial works

A landlord may appeal against a NIRA to the First-tier Tribunal (Property Chamber) within 28 days of service.

An appeal suspends the NIRA until the appeal has been determined. The tribunal may affirm, vary, or quash the NIRA.

Recovery of costs

The Council may issue a demand to recover costs relating to works undertaken in accordance with the NIRA which becomes payable after 21 days from the day of issue unless an appeal is submitted.

Appeal against costs

An appeal can be made to the First-tier Tribunal (Property Chamber) within 21 days of the date of issue.

Urgent remedial action

Where an electrical report indicates that urgent action is required and the LHA is satisfied that the landlord is not undertaking the necessary work, they may arrange (with the consent of the tenants) for an electrician to undertake the urgent work.

The tenants must be given at least 48 hours' notice of the date to carry out the work.

The LHA must issue an urgent remedial action notice (URAN) either prior to or up to seven days from the date when the remedial action commences. The URAN includes:

- a) The nature of the urgent remedial action required
- b) The date when the urgent work is or has been started
- c) The right of appeal and the appeal period
- d) The provisions relating to the issue of financial penalties.

Appeal against urgent remedial action

A landlord may appeal against a URAN to the First-tier Tribunal (Property Chamber) within 28 days of either the date that the work was started or was planned to start (whichever was the first date).

A URAN is not suspended on appeal.

The Cost recovery process is like those under a NIRA.

Financial penalties - notice of intention

Where a local housing authority is satisfied, beyond reasonable doubt, that a private landlord has breached a duty under regulation 3 (see 2.1), the authority may impose a financial penalty (or more than one penalty in the event of a continuing failure) in respect of the breach.

A financial penalty may be of such amount as the authority imposing it determines (See Appendix 1); but must not exceed £30,000.

Before imposing a financial penalty a notice of intention must be served on the private landlord. The notice includes:

- a) The amount of the proposed penalty
- b) The reasons for imposing the penalty
- c) Information about the right to appeal

The landlord may make written representations within 28 days.

Financial penalties – final notice

Within 28 days of expiry of the representation period the Council must decide whether to impose a financial penalty on the landlord.

If it decides to impose a penalty it must serve a final penalty notice which includes:

- a) The amount of the penalty
- b) The reasons for imposing the penalty
- c) Information about rights of appeal
- d) Consequences of failure to comply

The penalty is payable within 28 days.

The Council may, at any time, withdraw a NOI or Final notice, or reduce the penalty amount specified in a notice by doing so in writing.

Appeal against financial penalty

A landlord can appeal a final notice within 28 days to the First-tier Tribunal (Property Chamber).

If appealed the final notice is suspended until withdrawn or determined.

Recovery of financial penalty

The local housing authority which imposed the financial penalty may recover the penalty or part on the order of the county court as if it were payable under an order of that court.

Proceeds of financial penalty

The Council may apply the proceeds to meet the costs and expenses incurred in, or associated with, carrying out any of its enforcement functions in relation to the private rented sector.

Determination of penalty amount.

The Council will decide the amount of penalty up to the maximum of £30,000 limit, as set within the regulations.

A penalty may be awarded under either Part A and/or Part B.

PART A:

This applies where:

- a) An electrical report indicates that C1 defects are present and where the works haven't been undertaken in accordance with the regulations.
- b) A remedial notice has been served by the Local Authority and the landlord has failed to take all reasonable steps to comply with it and the regulations have been breached.

The indicative penalty shall be determined in accordance with Council’s Civil Penalty Policy as if an offence of failing to comply with an improvement notice in respect of 1 Category 1 hazard (electrical) has occurred.

PART B:

This applies in respect of offences not covered by Part A. It may include for example:

- a) Failing to provide certification to tenants/prospective tenants
- b) Where the Local Authority have served a remedial notice which the Landlord has complied with.
- c) Where the landlord has failed to ensure the testing has been undertaken at regular intervals by a qualified person in accordance with the regulations but has recently complied with the regulations.

Consideration will be given to the issue of a penalty as a “repeat offender”. Instead of a scoring matrix the following indicative penalties will be used:

First offence	£Nil – Advice will be given
Second offence:	£300
Third:	£500
Fourth & subsequent	£1,000

Considerations:

After the indicative penalty has been determined, considerations of sections (e) –(i) will be applied together with any reductions under section (j). Please refer to the Council’s Civil Penalty Policy for detail. In brief these are:

- a) Remove any financial benefit the offender may have obtained as a result of committing the offence –The guiding principle here should be to ensure that the offender does not benefit as a result of committing an offence, i.e. it should not be cheaper to offend than to ensure a property is well maintained and properly managed.
- b) Multiple offenders –fine sharing in cases where there are multiple offenders.
- c) Punishment of the offender –A civil penalty should not be regarded as an easy or lesser option compared to prosecution. While the penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending, it is important that it is set at a high enough level to help ensure that it has a real economic impact on the offender and demonstrates the consequences of not complying with their responsibilities.
- d) Deter the offender from repeating the offence –The ultimate goal is to prevent any further offending and help ensure that the landlord fully complies with all of their legal responsibilities in future. The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.
- e) Deter others from committing similar offences – While the fact that someone has received a civil penalty will not be in the public domain, it is possible that other landlords in the local area will become aware through informal channels when someone has

received a civil penalty. An important part of deterrence is the realisation that (a) the local housing authority is proactive in levying civil penalties where the need to do so exists and (b) that the level of civil penalty will be set at a high enough level to both punish the offender and deter repeat offending.

Reductions

- a) Level of compliance by perpetrator, their attitude in doing so, and early payment
- b) Financial hardship

Minimum Energy Efficiency Standard and Energy Performance Certificate Financial Penalty Policy

The Authority will not impose a financial penalty under both (A) and (B) above in relation to the same breach of the Regulations. But it may impose a financial penalty under either (A) or (B), together with financial penalties under (C) and (D), in relation to the same breach. Where penalties are imposed under more than one of these paragraphs, the total amount of the financial penalty may not be more than £5,000.

Calculation of penalty:

The penalty will be calculated taking into account whether it is a first or subsequent offence. This is in relation to the occurrence of an offence for a specific property.

Any offence in relation to a property will be considered a first offence unless:

- a) A penalty notice has already been issued in respect of that property, and
- b) The individual committing the offence is the individual who was served the penalty notice.

It will, in respect of the penalty for renting out a property, take into account whether the EPC indicates an F or G rating. The letting of a G rated property, as indicated by the registered EPC, will carry a higher penalty. The following are indicative penalties but the Council will consider any other factors that it feels are relevant.

Renting out a non-compliant property (in breach less than 3 months), up to max £2000	
1st Offence	
EPC Rating F	£1,250
EPC Rating G	£1,500
Subsequent Offence(s)	
EPC Rating F	£1,750
EPC Rating G	£2,000
Renting out a non-compliant property (in breach for 3 months or more), up to max £4000	
1st Offence	
EPC Rating F	£2,500
EPC Rating G	£3,000
Subsequent Offence(s)	
EPC Rating F	£3,500
EPC Rating G	£4,000
Providing false, or misleading, information, Up to max £1000	
1st Offence	£750
Subsequent Offence(s)	£1,000

The penalty will be raised against the individual who lets the domestic private rented property to the tenant, where there are multiple individuals who have let the property, the penalty will be apportioned between them taking into account an assessment of culpability.

This will be determined on a case by case basis in relation to the evidence.

Publication Penalty

The Authority will publish some details of the landlord's breach on a publicly accessible part of the PRS Exemptions Register. The information will be available for at least 12 months up to a time decided by the Authority.

The information that may be published is:

- a) the landlord's name (except where the landlord is an individual);
- b) details of the breach;
- c) the address of the property in relation to which the breach occurred; and
- d) the amount of any financial penalty imposed

The Authority will not publish the information until after the end of the appeal period, or in the event the notice is appealed after the appeal has been decided.

Penalty Notice:

The Authority may serve a penalty notice (relating to a financial penalty, a publication penalty or both) on the landlord where they are satisfied that the landlord is, or has been in the last 18 months:

- a) in breach of the prohibition on letting sub-standard property (which may include continuing to let the property after 1 April 2020) or
- b) in breach of the requirement to comply with a compliance notice or
- c) has uploaded false or misleading information to the Exemptions Register.

The Authority may serve a penalty notice on a landlord up to 18 months after the suspected breach. A person may be served with a penalty notice after they have ceased to be the landlord of a property.

The penalty notice may include a financial penalty, a publication penalty or both. The penalty notice will:

- a) explain which of the provisions of the Regulations the enforcement authority believes the landlord has breached;
- b) give details of the breach;
- c) tell the landlord whether they must take any action to remedy the breach and, if so, the date within which this action must be taken (the date must be at least a month after the penalty notice is issued);
- d) explain whether a financial penalty is imposed and if so, how much and, where applicable, how it has been calculated;
- e) explain whether a publication penalty has been imposed
- f) where a financial penalty is imposed, tell the landlord the date by which payment must be made, the name and address of the person to whom it must be paid and the method of payment (the date must be at least a month after the penalty notice is issued)

- g) explain the review and appeals processes, including the name and address of the person to whom a review request must be sent, and the date by which the request must be sent and
- h) explain that if the landlord does not pay any financial penalty within the specified period, the enforcement authority may bring court proceedings to recover the money from the landlord.

A further penalty notice may be issued if the action required in the penalty notice is not taken in the time specified.

When the Authority issues a penalty notice which carries a right of appeal, it will inform the landlord about that right of appeal. Typical wording might be:

“You have a right of appeal against this decision to the General Regulatory Chamber (GRC) of the First Tier Tribunal. If you wish to appeal you should do so within 28 days of the date of this letter by writing to (Leicester address). You can obtain an appeal form from that address or from the tribunal website at (website address).”

Review of Penalty Notice

The Council may review its decision to serve a penalty notice. Where a request is made to the Council in writing, and within the timescale indicated on the penalty notice it will consider everything the landlord has said in the request and decide whether or not to withdraw the penalty notice.

The Council may decide to:

- a) waive or reduce the penalty,
- b) allow the landlord additional time to pay, or
- c) Modify the publication penalty

The Council will withdraw the penalty notice if:

- a) they are satisfied that the landlord has not committed the breach set out in the penalty notice;
- b) although they still believe the landlord committed the breach, they are satisfied that the landlord took all reasonable steps, and exercised all due diligence to avoid committing the breach; or
- c) they decide that because of the circumstances of the landlord’s case, it was not appropriate for the penalty notice to be served.

The Authority will inform the landlord of their decision in writing at the earliest opportunity.

Recovery of financial penalty

If a landlord does not pay a financial penalty imposed on them, the enforcement authority may take the landlord to court to recover the money. It will not do this during the period for review stipulated on the notice, while reviewing their decision, or during the period in which the landlord could appeal to the First-tier Tribunal or while there is an ongoing tribunal appeal.

Appeals to the First-tier Tribunal (General Regulatory Chamber)

Where a landlord asks the enforcement authority to review a decision to serve a penalty notice and, on review, they decide to uphold the penalty notice, the landlord may then appeal to the First-tier Tribunal against that decision if they think that:

- a) the penalty notice was based on an error of fact or an error of law
- b) the penalty notice does not comply with a requirement imposed by the Regulations or
- c) it was inappropriate to serve a penalty notice on them in the particular circumstances. If a landlord does appeal, the penalty notice will not have effect while the appeal is ongoing.

The First-tier Tribunal may decide to quash, confirm or modify the penalty notice. If the penalty notice is quashed, the enforcement authority must reimburse the landlord for any financial penalty already paid under the notice.

Housing Standards – Civil Penalty Policy

Policy document setting out how West Devon Borough Council and South Hams District Council will deliver section 249a of The Housing Act 2004 (as implemented by section 126 of the Housing and Planning Act 2016) in order to issue civil penalties as alternative to prosecution

Section 126 and schedule 9 of the Housing and Planning Act 2016 came into force on the 6th April 2017.

These provisions give the local housing authority the power to issue a financial penalty for certain Housing Act 2004 offences as an alternative to prosecution.

The civil penalties option can be used for the following Housing Act 2004 offences:

- Failure to comply with an improvement notice
- Offences in relation to HMO licensing
- Offences relating to the contravention of an overcrowding notice
- Failure to comply with the HMO management regulations

The council is required to have a policy in place that details when to prosecute and when to consider a civil penalty.

The council must also provide guidance on how the fine levels will be set.

The guidance document issued by MHCLG provides details on the considerations that must be taken into account as part of the fine setting process. It places particular emphasis upon the severity of the offence and the landlord's previous record of offending. A scoring mechanism has been devised to reflect the considerations set out in the MHCLG guidance. This scoring mechanism is set out below.

1.0 When to prosecute and when to consider a civil penalty

The same criminal standard of proof is required for a civil penalty as for prosecution.

The Councils will firstly satisfy itself that if the case were to be prosecuted in the magistrates' court, there would be a realistic prospect of conviction.

In order to do so the Councils will consider its own enforcement policy, consult the Crown Prosecution Service Code for Crown Prosecutors' and work closely with legal advisors.

Once satisfied that there would be a realistic prospect of conviction a decision will be taken as to whether to prosecute or to issue a civil penalty. All decisions will be taken on a case-by-case basis.

The guidance document issued by MHCLG suggests that prosecution may be the most appropriate option where an offence is particularly serious or where the offender has committed similar offences in the past.

It is likely that a civil penalty will be considered as the most appropriate course of action except in the aforementioned circumstances where further consideration will be taken.

2.0 Levels of fine to be set

The guidance document issued by MHCLG provides the following considerations when determining the level of a civil penalty;

2.1 Severity of the offence - *The more serious the offence, the higher the penalty should be.*

In order to measure the severity of the offence the following criteria will be used;

Level one – Major impact – serious and substantial risk to the health and safety of the occupiers and/or community as a result of the offence, with potentially life threatening results or loss of major limbs. Housing defects posing such a risk maybe associated with electrical hazards, carbon monoxide exposure, fire safety risk, explosions, structural collapse and falling elements or significant collision and entrapment issues. They may be associated with hazards assessed under the HHSRS, conditions of an HMO licence or be a failure to comply with the HMO Management Regulations. These examples do not represent an exhaustive list.

For each Level 1 issue considered a score of 5 will be added.

Level two - Serious Impact – serious risk to the health and safety of the occupiers and/or immediate neighbours, potentially leading to serious injury or disease requiring prolonged treatment and/or hospital admission. Housing defects posing such a risk maybe associated with collision and entrapment issues, falls, asbestos, biocides or lead exposure, excessively cold or hot conditions, radiation or hot surfaces. They may be associated with hazards assessed under the HHSRS, conditions of an HMO licence or be a failure to comply with the HMO Management Regulations. These examples do not represent an exhaustive list.

For each Level 2 issue considered a score of 3 will be added.

Level three – Minor impact – Risk of injury or disease to the occupiers potentially resulting in treatment at the doctors. Housing defects posing such a risk maybe associated with damp and mould issues, overcrowding, hygiene or food safety issues. They may be associated with hazards assessed under the HHSRS, conditions of an HMO licence or be a failure to comply with the HMO Management Regulations. These examples do not represent an exhaustive list.

For each Level 3 issue considered a score of 1 will be added.

A one-off premium of 10 points will be added where any hazard or issue would affect more than 1 household i.e. whole building issues or common parts issues in HMO's. This is to ensure that the scope of the hazard or issue is considered in addition to its ability to harm.

2.2 Culpability and track record of the offender - *A higher penalty will be appropriate where the offender has a history of failing to comply with their obligations and/or their actions were deliberate and/or they knew, or ought to have known, that they were in breach of their legal responsibilities. Landlords are running a business and should be expected to be aware of their legal obligations.*

In order to measure the culpability of the perpetrator the following criteria will be used;

Deliberate– An intentional breach by a landlord or property agent or flagrant disregard for the law for example by failing to comply with a notice or regulations.

For Deliberate acts a score of 20 will be added

Reckless– An actual foresight of, or wilful blindness to the risk of offending but decides to take the risk nevertheless for example failing to comply with a strict liability in the HMO regulations.

For Reckless acts a score of 15 will be added

Negligent– The failure of the landlord or property agent to take reasonable care to put in place and enforce proper systems for avoiding the offence, for example partial compliance with a schedule of work to an enforcement notice but failure to fully comply with all schedule items.

For Negligent acts a score of 10 will be added

Low or no culpability– The offence committed has some fault on the part of the landlord or property agent but there are other circumstances for example obstruction by the tenant to allow a contractor access for repairs, or damage caused by tenant negligence.

For Low culpability acts a score of 5 will be added

A premium will be added where the requirement to licence a property under Parts 2 or 3 of the Housing Act 2004 has not been complied with.

Where a landlord or person managing fails to obtain a licence without direct contact by the Councils requiring them to do so a score of 5 will be added.

Where a landlord or person managing fails to obtain a licence despite direct contact by the Councils requiring them to do so a score of 15 will be added.

2.3 Track record

1st offence – no previous conviction or civil penalty imposition for the same type of offence in the previous four years irrespective of the locality to which the offence relates.

For 1st offences a score of 10 will be added

2nd subsequent offence by same person/company – any conviction or civil penalty imposition for the same type of offence within four years of the 1st offence, irrespective of the locality to which the initial offence relates.

For 2nd offences a score of 20 will be added

Ongoing non-compliance - any conviction or civil penalty imposition for the same type of offence within four years of the previous instance (at least 3rd occurrence) irrespective of the locality to which the initial offence relates.

For ongoing offences a score of 30 will be added

2.4 The harm caused to the tenant – *This is a very important factor when determining the level of penalty. The greater the harm or the potential for harm (this may be as perceived by the tenant), the higher the amount should be when imposing a civil penalty.*

A premium score will be added for actual harm having occurred and the vulnerability of the tenant as set out in the Housing Health and Safety Rating System and in the table below;

Hazard	Vulnerable age group (age of occupant)
Damp and mould growth	14 and under
Excess Cold	65 or over
Excess Heat	65 or over
Carbon Monoxide	65 or over
Lead	under 3 years
Personal Hygiene, Sanitation and Drainage	under 5 years
Falls associated with baths etc.	60 or over
Falling on level surfaces etc.	60 or over
Falling on stairs etc.	60 or over
falling between levels	under 5 years
Electrical hazards	under 5 years
Fire	60 or over
Flames, hot surfaces etc.	under 5 years
Collision and entrapment	under 5 years
Collision and entrapment - low headroom	16 or over
Position and operability of amenities etc.	60 or over

A score of 10 will be added where the occupiers have suffered harm due to the defects noted.

A score of 3 will be added for each hazard or issue noted where the vulnerable age group are present

- 2.5 Reprimand of the offender** – *A civil penalty should not be regarded as an easy or lesser option compared to prosecution. While the penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending, it is important that it is set at a high enough level to help ensure that it has a real economic impact on the offender and demonstrates the consequences of not complying with their responsibilities.*

Following the initial scoring calculation consideration will be given as to whether or not this element has been suitably met. If there is a decision to increase the fine level the reasoning behind the decision will be clearly set out in the Notice of Intent and any Final Notice.

- 2.6 Deter the offender from repeating the offence** – *The ultimate goal is to prevent any further offending and help ensure that the landlord fully complies with all of their legal responsibilities in future. The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.*

Following the initial scoring calculation consideration will be given as to whether or not this element has been suitably met. If there is a decision to increase the fine level the reasoning behind the decision will be clearly set out in the Notice of Intent and any Final Notice.

- 2.7 Deter others from committing similar offences** – *While the fact that someone has received a civil penalty will not be in the public domain, it is possible that other landlords in the local area will become aware through informal channels when someone has received a civil penalty. An important part of deterrence is the realisation that (a) the local housing authority is proactive in levying civil penalties where the need to do so exists and (b) that the level of civil penalty will be set at a high enough level to both punish the offender and deter repeat offending.*

Following the initial scoring calculation consideration will be given as to whether or not this element has been suitably met. If there is a decision to increase the fine level the reasoning behind the decision will be clearly set out in the Notice of Intent and any Final Notice.

- 2.8 Remove any financial benefit the offender may have obtained as a result of committing the offence** – *The guiding principle here should be to ensure that the offender does not benefit as a result of committing an offence, i.e. it should not be cheaper to offend than to ensure a property is well maintained and properly managed.*

Following the initial scoring calculation consideration will be given as to whether or not this element has been suitably met. In particular the fine level must not be less than it would cost to undertake any necessary works contributing to the initial offence. The inspecting officer will evaluate the cost of rectifying the deficiencies based upon their knowledge and experience of the local building industry. A costing sheet will be produced and any fine must be at least 50% greater than this total up to a limit of £30K. If there is a decision to increase the fine level the reasoning behind the decision will be clearly set out in the Notice of Intent and any Final Notice

3.0 Reductions

3.1 Level of compliance by perpetrator, their attitude in doing so and early payment

- Where the decision has been taken that a prosecution is appropriate or subsequently a civil penalty notice should be issued, it is unlikely that the perpetrator could be deemed compliant however if there is a clear behavioural change and a will to ensure future compliance, followed by a payment within the prescribed 28 days a reduction of 10% may be attributed to the total.

3.2 Financial hardship – The Council make an assessment of a landlord's assets and any income (not just rental income) they receive when determining an appropriate penalty. The perpetrator will have the opportunity to make representations following the service of the Notice of Intent and may decide to set out any financial hardship in those representations. It will be for the perpetrator to provide sufficient documented evidence of income when relying upon such representations. The Council reserves the right to request further information to support any financial claim, and where this is incomplete, appears to be inaccurate or is not sufficiently evidenced may determine that the representation should not be considered. It should be noted that due to the average value of properties and the upper limit of £30K associated with any civil penalty action, it is unlikely that perpetrators with multiple properties will be able to demonstrate financial hardship.

4.0 Scoring Chart

Score	Penalty Charge
1-10	£1,000
11-20	£2,000
21-30	£3,000
31-40	£5,000
41-50	£7,500
51-60	£10,000
61-70	£15,000
71-80	£20,000
81-90	£25,000
91-100+	£30,000

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Report to: **Executive**

Date: **26 January 2023**

Title: **UK Shared Prosperity Fund & Rural England Prosperity Fund**

Portfolio Area: Economy – Cllr Bastone

Wards Affected: **All**

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

Date next steps can be taken: Recommendations will be presented to the Council meeting to be held on 16 February 2023.

Author: **Chris Shears** Role: **Head of Economy and Place**

Contact: Chris.shears@swdevon.gov.uk

RECOMMENDATIONS:

It is RECOMMENDED that the Executive:

- 1. Approves the delivery of the package of support within our UK Shared Prosperity Fund (UKSPF) investment plan which has been agreed with the Levelling-Up Department.**
- 2. Agrees to waive the requirements of the Council's Contract Procedure Rules to seek tenders, if they would otherwise required, and an exemption from the Rules is made to enable a direct award of contracts to the businesses identified in Section 5 to meet the timetable of the programme as set out by Department for Levelling Up, Housing and Communities.**
- 3. Approves the Rural England Prosperity Fund proposal submitted to Government, which if successful will begin delivery from April 2023.**

1. Executive summary

- 1.1 In March 2022 the Government announced funding for a business and community support programme, UK Shared Prosperity Fund (UKSPF), which form part of the Levelling Up agenda. The funding allocation for the South Hams is £1,062,367.

- 1.2 In order to access the allocated funding, the Council devised and submitted an investment plan to the Levelling-Up department by the 1st of August 2022. These plans set out; local economic and community challenges, opportunities, examples of the types of projects to be delivered and indicative outputs and outcomes.
- 1.3 Recognising this fantastic opportunity our approach has been to analyse the UKSPF scope and target where it intersects with our adopted corporate strategy – Better Lives for All. In doing so we will leverage the funding to deliver the priorities of the Council and maximise the impact for our residents, communities and businesses.
- 1.4 Members have played a crucial part in shaping the proposals prior to submission through the members workshops, as well as the clear priorities members have approved in Better Lives for All.
- 1.5 Following approval of our business plan, the UKSPF work programme can now commence delivery and it will targetting:
 - i. The Marine Economy
 - ii. Regenerative Farming and the agricultural sector
 - iii. Inclusive and active travel
 - iv. Business and community support
- 1.6 All four strands have a golden thread of clean growth and decarbonisation running through them, that will shape the support and outcomes, as required by UKSPF.
- 1.7 This is a three year programme running until 2024/2025. Details of the work programme are set out in this report.

2. Development of the local investment plan

- 2.1 Details of the application process were released to local authorities in May 2022. The team identified areas of alignment between our Corporate Strategy, Levelling-Up objectives, and wider Government policy areas (including climate and transport policy). A presentation was then delivered to members in June 2022, suggesting an approach which looked to deliver against these aligned objectives. Members provided positive feedback and made suggestions to strengthen the proposals which were taken on board.
- 2.2 Throughout June and July 2022, the Placemaking Team met with a number of partner organisations who specialise in the delivery of support against these themes and a range of stakeholders who could potentially benefit from support to identify the kind of measures that could have a positive impact on their businesses. These stakeholders and partner organisations include:
 - Devon County Council
 - Neighbouring local authorities
 - Dartmoor National Park Authority
 - AONB Teams

- National Highways
- National Trust
- SusTrans
- WSP (a consultancy firm working with Devon County Council on transport strategy)
- The Apricot Centre
- Riverford Farm
- The Good Food Loop
- University of Plymouth
- University of Exeter
- North Devon Biosphere
- National Farmers Union
- Business Information Point
- The Carbon Trust
- Retrofit Academy
- British Intellectual Property Centre
- Community Energy Groups
- Businesses (Marine, Agricultural, Transport, Construction and other)

2.3 From these discussions, a range of projects under each theme were developed, which would deliver against UKSPF outputs and outcomes which were submitted to Government on the 31st of July 2022. Following the submission of the plan, work has been ongoing to further develop project proposals and to more accurately estimate the outputs and outcomes for each of our proposed projects.

2.4 Members were also updated on the proposed projects and how their suggestions had been incorporated into the investment plan. For example, additional resource was switched from the marine economy to the agri-tech and regenerative farming programme, and a number of partner organisations which members suggested we liaise with have now been engaged and had the opportunity to input to the programme, such as the community energy groups.

3. Funding

3.1 UKSPF has rigid approach to the proportion of funding that must be spent during each year of the programme:

Allocation 2022/2023 (£)			Indicative allocation 2023/2024 (£)	Indicative allocation 2024/2025 (£)
Capital	Revenue	Capacity		

15,000	113,928	20,000	257,856	675,583
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4. UKSPF Programme of Activities

4.1 A programme of activities has been developed against each of the 4 themes:

4.2 **Active and Inclusive Travel:**

- Commission a Local Cycling and Walking Infrastructure Plan (LCWIP) across South Hams and West Devon to identify the important cycle and walking routes and barriers along these. The LCWIP will be a key piece of evidence to support active travel within the revisions to the Joint Local Plan. A behaviour change study will also run alongside the LCWIP to identify ways to increase uptake in active travel.
- A suite of active and inclusive travel projects will be supported as identified within the LCWIP. These projects may include: e-bike trials or hubs, officer and member training, behaviour change campaign and a fund to support small scale physical infrastructure improvements and/or feasibility studies.

4.3 **Agriculture and Regenerative Farming:**

- The programme recognises that there is an existing wealth of farming expertise within the South Hams, and therefore focuses on areas of support aligned to clean growth and decarbonisation – which do require continuous engagement as it is constantly evolving and improving.
- R&D focused project which will see agricultural businesses given the opportunity to work with knowledge organisations (such as the University of Plymouth), and businesses developing new technologies. The aim being to make our agricultural sector a test bed for new and emerging technologies and processes, helping the local industry to lead the rest of the UK in future advances, in productivity, automation, resilience and yields.
- It creates the conditions needed for tech developers to test their products in the real world, monitor performance and receive direct feedback from end users before launching their products to the wider market. Our delivery partner will be Devon Agri-Tech Alliance, led by Devon County Council. It has a total project cost of around £160,000 through South Hams UKSPF over the next two years, with the project starting from April 2023.
- Working with local expertise the work programme will deliver a regenerative farming project to support agricultural businesses to transition towards a more sustainable (but commercially viable) approach. Changes would include a move away from fertilizers to regenerative

farming processes, which focus on soil quality to improve yields and climate resilience. The programme involves formal training and work placements to ensure support is available for our farmers of tomorrow.

- Trainees will be placed within farming businesses, and will work with the business to develop a transitioning plan and to begin implementing the necessary changes. Though the process of transitioning to regenerative farming takes approximately 7 years to complete, UKSPF will help a significant number of farming businesses to begin this process.
- There is also a land consultancy element to the project, which will identify opportunities for agricultural businesses to bring unused land into beneficial uses, for example, the planting of wildflowers to improve biodiversity, or the planting of fast growing trees which can be used for fuel or for natural flood risk mitigation.
- The project will be delivered by the Apricot Centre, based in Dartington, who specialise in regenerative farming training, providing direct support to farms to help them transition to regenerative farming processes, and land consultancy. The cost of this project is £80,000 through the South Hams UKSPF allocation for the 2 years. However, this project will start from January, as their programme of activities runs on a calendar year rather than a financial year.
- Finally there is a food distribution project to help increase the opportunities for locally produced food and drink to reach local marketplaces (whether these are food and drink businesses, local distribution networks, or actual marketplaces). This aims to reduce the food-miles related to local crops and produce. Farmers will also be encouraged to make their land accessible at suitable times of year, for site visits to be coordinated so that people are able to visit and learn about how their food is produced.
- This is also being delivered through the Apricot Centre and Riverford Farm in the South Hams (and the Good Food Loop in West Devon). The project will cost £45,000 of South Hams UKSPF over the 2 year period starting from April 2023.

4.4 **Marine Economy & Decarbonisation:**

- A key outcome of our UKSPF Marine Economy work, will be a baseline study for the District that will set out the key locations, trades and activity for our marine economy. It will inform our place making and economic support objectives in the future as well as strategic planning, through the JLP Policies.

- Studies to carbon footprint a variety of elements of our marine economy and marine related activities, are also required to ensure our net zero 2030 target is reached, which will lead to the development of a strategy to decarbonise those marine activities. It will include feasibility studies to decarbonise the Lower Dart Ferry and Salcombe Water taxis.
- A project will be delivered which builds upon a successful pilot programme in Plymouth, to strategically rollout electric charging facilities for marine vessels across the South Hams.
- The feasibility work for a remote power solution for the Salcombe Harbour visitor pontoon which would enable vessels to draw power without having to dock.
- The delivery of a number of pilot projects which will see new technologies and processes being trialled at key sites across the South Hams that will help the industry to transition towards decarbonisation.

4.5 **Wider Business Support & Consultancy:**

- Specialist advisors programme - working with our business communities to develop bespoke decarbonisation plans. These plans will explore all elements of the business including, the buildings they operate from, their processes and production lines, their logistics chains, and their end products and services. The plans will set out a pathway that businesses can follow to decarbonise their activities.
- A study of our construction sector and its supply chain to identify gaps in local capabilities to deliver low carbon or decarbonised construction projects. Support will then be delivered to improve these capabilities, putting our local construction businesses in a resilient position where they will be ahead of the curve with regards to their ability to meet future planning and building regulations.
- A project will be delivered to support our community energy groups. Since the removal of the RCEF (Rural Community Energy Fund), it has proved challenging for Community Energy Groups to move forward with projects that would provide clean energy and energy efficiency measure to local communities. Through this project, they will be provided with a shared resource to help them draw down other Government funding to move their projects forwards.

5. Procurement

- 5.1. DLUHC have recommended that Councils consider using procurement exemptions to expedite delivery of the programme and achieve their aspiration to spend our Yr 1 allocation by the end of March.
- 5.2. Given the value of the contracts involved, the Council's Contract Procedure Rules would require tenders to be sought. The Rules do however envisage that the requirements of the Rules in respect of contracts below the UK Procurement Threshold may be varied or waived by Council or the Executive.
- 5.3. Having reviewed the delivery programme, it is recommended that Rules requiring tenders are waived and an exemption is granted to enable the direct appointment of the Agri-Alliance and the Apricot Centre. This is on the grounds that:
 - 5.3.1. The Agri-alliance has been created as a pan-Devon body to specifically deliver against the UKSPF funding available from multiple local authorities. It is entirely unique and so is a "limited market" in procurement terms.
 - 5.3.2. The Apricot Centre is the only establishment locally (and therefore in such a way as will be successful and target our farmers and residents) that is able to deliver the programme that has been devised to meet our specific UKSPF and Corporate Strategy priorities. It is also deemed to be unique and can justifiably rely on an exemption.
 - 5.3.3. The value of the proposed contracts although over £100,000 is below the UK Procurement Threshold.
 - 5.3.4. The delivery of the numerous other strands of the programme, including the LCWIP do not require an exemption as they have already been pre-procured by the team at risk, or fall below the procurement financial thresholds.

6. Governance

- 6.1. For each of the themes, a steering group is being set up which will consist of key delivery partners, members and businesses and community representatives. The programme will report internally through the Strategic Delivery Board, and externally through the Executive.
- 6.2. Delivery partners will be required to report to the local authority on a quarterly basis so that funding can be released retrospectively, relating to the outputs and outcomes they have achieved. At present, delivery partners are returning delivery profiles to the local authority which will be agreed prior to the commencement of their projects. This will form the basis of their reporting, which will be provided to each of the theme steering groups, while an overview of outputs and outcomes by theme will be provided to the Strategic Delivery Board.

7. Rural England Prosperity Fund

- 7.1. In September 2022, the Government announced a further package of support available to rural areas (by Government definition, our entire local authority area is deemed to be rural), the Rural England Prosperity Fund (REPF).
- 7.2. This funding is 100% capital, and has a narrower set of outputs and outcomes which it must be used to deliver – but must align with the priorities and outcomes in the UKSPF. Again, the funding also needs to deliver decarbonisation. The deadline for submission was November 30th 2022. Full prospects here: <https://www.gov.uk/government/publications/rural-england-prosperity-fund-prospectus/rural-england-prosperity-fund-prospectus>
- 7.3. Our approach to use UKSPF revenue funding to further our Better Lives for All priorities, has proved tactically successful, as we can now leverage the REPF capital funding to deliver some of the recommendations that come out of UKSPF, particularly in the areas of active travel and marine decarbonisation.
- 7.4. The allocated funding for the South Hams is £843,000. If proposals are accepted by the Government, this funding will begin from April 2023 and will run for 2 years until the end of March 2025.

8. Interventions

- 8.1. The Placemaking Team worked with UKSPF partner organisations to develop proposals which would add value to the UKSPF programme while meeting the REPF criteria. The interventions which best align with the local authority's UKSPF proposals are:
- 8.2. Supporting Businesses:
- Capital grant funding for small scale investment in micro and small enterprises in rural areas
 - Capital grant funding for growing the local social economy and supporting innovation
 - Capital grant funding for developing and promoting the visitor economy
- 8.3. Supporting Communities:
- Capital grant funding for active travel enhancements in the local area
 - Capital grant funding for impactful volunteering and social action projects to develop social and human capital in local places
- 8.4. A number of projects have emerged which will strongly connect REPF with the local authority's UKSPF programme:

- Support for interventions identified in a Local Cycling and Walking Infrastructure Plan (LCWIP)
- The LCWIP will identify opportunities to deliver infrastructure improvements to make active travel options more accessible. REPF will provide a pot of capital funding to deliver some of the smaller scale interventions.
- Support for Community Infrastructure (village halls)
- As a part of the UKSPF work with community energy groups, there will be an audit undertaken of our rural community infrastructure, with a particular focus on strengthening the role that village halls play in providing a range of services to those who are rurally isolated. REPF will be able to support the delivery of any identified opportunities to strengthen the role village halls can play (eg energy efficiency improvements or the adoption of renewable technology that would enable them to play the role of a “warm bank”).
- Support for the adoption of innovative technologies
- Businesses receiving support through the UKSPF programme relating to R&D and the trialling of new and innovative technologies, will be able to apply for a grant to purchase the equipment being tested on their sites.
- Support for decarbonisation
- Businesses which go through the UKSPF programme to develop a decarbonisation plan for their business will be able to apply for a grant through REPF to implement some of the stages of the decarbonisation plan.

8.5. There will not be a requirement for businesses to go through a UKSPF programme in order to be able to apply for grant support, but those which have engaged with the UKSPF programme will have their application weighted favourably, when being considered by the project team.

9. Funding Profile

9.1. REPF also has a rigid spending structure that local authorities must abide by. Based on REPF requirements, the following spending profile has been proposed (Y1 = 2023/24, Y2 = 2024/25):

Rural Businesses

- Y1 - £150k
- Y2 - £293k

Capital grant funding for small scale investment in micro and small enterprises in rural areas

- Y1 – £60k
- Y2 – £110k

Capital grant funding for growing the local social economy and supporting innovation

- Y1 - £60k
- Y2 - £110k

Capital grant funding for developing and promoting the visitor economy

- Y1 - £30k
- Y2 - £73k

Rural Communities

- Y1 - £150k
- Y2 - £250k

Capital grant funding for active travel enhancements in the local area

- Y1 - £100k
- Y2 - 200k

Capital grant funding for investment in capacity building and infrastructure support for local civil society and community groups

- Y1 - £50k
- Y2 - £50k

10. Governance

- 10.1. Governance for the REPF programme will be undertaken through the same thematic groups being created for the UKSPF programme, and the Strategic Delivery Board.

11. Conclusion

- 11.1. The Placemaking Team has developed a programme of activity that the Government's Levelling-Up Department deems to be a good approach to delivering the UKSPF in the South Hams. The planned activities align closely with local objectives and will see the local authority working with a range of partners with an excellent track record for delivering high quality projects.
- 11.2. By taking a similar approach with the REPF, and interweaving it with our UKSPF activities, we are confident that the Government will support our approach with this new funding, and that we will be able to have an even greater impact on our businesses and our communities. Our projects will focus on improving productivity, creating sector resilience, and decarbonising our key industries, while ensuring that some of our most rurally isolated communities will have localised support infrastructure to help meet their existing and future needs.

12. Implications

Implications	Relevant to proposals Y/N	
Legal/Governance	Y	The governance and procurement implications are set out in Sections 5 and 6 of the report.
Financial implications to include reference to value for money		The financial implications are set out within the report.
Risk		
Supporting Corporate Strategy		
Consultation & Engagement Strategy		
Climate Change - Carbon / Biodiversity Impact		
Comprehensive Impact Assessment Implications		
Equality and Diversity		
Safeguarding		
Community Safety, Crime and Disorder		
Health, Safety and Wellbeing		
Other implications		

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Report to: **Executive**

Date: **26 January 2023**

Title: **Better Lives for All – Quarter 3 Integrated Performance Management Report**

Portfolio Area: **Councillor Judy Pearce
Leader of the Council**

Wards Affected: **All**

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

Date next steps can be taken:

Author: **Neil Hawke** Role: **Assistant Director Strategy and Organisational Development**

Contact: Neil.Hawke@swdevon.gov.uk

RECOMMENDATION:

That the Executive

- 1) Note the progress in delivery of the Better Lives for All thematic delivery plan and the overall strategic performance of the Council.**
- 2) Commence work with lead officers to make minor amendments to the Year 3 delivery plans for consideration at the next Executive meeting on 2 March 2023**

1. Executive Summary

- 1.1 The Council adopted its Better Lives for All Strategy in September 2021.
- 1.2 We are now coming towards the end of year two of the thematic delivery plan and this report provides an update on progress.
- 1.3 This report forms a quarterly update which also highlights the strategic risk profile of the Council, performance against key indicators and an overview of the capital programme.

1.4 Since adoption of the strategy, the operating landscape for the Council has changed and as such some minor amendments are required to the delivery plan for year 3. See Section 2.2 for more information.

2. Proposed way forward.

2.1. It is recommended that the Executive consider progress as set out in Appendix A to this report.

2.2. Since adopting the Better Lives for All strategy in 2021, the operating landscape for the Council has changed and decisions have been taken by Council that need to be reflected in the Year 3 delivery plan. This includes removal of the Ivybridge regeneration scheme, addition of Cost of Living response action plan and responding to the Homes for Ukraine initiative.

2.3. It is therefore recommended that Executive Lead Members work with the officer lead for each theme to make minor amendments to the Year 3 delivery plans. These changes would not be significant and not require additional funding but would ensure that the Year 3 delivery plans can continue to be monitored with smart objectives for each action.

3. Implications

Implications	Relevant to proposals Y/N	Details and proposed measures to address
Legal/Governance	Y	This report includes an overview of performance during the period and therefore contributes to transparency in Council operations and delivery
Financial implications to include reference to value for money	Y	The report includes a high-level overview of spend against our agreed strategy
Risk		
Supporting Corporate Strategy	Y	This report provides an update on progress against each Corporate Strategy theme.
Climate Change - Carbon / Biodiversity Impact	Y	None as a direct implication of this report
Comprehensive Impact Assessment Implications		

Equality and Diversity		None as a direct implication of this report
Safeguarding		None as a direct implication of this report
Community Safety, Crime and Disorder		None as a direct implication of this report
Health, Safety and Wellbeing		None as a direct implication of this report
Other implications		

Supporting Information

Appendices:

Appendix A – Quarter 3 Integrated Performance Management Report

Background Papers:

Quarter 2 Integrated Performance Management Report

<https://mg.swdevon.gov.uk/documents/s29383/Appendix%20A%20Quarter%202%20Integrated%20Performance%20Management%20Report.pdf>

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South Hams
District Council

Integrated Performance Management Report

Quarter 3

October 2022 - December 2022

Page 197



Better lives for all

Integrated Performance Management Report (IPMR)

Page 3 – Introduction from Leader

Page 4 – Performance on a page

Page 5 – Our Performance by theme

Page 6 – Climate theme

Page 7 – Community theme

Page 8 – Homes theme

Page 9 – Economy theme

Page 10 – Built and Natural Environment theme

Page 11 – Council Services theme

Page 12 – Programme Expenditure

Page 13 – Key operational performance Indicators

Page 17 – Strategic Risk Assessment

Page 198



In December we concluded the refit of Collapark in Totnes – using S106, District and Town Council Contributions

Visit www.southhams.gov.uk/better-lives-for-all to view the full strategy and delivery plans



South Hams
District Council



Better lives for all

Introduction

As we head towards the end of the second year of the Better Lives for All delivery plan, I am pleased to see continued progress against our priorities.




This period has of course continued to be challenging for our residents and businesses as they grapple with the continuing cost of living. As a District Council we are doing all that we can to ensure support is available and signposted. During this quarter we have agreed a Cost of Living response plan which makes a firm commitment for our Officers work with partners to maximise support and get any government funding out as soon as we can,

While we focus on the here and now, it is of equal importance that we take steps to do all we can for the longer term benefit of South Hams. It is really pleasing that we have been awarded £1m of Government Shared Prosperity funding which will enable us to work with organisations within the area on active and inclusive travel, regenerative farming and decarbonising of the marine economy. Some activities are already lined up to commence in January 2023 with more to follow later in the year.

Housing of course remains a significant challenge and in December, Council unanimously adopted a plan for us to implement a 100% Council Tax premium on second homes as soon as the law allows us to do so – meaning second homes would pay double the amount of Council Tax had it been used as a residential property – we look forward to this coming forward as soon as possible.


Cllr Judy Pearce
Leader South Hams District Council

During this reporting period we have:-




Agreed a cost of living response plan, including closer working with Citizens Advice and £50,000 to support voluntary sector projects responding to cost of living and wellbeing

Secured £1m UK Shared Prosperity Funding to deliver Active and Inclusive Travel schemes within the District



Begun the refit of our Dartmouth Lower Ferries

Agreed to permanently continue allowing self-contained motorhomes to stay for up to two nights in some of our car parks.



South Hams
District Council



Better lives for all

Section 1 – Performance on a page

Corporate Strategy Actions

The following summarises progress against actions within the thematic delivery plans of our Better Lives for All strategy. More information is set out in Section 2 of this report



Action AM1.3 (Explore Opportunities for renewables on Council Land) is at risk of not delivering within agreed timescales although for good reason, to enable us to align with work being undertaken across the Joint Local Plan area.

Page 200

Spend against approved strategy budget 2022/23

Agreed Strategy Projects Funding 2022/23	£527,000
Spend to Date	£121,175
Forecast to year end	£497,500
Forecast Variance	£29,500

Significant proportion of the funding set aside and not yet spent relates to EV Charging upgrades for our Depots – unlikely to be spent this year but will be carried forward and therefore included in forecast.

Performance against Key Performance Indicators – number of KPI's by status



We report a small 'basket' of measures to Executive on a quarterly basis. A more in-depth review of performance was considered at Overview and Scrutiny Committee at their meeting on 12th January 2023

Risk Management Profile – Average Risk Score across Strategic Risks

Average Strategic Risk Score <u>last</u> Period	Average Strategic Risk Score <u>this</u> period
16	15

The average risk score for our strategic risk register has reduced slightly since the last report in December – primarily due to Government announcing certainty over the future of the Homes for Ukraine scheme (and in turn hopefully reducing placement breakdowns)



Section 2 – Performance against the Council’s Priorities

Delivering our ambitions for South Hams





This section of the report sets out the performance under each of the Council’s theme areas which underpin its ambitions of Better Lives for All.

Each year for the next three years, we have set out a number of specific deliverables in our Thematic Delivery Plan.

The table to the right sets out how many of those are currently on track, how many are slightly off track and how many are at risk of not being delivered as planned.

Activities can regularly change status based on new information becoming available or unexpected changes to plans.

More detail per theme can be seen on the following pages.

Overall Performance Against Actions			
Status		Total Actions Within Category	% of overall actions
	This action is on track with good progress being made. There are no significant risks which require action and we are on track to deliver as planned	32	76%
	There are some issues or risks which are requiring management but a plan is in place to bring back on track	9	22%
	There is a significant risk that we cannot deliver this activity as planned. Regular monitoring and support from Lead Member and Senior Leadership Team is required	1	2%
	This activity is not yet due to start in the current year	0	0%
Totals		42	100%





Progress continues to be made on delivery of the specific actions within the year one delivery plan (in addition to all of the actions within our specific Climate and Biodiversity Action Plan). During this period we have:-

- Commenced a Task and Finish group to consider the Electric Vehicle Charging Strategy for the District – work proceeding at pace.
- Considered the Devon Carbon Plan and commenced work on revising our own Climate Change and Biodiversity Strategy and Action Plan to ensure that they align
- Secured £1m to support Community net zero targets through the Government UK Shared Prosperity Fund. See Economy theme for more information
- Submitted a £75,000 bid under the Innovate UK Net Zero Pioneer Places programme which if successful will enable us, with Sustainable South Hams to work on a 3-month engagement and behaviour change study which could unlock further funding.



Cllr Tom Holway

Lead Member for adapting and mitigating climate change and increasing biodiversity



Page 202

Focus Area	Total Actions 2022/23	On Track	Slightly off track but plan in place	Risk that unable to deliver	Not yet due to commence
Reducing our carbon footprint	2	1 (AM1.2)	1 (AM1.1)		
Working towards net zero	4	2 (AM 1.4 & 1.6)	1 (AM 1.5)	1 (AM1.3)	

Key Risks / Issues

- AM1.1 (EV Conversion of our fleet) – while some of this project is on track to deliver – such as developing the fleet conversion plan, the grid updates and associated infrastructure for a full fleet is currently at risk of not occurring in full by 2024
- AM1.3 (Explore Renewable Energy Opportunities across the District) This is highlighted as 'Red' as the work has not yet commenced and will be undertaken in alignment with the JLP review with Plymouth and West Devon. It will also be important to realign this work with the Devon carbon Plan commitment to develop a Devon Energy Plan - all ensure we do not duplicate effort and resource.

Focus for next Quarter

- Forecasting vehicle replacement schedule and understanding the likely budget pressures
- O&S consideration of draft EV Charging Strategy – Jan 2023
- Partner activity – Fusion Leisure currently sourcing companies for installing of PV on leisure centres. Assessing tender responses with aim of commencing work in April.



I am really pleased with the steps we have taken to support our communities during a period that continues, and is likely to continue to be challenging for some time as the cost of living increases. During this period we have:

- Launched a £50,000 community wellbeing grant scheme – enabling community groups to apply for funding for projects that will respond to the Cost of Living Crisis
- Extended funding our key partners such as Citizens Advice, CVS and Community Transport organisations for a further two years to provide them with certainty of funding and allow us to continue to work together to support residents.
- Completed the makeover of Collapark Park in Totnes – with contributions from both the District Council and Town Councils
- Launched a scheme to distribute £187,311 of Government funding to residents most in need – particularly those not eligible for other Government Cost of Living Support
- Held a meeting with key partners to scope out the Rural Poverty pilot in South Brent



Cllr Jonathan Hawkins
Lead Member for strengthening community wellbeing



Focus Area	Total Actions 2022/23	On Track	Slightly off track but plan in place	Risk that unable to deliver	Not yet due to commence
Reducing Health Inequalities & rural poverty	4	3	1 (CW1.2)		
Improving Open Space, Sport and Recreation	1	1			
Support the voluntary sector	1	1			

Key Risks / Issues

CW1.2 – Dartmouth Health Hub – delayed beyond original timescales – now scheduled for completion end of January 2023

Page 203

Focus for next Quarter

- Assess Community Wellbeing grant scheme applications and award funding
- Progress with plans for Westonfields Park



South Hams
District Council



Better lives for all



This has been another busy quarter with the Council continuing to take steps to address the housing crisis within the District. During this period I attended a Parliamentary Select Committee to talk about the impact on the area of holiday lets and the proposals for a licencing scheme for these. We have also seen Council unanimously agree to adopt a 100% Council Tax premium on second homes in the District – as soon as we lawfully can. Other actions delivered during the period include:

- Progressing to Expression of Interest stage for a developer/s to take forward sites in Kingsbridge for affordable led housing
- A Task and Finish considered exemplar models of affordable housing delivery which will inform future plans
- Continued with support to Ukrainians within the District and agreeing to enhance the monthly 'thank you payment' to hosts in order to encourage more hosts to continue with placements an attempt to reduce further pressures on housing in the area.
- Carried out Annual Rough Sleeper Count, recording 5 in the District, up from two last year. Housing Team Outreach Navigators continue to offer weekly engagement including offering accommodation. Two have taken up accommodation since the count.
- Recommended the Traveller Forum – an opportunity to work with the traveller community and inform them of housing options



Cllr Judy Pearce

Leader of the Council,
Executive Chair



Lead Member
for improving
homes

Page 204

Focus Area	Total Actions 2022/23	On Track	Slightly off track but plan in place	Risk that unable to deliver	Not yet due to commence
Housing for Place	3	3			
Housing for People	4	4			

Key Risks / Issues

Focus for next Quarter

- Update Housing Strategy and Homelessness Strategy delivery plans for the coming year (23/24)
- Carry out a review of temporary accommodation within the District



South Hams
District Council



Better lives for all



Our focus on supporting the economy across South Hams has continued in this quarter with good progress being made across all of the actions within our plan. During this period we have:

- Delivered a #MyPlace Campaign throughout Christmas to encourage people to shop locally
- Been given approval to progress the Plymouth and South Devon Freeport
- Secured £1m of UK Shared Prosperity Funding – to enable us to work with partners and deliver a range of schemes which will support the economy (with a particular focus on sustainability / Net Zero ambitions)
- Gone to tender for a supplier to develop a 3-5 year marketing strategy for the District

I am also pleased that during this period we have appointed a new Head of Economy and Place (Chris Shears) to take forward our delivery plans under this theme.



Cllr Hilary Bastone
Lead Member
for stimulating
a thriving
economy



Focus Area	Total Actions 2022/23	On Track	Slightly off track but plan in place	Risk that unable to deliver	Not yet due to commence
Promote South Hams Coastal and Visitor Economy	3	2	1 (TE1.3)		
Supporting Towns & Businesses	3	2	1 (TE1.6)		
Strategic Employment & Infrastructure	3	3			

Key Risks / Issues

- TE1.3 – Development of a budget for promotion of the visitor economy. There has been little appetite from partner organisations to develop a pooled budget for promotion of South Hams as a place to visit – but our #MyPlace campaign is being well received
- TE1.6 – Delays in commencing work on developing Town Centre Plans but this work is now underway.

Focus for next Quarter

- Await outcome of Rural England Prosperity Fund Bid
- Finish the development of marine business units at Batson
- Commence delivery of activities through the successful UK Shared Prosperity Funding

Page 205



South Hams
District Council



Better lives for all



We continue to make positive steps toward achieving our ambitions of Better Lives for All. Highlights for this period include:-

- Holding Kingsbridge, West Alvington and Churchstow Neighbourhood Planning referendum – with 812 votes cast – 89% in favour of the plan
- Holding Dartmouth Neighbourhood Planning referendum – 700 votes being cast with 88% in favour of the plan
- Welcoming our Assistant Director for Planning who will provide the strategic direction for our planning service
- Commencing the annual refit of our Dartmouth Lower Ferry -ensuring it remains as efficient as possible
- Concluded the My Place, My Views consultation – 10,471 people visited the consultation site (although only 14% of those completed the survey) A report is being prepared on the effectiveness of the consultation platform and whether it is something to explore in the future.



Cllr Judy Pearce
 Leader of the Council,
 Executive Chair
 Lead Member
 for protecting,
 conserving
 and enhancing
 our built
 and natural
 environment



Page 206

Focus Area	Total Actions 2022/23	On Track	Slightly off track but plan in place	Risk that unable to deliver	Not yet due to commence
Make best use of development land, green space and coastal places	5	4	1 (BN1.3)		
Celebrate and protect our heritage	2	2			

Key Risks / Issues

BN1.3 - Commercial Units and Harbour Depot projects remain in construction with completion due in December 2022. Despite significant delay both projects will be delivered within Approved Budgets

Focus for next Quarter

- Continue to deliver against the Planning Service Improvement Plan
- Finalise works on commercial units and harbour depot



South Hams
 District Council



Better lives for all



Work has continued on delivering our ambitions for enabling our residents to do as much as possible online and to ensure that all of our staff are supported to deliver the best possible service to our residents. During this quarter we have:

- Transferred our Waste and Recycling Service back in to the direct control of the Council
- Commenced work on reviewing our website content and ensuring that it remains relevant – ahead of the delivery of a new website platform
- Received notification of our financial settlement for the coming year – which is better than anticipated
- Carried out a full staff survey to highlight areas of focus which will help to shape our Organisational Development Plans
- Agreed a series of principles for how our customers can access our services in the future







Cllr Keith Baldry
Lead Member for delivering quality Council services (Commissioned)



Cllr Nicky Hopwood
Lead Member for delivering quality Council services (Internal)



Page 207

Focus Area	Total Actions 2022/23	 On Track	 Slightly off track but plan in place	 Risk that unable to deliver	 Not yet due to commence
Being Digital First	2	1	1 (QS1.1)		
Being Inclusive & Accessible	2	1	1 (QS4.)		
Making the best use of our resources	3	3			

Key Risks / Issues

- QS1.1 – We continue to work with our Planning Application software supplier to finalise the system before go live in the next few months. It is important that we take the time to iron out any issues prior to go live of this critical system.
- QS1.4 – it was originally our intention to undertake a residents satisfaction survey in Autumn 2022 however due to the funding secured for the JLP My Place My Views consultation at the same time, it is considered there would have been consultation fatigue (something our Consultation and Engagement strategy says we will avoid). We will re-prioritise.

Focus for next Quarter

- Implement customer access strategy
- Scope further improvement projects for services, utilising our Liberty Technology Platform – including EH, Revs and Bens and ad hoc processes
- Develop a timetable for a residents satisfaction survey
- Agree, at Full Council, our budget for 2023/24
- Prepare and publish our Annual Report – setting out a clear, easy to read overview of progress during the year.



South Hams District Council



Better lives for all

Section 3 – Programme Spend

Ensuring that we make the best use of the funding available to us

Alongside the adoption of our Better Lives for All, we have developed a Thematic Delivery Plan which includes resourcing requirements over and above our business as usual services. This section sets out the financial performance against agreed Strategy projects.

Theme	Agreed Budget 2022/23	Spend to Date	Forecast spend to year end	Notes
Climate	£243,500	£6,195	£243,500	£170,000 of this funding is for upgrading EV Charging at Totnes Depots – all of this funding will be needed and as its reserve funded can be carried forward.
Communities	£22,500	£0.00	£10,000	Delays in commencing rural poverty pilot – any remaining funding will be carried forward to Year 3 of the delivery plan
Homes	£43,000	£19,980	£39,000	£20k budget for admin for Green Homes grants 0 L7 Case Manager for 6 months April – September. Budget also includes £30k c/f from 21/22 for administration and resource for progressing Housing Needs Surveys
Economy	£117,000	£65,000	£117,000	This includes salaries of economy and broadband officers and funding for visit devon
Built & Natural Environment	£61,000	£15,000	£48,000	Delays in recruiting to the CAA post until August 2022 resulting in underspend on this line
Council Services	£40,000	£15,000	£40,000	Website and Comms support for the promotion of Seamoor Lotto

Page 208



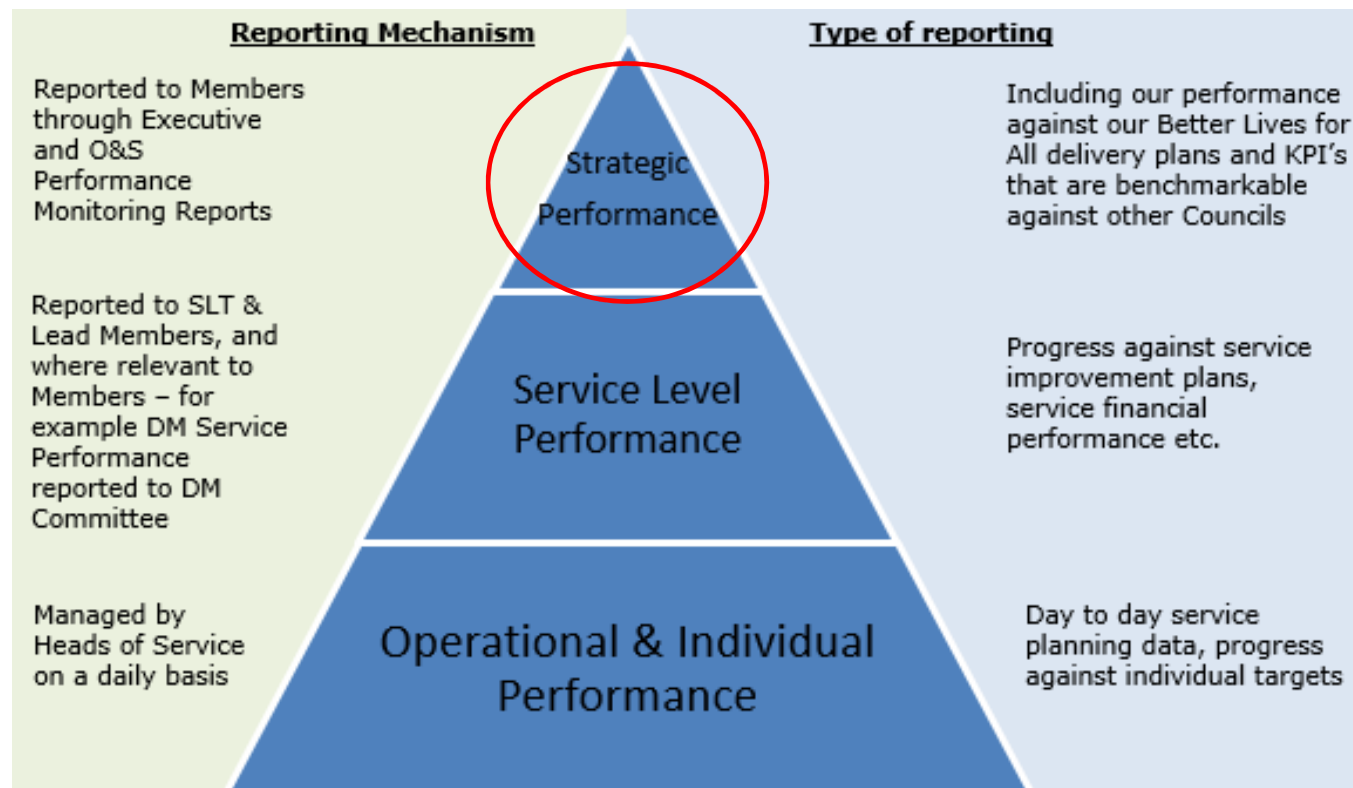
Section 4 – Key Service Performance

Ensuring that our services meet the needs of our residents and businesses

This section of the report will set out how we are performing in some of our key service areas. These measures are deemed to be important in supporting our delivery of key activities within Better Lives for All.

These KPI's are deemed to be at the 'Strategic Level' of our performance management framework.

The next two pages set out the high level overview of performance against the KPIs



KPI Performance

KPI Description	Good Looks Like	2022/23		How its measured	Narrative
		Target	This Period		
Percentage of customers completing a process and reporting a positive satisfaction with the process	Higher than target	>80%	76%	Every web form submitted asks users to complete feedback forms. This is the % of customers scoring positively	A total of 855 ratings were given following completion of an online transactions, 650 of these gave a rating of 4 or 5 stars. We continuously monitor feedback comments and where we can, make improvements to processes.
Processing of Major Planning Applications - % determined in time	Higher than target	70%	67%	Total number of applications determined in the period on time	Slightly off track against our local target but still above the national target of 60%.
Processing of Non-Major Planning Applications - % determined on time (with extensions)	Higher than target	80%	90%	Total number of applications determined in the period on time	Performance in determining non-major applications continues to be higher than target
Planning Enforcement Cases Outstanding	Downward trend	<400	387	To total number of enforcement cases open on 31 st December	The target of 400 is based on what is considered a realistic total demand over time. During this period 119 cases were received and 162 closed – demonstrating improved performance.



KPI Performance

KPI Description	Good Looks Like	2022/23		How its measured	Narrative (required where performance off target)
		Target	This Period		
Processing speed housing Benefits (Average number of days to process new claims)	Lower than target	<17 days	8.9 days	It is the average time taken to process a new housing benefit claim. This is calculated as the average (mean) processing time in calendar days, rounded to the nearest day.	Oct – 9.3 days Nov – 10.2 days Dec 7.2 days
Average number of missed collections per 100,000 collections of household waste	Lower is better	<80 per 100,000	201	Number of missed bins per 100,000 properties	Oct – 366, Nov 139, Dec 99 While above target, the performance continues to move in a positive direction – Q1 and Q2 average was 12,713 per 100,000
% of household waste sent for reuse, recycling or composting	Upward trend	57%	TBC	Data supplied by SH to DCC for verification against disposal points.	Data not yet available due to proximity to end of reporting period.
% of complaints responded to within timescales	Higher than target	90%	75%	Total number of official complaints responded to within 20 days (both stage 1 and stage 2) divided by total number received	Stage 1 Complaints – 29 received (5 overdue) Stage 2 complaints – 7 received (4 overdue) We continue to monitor complaint responses and support services to respond on time.



Section 5 – Capital Delivery

Action		Measures of Success	Achieved	Current Position
AM1.1	Converting our environmental management vehicles to electric	Upgrades complete by March 2022		Ongoing – it is unlikely that this will complete in full until 2024. We have commenced development of a vehicles replacement schedule to better inform or planning.
AM1.5	Adopting an electric vehicle (EV) charging strategy	9 EV installations delivered by 31 st March 2022		2No. EV installations installed. These each serve 2 parking bays at both Mayors Avenue, Dartmouth and Creek, Salcombe. Development of EV Strategy for the district is now proceeding at pace.
Page 212 G1.1.2	Delivery of £4m Dartmouth Integrated Health Hub	Construction commenced July 2021		In construction with completion due by end of January 2023
I1.1	Deliver local homes for local people that meet their needs	The right housing in the right areas to meet local need.		In construction at St Ann's Chapel to deliver 13 homes (3 open market, 8 Affordable rent, 2 landowner).
TE1.7	Develop starter units to provide affordable employment space to marine facilities	Delivery of five new commercial units by April 2022		In construction and due for completion by end of January 2023. Despite significant delay both projects will be delivered within Approved Budgets
BN1.3	Support schemes that contribute to enhancing the marine environment including improving water quality	Harbour Depot built and occupied by April 2022		Project has been subject to significant delays and completion date remains unknown at this time.



Batson Creek Progress Updates – Q3 2022



End Elevation



Front Elevation

Page 213

Car Charging point



Deflection head detail between units



South Hams
District Council



Better lives for all

Dartmouth Health Hub Progress Q3

As at 15.12.22



Page 2
4



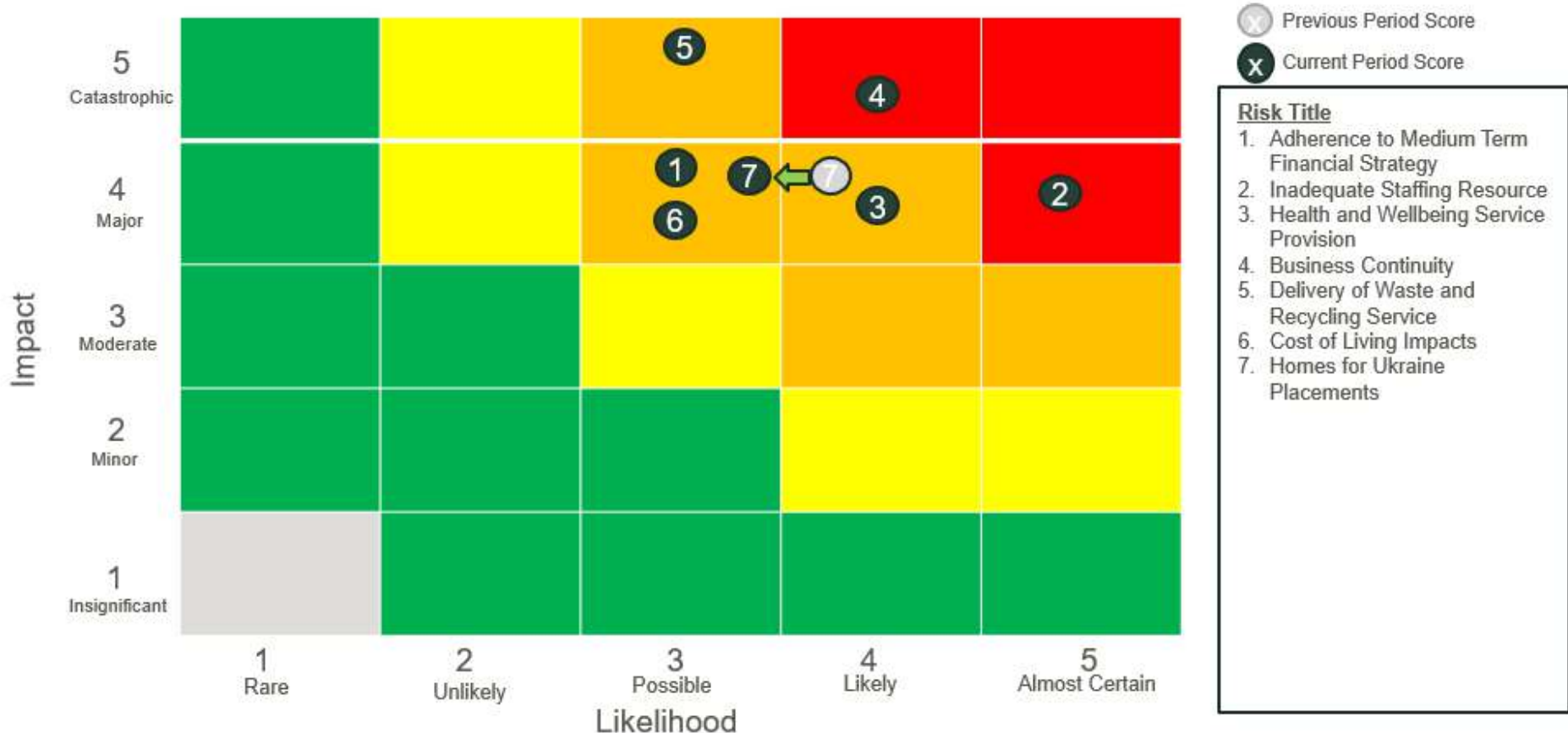
St Ann's Progress Update Q3



for all

Section 6 - Strategic Risks December 2022

The following section sets out an overview of the current strategic risks and on the following pages we provide detail for those that are within the 'Red' scoring. Each Council service area has their own risk register and where a risk reaches a level that it can no longer be managed by that service area alone, it escalates to the Strategic Risk Register. Overall, the Councils risk profile has remained static since the last report to Executive in December – with a slight decrease in the Homes for Ukraine placement risk in light of Government announcing an extension to the funding for Hosts .



Risk Title:	Insufficient Staff Resource
-------------	-----------------------------

What is the risk?	The risk is that the Council fails to have the right culture, organisational conditions or resources to deliver our priorities for our communities. Insufficient staffing arrangement resulting in a loss of staff morale and inadequate resources for training and re-skilling in an ongoing period of change. Failure to engage staff resulting in uncertainty regarding changes in working practices and job security. Particular risk in relation to future terms and conditions. Cost and time of retraining / upskilling staff. Unrealistic expectations in relation to staffing capacity
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What could cause the risk to occur?	The last few years have seen Local Government stepping up to provide significant and varied support to our residents, communities and businesses in addition to maintaining our core service delivery, This has been a sustained period of the council delivering additional support and services and is only likely to continue in to the short-medium term.
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Risk Scoring Page 216	Likelihood of risk occurring		5 (Almost Certain)	What are we doing to reduce the risk? 1. Continuing to review services and update service plans to ensure they can meet future demands 2. Reviewing our recruitment campaigns – ensuring that they are effective and targeted 3. Filling key roles with temporary resources to ensure that services can continue to meet statutory requirements while we continue to recruit permanent employees 4. Developing a programme of developing our own talent within the organisation through apprenticeships 5. Identifying local recruitment events with a view to attending and highlighting roles available within the Council 6. Assessing the 'offer' with other similar organisations to identify benefits that may enable us to attract staff
	Impact	Financial	4 (Major)	
		Service Quality	4 (Major)	
		Reputation	4 (Major)	
		Legal / Regulatory	4 (Major)	
		Health and Safety	4 (Major)	
		Morale / Staffing	4 (Major)	

Current Update (Dec 2022)	<p>The position remains broadly as in November 2022 update. There are still challenges in recruiting to key roles within the Council - currently Legal recruitment remains challenging. ONS data sets out that private sector salaries increase on average 6.9% in 2022 compared to an average of 2.7% in the public sector. While the recently agreed Local Government pay award of £1,925 per employee has increased the salaries we are offering, we know from recent recruitment attempts that the salary on offer is the biggest challenge.</p> <p>We are continuing to explore different ways of ensuring our workforce meets our future needs including the development of new recruitment campaigns and branding, clearly setting out the additional 'non-pay' benefits of working for the Council and looking at the longer term, developing our own talent through apprenticeships and looking at the T-Levels scheme.</p>
---------------------------	--

Overall Scoring

Risk Score (Current)



Likelihood 5 x Impact 4

Risk Score History



Risk Direction



Risk Title:	Business Continuity
-------------	---------------------

What is the risk?	The risk is that we do not develop and keep maintained robust processes to ensure business continuity in the event of a significant event occurring, e.g. Failure to ensure the continuous availability of critical IT systems leading to inability to deliver key council services.
-------------------	--

What could cause the risk to occur?	Developing and maintaining robust Business Continuity Plans requires significant and sustained focus. During Covid-19 response, the Councils risk profile has changed as we have relied much heavier on working in different ways (for example more staff working from home the majority of time) and with significant pressures being placed on some of our key delivery partners/ contractors. Work is required to update our BCP's to the changing environment that we are operating in. International events could lead to an increase in cyber attacks on UK government domains over the coming months. We could also see an increase in Covid-19 cases impacting on availability of staff.
-------------------------------------	--

Risk Scoring Page 217	Likelihood of risk occurring		4 (Likely)
	Impact	Financial	5 (Catastrophic)
		Service Quality	5 (Catastrophic)
		Reputation	4 (Major)
		Legal / Regulatory	2 (Minor)
		Health and Safety	3 (Moderate)
		Morale / Staffing	3 (Moderate)

What are we doing to reduce the risk?

- Having two HQ locations is main mitigating factor - however an outage of power/ICT at either location would lead to a serious disruption of service.
- We continue to encourage safe systems of working in respect of Covid-19
- Locality workers can be despatched more easily to ensure customer engagement can be maintained during any incident.
- Business Continuity plans have been updated - priority areas - ICT Networking - Payroll & Creditors Payments; other plans need to be made more robust – further work underway for the new year

Current update (Dec 2022)	The position remains broadly as per the last update in November 2022. The Council continues to keep its business continuity plans updates although as is typical, the risk of a business continuity event being triggered remains high at this point in the year due to the increased likelihood of extreme weather events impacting on service delivery. Additionally, information from the police (as reported to the media in January) highlights that there is a significant risk as a result of recent thefts of electrical cable from the national grid within the South Hams area. The risk around this is that it could result in a power outage to our HQ which would require us to trigger our ICT business continuity plan. We are taking steps to ensure that this is further updated in light of this additional information. An Officer planning day is scheduled for Mid January to fully consider our Business Continuity Plans to ensure they remain fit for purpose.
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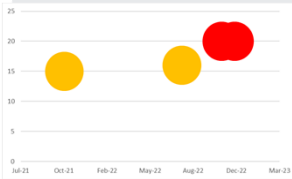
Overall Scoring

Risk Score (Current)



Likelihood 4 x Impact 5

Risk Score History



Risk Direction



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Report to: **Executive**

Date: **26 January 2023**

Title: **Modbury Neighbourhood Plan**

Portfolio Area: **Place Making – Cllr Pearce**

Wards Affected: **Charterlands**

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

Date next steps can be taken: Immediately

Author: **Elliott Hale** Role: **Neighbourhood Planning Specialist**

Contact: **Elliott.hale@swdevon.gov.uk**

RECOMMENDATIONS:

That the Executive:

- 1. Approves the Modbury Neighbourhood Plan as modified to incorporate the modifications recommended by the examiner to proceed to referendum, using the designated plan area as the referendum area.**
- 2. Notes the attached Modbury Neighbourhood Plan, referendum version.**
- 3. Notes the attached examiners report and recommendations.**
- 4. Notes the attached District Council draft decision statement.**
- 5. Notes the attached summary of the examiner report with comments and recommendations from District Council Officers and Modbury Parish Council.**

1. Executive summary

- 1.1 Neighbourhood Plans are a community right introduced by the Localism Act 2011. They are the responsibility of Parish Councils or Neighbourhood forums if established.
- 1.2 The Modbury Neighbourhood plan area (plan area) was designated by the District Council in 2015.
- 1.3 In order to comply with the Neighbourhood Planning (General) Regulations 2012, following independent examination of a Neighbourhood Plan and receipt of the examiner's report, the District Council must consider the examiner's recommendations.

The District Council is under no obligation or statutory requirement to make examiner's recommended modification(s) or accept the examiner's recommendation. Notwithstanding the examiner's report, Council must be satisfied the Neighbourhood Plan meets the basic conditions and is compatible with the European Convention on Human Rights (ECMR) and other European Union Obligations Convention Rights, or would do so if modifications were made to it. The District Council, in making its decision, should have regard to the examiner's report and recommendations.

- 1.4 The Localism Act requires that the independent examiner consider whether the area for any referendum should extend beyond the neighbourhood area to which the draft plan or order relates. If a recommendation is made to extend the area the independent examiner must make a recommendation as to what the extended area should be.
- 1.5 The District Council is required to consider the referendum area, informed by the examiner's conclusions. If District Council decides to extend the referendum area beyond the plan area a map of the area must be published.
- 1.6 Where the Council is satisfied the Neighbourhood Plan meets the Basic Conditions and recommends the Neighbourhood Plan proceed to referendum under, Schedule 4B to the Town and Country Planning Act 1990, The Council must make arrangements for the referendum to take place.
- 1.7 Modbury Parish Council has accepted all modifications proposed by the examiner and amended the plan accordingly, this plan is attached at Appendix 1. Modbury Parish Council has written to the District Council requesting that the Plan now proceed to referendum (Appendix 4).
- 1.8 Following a successful referendum the Neighbourhood Plan is a material consideration in the determination of planning applications and Council is required to adopt the Neighbourhood Plan within a defined time period (8 weeks). Once 'made', or adopted, by the Local Planning Authority, the Neighbourhood Plan becomes part of the Development Plan for the District and is used alongside the Joint Local Plan to decide planning applications in the area they relate to.

2. Background

- 2.1 The Modbury Neighbourhood Plan has been undertaken by Modbury Parish Council in accordance with the relevant legislation and regulations.
- 2.2 The Modbury Parish Neighbourhood Plan Area was designated on the 24 February 2015 under the Neighbourhood Planning Regulations 2012 (part 2 S6). The area covers the administrative boundaries of the Parish of Modbury.
- 2.3 Following the necessary community engagement, consultation (6 weeks public consultation, Regulation 14) and background work, including informal District Council Officers advice, a draft plan was submitted to South Hams District Council, in accordance with

- Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 (Regulations).
- 2.4 The District Council formally consulted, under Regulation 16, on the draft plan 3 times; 3rd August to 14th September 2020, 5th October 2020 and 16th November 2020 which was extended till 21st December 2020. The plan then proceeded to examination but was later withdrawn (25th August 2021).
 - 2.5 The Plan was resubmitted to District Council and a re-consultation took place from 11th July till 22 August 2022, this period was extended to 12th September 2022.
 - 2.6 Following this consultation an independent examiner was appointed in accordance with Regulation 17.
 - 2.7 The examiner's report (Appendix 2) provided independent examination of the Neighbourhood Plan and process to develop the plan. Council Officers have provided feed-back and fact checking to the examiner on a draft examiner's report. Officer comments were taken into consideration and where required points of fact were amended. A summary of the examiner report with comments and recommendations from District Council Officers and Modbury Parish Council is provided at Appendix 4
 - 2.8 The examiner's report concludes that, subject to modifications, the plan meets the 'basic conditions' as set out in legislation, and is suitable to proceed to referendum.
 - 2.9 The basic conditions are set out in paragraph 8(2) of Schedule 4B to the Town and Country Planning Act 1990 as applied to neighbourhood plans by section 38A of the Planning and Compulsory Purchase Act 2004. The basic conditions are:
 - a. having regard to national policies and advice contained in guidance issued by the Secretary of State it is appropriate to make the order (or neighbourhood plan).
 - d. the making of the order (or neighbourhood plan) contributes to the achievement of sustainable development.
 - e. the making of the order (or neighbourhood plan) is in general conformity with the strategic policies contained in the development plan for the area of the authority (or any part of that area).
 - f. the making of the order (or neighbourhood plan) does not breach, and is otherwise compatible with, EU obligations.
 - g. prescribed conditions are met in relation to the Order (or plan) and prescribed matters have been complied with in connection with the proposal for the order (or neighbourhood plan).
 - 2.10 Notwithstanding the examiner's report, Council must be satisfied the Neighbourhood Plan meets the basic conditions and is compatible with the European Convention on Human Rights (ECMR) and other European Union Obligations, or would do so if modifications were made to it.
 - 2.11 Council Officers have considered the Neighbourhood Plan and examiner's report with regard to the Basic Conditions, including conformity with the Local Plan and national policy. Officers accept the examiner's reasoning for modifications (appendix 5) and agree that the basic conditions have been satisfied. Officers confirm that the plan meets the necessary 'basic conditions', and with national policy and can proceed to referendum

- 2.12 European Convention on Human Rights (ECMR) and other European Union Obligations are considered as the Neighbourhood Plan is required to take cognisance of the EU Strategic Environmental Assessment (SEA) Directive 2001/42/EC. District Council carried out a Strategic Environmental Assessment (SEA) screening exercise (June 2019) in consultation with relevant statutory bodies. It was the Council's opinion that a full SEA was not required for the Neighbourhood Plan as the plan's provisions will not undermine environmental, habitats or species considerations. The examiner was satisfied that the conclusion is still appropriate.
- 2.13 Council Officers remain satisfied there is no impact on European Convention on Human Rights (ECMR) and other European Union Obligations.
- 2.14 The examiner considered the plan area and the area to which the referendum should apply. The examiner was satisfied that the referendum area should be the same as the plan area, should the plan go to Referendum.
- 2.15 Officers recommend that the referendum area be the same as the plan area.
- 2.16 Where the Council is satisfied the Neighbourhood Plan meets the Basic Conditions and European Convention on Human Rights (ECMR) and other European Union Obligations the Neighbourhood Plan proceed to referendum under, Schedule 4B to the Town and Country Planning Act 1990. Following the determination Council must make arrangements for the referendum to take place, including advertising a decision statement (Appendix 3).

3. Outcomes/outputs

- 3.1 Should the Council agree to proceeding to referendum, Officers recommend that the referendum area be the same as the plan area. Council would need to hold the referendum within 56 days of a decision notice being advertised by Council. Notice of the referendum would need to be advertised 28 days prior to the referendum being held.
- 3.2 If passed at referendum the Modbury Neighbourhood Plan will become a part of the Development Plan and will be used as a material consideration in determining planning applications in the Modbury area.
- 3.3 Following a successful referendum, the Council is required to adopt the Neighbourhood Plan within a defined time period (8 weeks). Once 'made', or adopted, by the Local Planning Authority, the Neighbourhood Plan becomes part of the Development Plan for the District and are used alongside the Local Plan (Joint Local Plan) to decide planning applications in the area they relate to.
- 3.3 A successful outcome for this Neighbourhood Plan will provide encouragement to the many other Parishes who are currently working on Neighbourhood Plans.

4. Options available and consideration of risk

- 4.1 Given the view of Council Officers and their recommendation that the neighbourhood plan meets the relevant conditions it is considered the Neighbourhood Plan should continue through the process as a proposed.
- 4.2 If the Executive does not agree, then the a options are to propose such modifications as the Executive considers would enable the plan as modified to meet the relevant conditions and therefore still proceed to referendum; or to agree to the plan not being made.
- 4.3 in terms of the Risk this relates to the potential for challenge through a Judicial Review to the Executive’s decision that the plan does or does not meet the Basic Conditions or is compatible with the European Convention on Human Rights

5. Proposed Way Forward

- 5.1 It is recommended that the Executive approves the Modbury Neighbourhood Plan to proceed to referendum.

6. Implications

Implications	Relevant to proposals Y/N	Details are set out in this report.
Legal/Governance	Y	The decision to proceed to referendum for a Neighbourhood Plan is the responsibility of the Council and/or it’s Executive. The Modbury Neighbourhood Plan has followed the procedure in the Neighbourhood Planning (General) Regulations 2012 and a referendum can be held in accordance with the Neighbourhood Planning (Referendums) Regulations 2012. Following a referendum the Council is required to ‘make’ the Neighbourhood Plan and must do so within 8 weeks of the date of the referendum.
Financial implications to include reference to value for money	N	There are no financial implications. Neighbourhood Plans are supported through Government grants program. There is an internal cost recovery system for referendums.
Risk	Y	There is a risk of legal challenge on the Neighbourhood Plan referendum process.
Supporting Corporate Strategy	Y	The Council’s role in the Neighbourhood Plan process is a statutory duty. Neighbourhood Plans assist in delivering key themes in the Better Lives for All 2021, including; Adapting & mitigating climate change and increasing biodiversity;

		Protecting, conserving and enhancing or built and natural environment; Stimulating a thriving economy.
Climate Change - Carbon / Biodiversity Impact	Y	The Modbury Neighbourhood Plan aligns with the Joint Local Plan and contains policies aimed at mitigating the effects of Climate Change and impacts upon Biodiversity.
Comprehensive Impact Assessment Implications		
Equality and Diversity	Y	The Neighbourhood Plan has assessed Equality and Diversity implications as part of its background evidence.
Safeguarding	N	None
Community Safety, Crime and Disorder	N	No direct implications.
Health, Safety and Wellbeing	Y	Positive outcomes are anticipated from the making of the Neighbourhood Plan.
Other implications	N	none

Supporting Information

Appendices:

- Appendix 1: Modbury Neighbourhood Plan - referendum version
- Appendix 2: Examiners report
- Appendix 3: SHDC referendum decision statement
- Appendix 4: Modbury Parish Council letter to SHDC
- Appendix 5: Summary of proposed modifications to the Modbury Neighbourhood Plan

Background Papers:

Background documents to the Modbury Neighbourhood Plan on line at: -
<https://www.neighbourhoodplanning.swdevon.gov.uk/modbury>



MODBURY NEIGHBOURHOOD PLAN 2022-2034

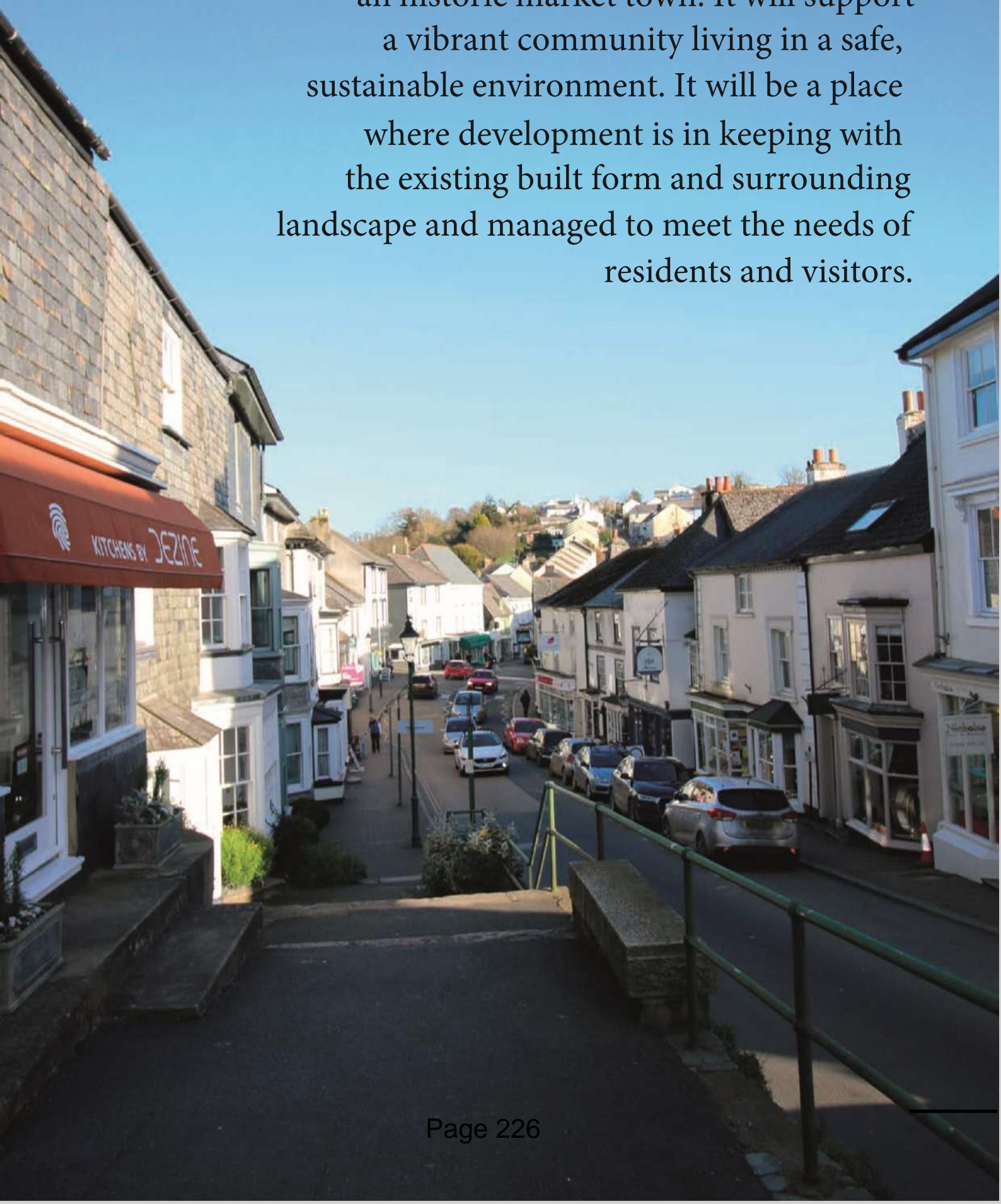
Referendum Version, December 2022



Produced by the Modbury
Neighbourhood Planning Group
in collaboration with
Modbury Parish Council and the
residents of Modbury



Modbury will seek to embrace the future without compromising its character as an historic market town. It will support a vibrant community living in a safe, sustainable environment. It will be a place where development is in keeping with the existing built form and surrounding landscape and managed to meet the needs of residents and visitors.



CONTENTS

Foreword	Page 5
1. Introduction	Page 6
<i>Why do we need a neighbourhood plan?</i>	Page 6
<i>What area does the plan cover?</i>	Page 6
<i>How has the plan been prepared?</i>	Page 7
<i>How does the plan relate to other plans for the area?</i>	Page 8
<i>What period does the plan cover?</i>	Page 8
<i>Are there any limits on the plan?</i>	Page 8
<i>How will the plan be used and who is it for?</i>	Page 8
<i>How will other local issues be dealt with?</i>	Page 8
2. Modbury in context	Page 9
<i>Historic context</i>	Page 9
<i>Modbury today</i>	Page 9
<i>Aspirations for the future</i>	Page 9
3. Vision and objectives	Page 10
<i>The Vision</i>	Page 10
<i>Objectives</i>	Page 10
4. Policies and Proposals	Page 11
<i>Development, Design and Construction</i>	Page 11
POLICY MNP1: LOCATION, SCALE AND CHARACTER OF DEVELOPMENT	Page 11
POLICY MNP2: DESIGN AND CONSTRUCTION.....	Page 12
<i>Future Development</i>	Page 13
POLICY MNP3: FUTURE DEVELOPMENT IN AND AROUND MODBURY	Page 14
<i>History and Heritage</i>	Page 15
POLICY MNP4: HERITAGE AND CONSERVATION	Page 16
<i>Housing and Development</i>	Page 17
POLICY MNP5: HOUSING DEVELOPMENT.....	Page 17
PRINCIPAL RESIDENCE	Page 18
<i>Road Safety and Transport</i>	Page 19
POLICY MNP6: SAFE MOVEMENT AND TRANSPORT.....	Page 19
<i>Employment and Business</i>	Page 21
POLICY MNP7: BUSINESS DEVELOPMENT.....	Page 21
POLICY MNP8: TOWN CENTRE SHOPPING.....	Page 21
<i>Communication</i>	Page 23
POLICY MNP9 BROADBAND AND COMMUNICATIONS INFRASTRUCTURE	Page 23
<i>Services and Facilities</i>	Page 24
POLICY MNP10: EXISTING COMMUNITY FACILITIES AND INFRASTRUCTURE	Page 25
POLICY MNP11: NEW COMMUNITY FACILITIES AND INFRASTRUCTURE	Page 25
POLICY MNP12: PRIORITIES FOR COMMUNITY FACILITIES AND INFRASTRUCTURE	Page 26

<i>Environment and Sustainability</i>	Page 28
<i>POLICY MNP13: PROTECTING THE LANDSCAPE</i>	Page 29
<i>POLICY MNP14: SUPPORTING BIODIVERSITY</i>	Page 31
<i>POLICY MNP15: LOCAL GREEN SPACES AND PUBLIC OPEN SPACE</i>	Page 33

5.Delivering the plan..... Page 34

MAPS

MAP 1: Modbury Parish	Page 6
MAP 2: Settlement Boundary (Also showing JLP proposed housing sites for information)	Page 14
MAP 3: Heritage and Conservation	Page 16
MAP 4: Road Safety and Transport	Page 20
MAP 5: Town Centre Retail Zone and Business and Employment Zones	Page 22
MAP 6a: Community Facilities	Page 27
MAP 6b: Community Facilities Open Space	Page 27
MAP 7: Statutory and non-statutory wildlife sites within the Parish of Modbury, July 2017	Page 28
MAP 8: Landscape, Modbury Town	Page 30
MAP 9: Sites Designated as Local Green Spaces	Page 32
Map 10: Proposals Map	Page 35

<i>Glossary of Terms</i>	Page 36
--------------------------------	---------

<i>References</i>	Page 38
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<i>Acknowledgements</i>	Page 39
-------------------------------	---------

ACCOMPANYING DOCUMENTS

- | | |
|----------------------------------|-----------------------------|
| A. Statement of Basic Conditions | D. Sustainability Appraisal |
| B. Statement of Consultation | E. SEA screening report |
| C. Monitoring Framework | F. HRA screening report |

FOREWORD

The Modbury Neighbourhood Plan has been developed by a team of local residents in collaboration with the Parish Council. It takes into account the views of parishioners obtained from a number of consultation exhibitions and questionnaires carried out since the Neighbourhood Plan designation was formally approved by South Hams District Council in 2015.

The Neighbourhood Plan aims for balanced provision of housing to meet local needs while conserving the character of Modbury as a well-integrated community with a range of facilities. The Plan addresses the issue of pedestrian access, important for safety, health benefits and connectivity. Traffic management and transport aims will require collaboration with other agencies and organisations to minimise congestion, encourage effective public transport and shared mobility. The increasing importance of protecting the environment and the need to tackle the challenges posed by climate change are themes running through the Plan and are reflected in the recent Climate Emergency Plan published by South Hams District Council.

Once the Plan has been submitted to South Hams District Council (SHDC) and independently examined, you, the residents of Modbury, will be asked to vote to approve it in a referendum organised by SHDC. If it is approved by more than 50% of voters it will become a legal document which will form an integral part of the planning process up to 2034 and beyond.

The process of making this Plan has entailed the establishment of a steering group of local volunteers with an interest in the process, and a willingness to commit to working systematically through a clearly defined procedure. The group has been supported in its task by the professional guidance of Lee Bray, independent planning consultant, and Duncan Smith, Neighbourhood Plan Officer for South Hams District Council.

The Neighbourhood Plan Group has worked with the Parish Council to engage in detailed consultation with local residents to produce a Plan based the views and aspirations of the community and to represent those views to South Hams District Council.

This is Your Plan and we hope that you will play a part in helping to shape Modbury for the future by voting to support it in the referendum.

Ann Turner
Chair, Modbury Neighbourhood Plan Group

Peter Watts
Chair, Modbury Parish Council

1. INTRODUCTION

1.1 Welcome to the plan for the future of Modbury, shaped by the local community. This is your plan.

Why do we need a neighbourhood plan?

1.2 A neighbourhood plan gives a local community a greater say over how its area will develop in the future. It is put together by the local community, tested by independent examination and referendum, and ultimately becomes part of the development plan, helping to guide decisions about development in the area.

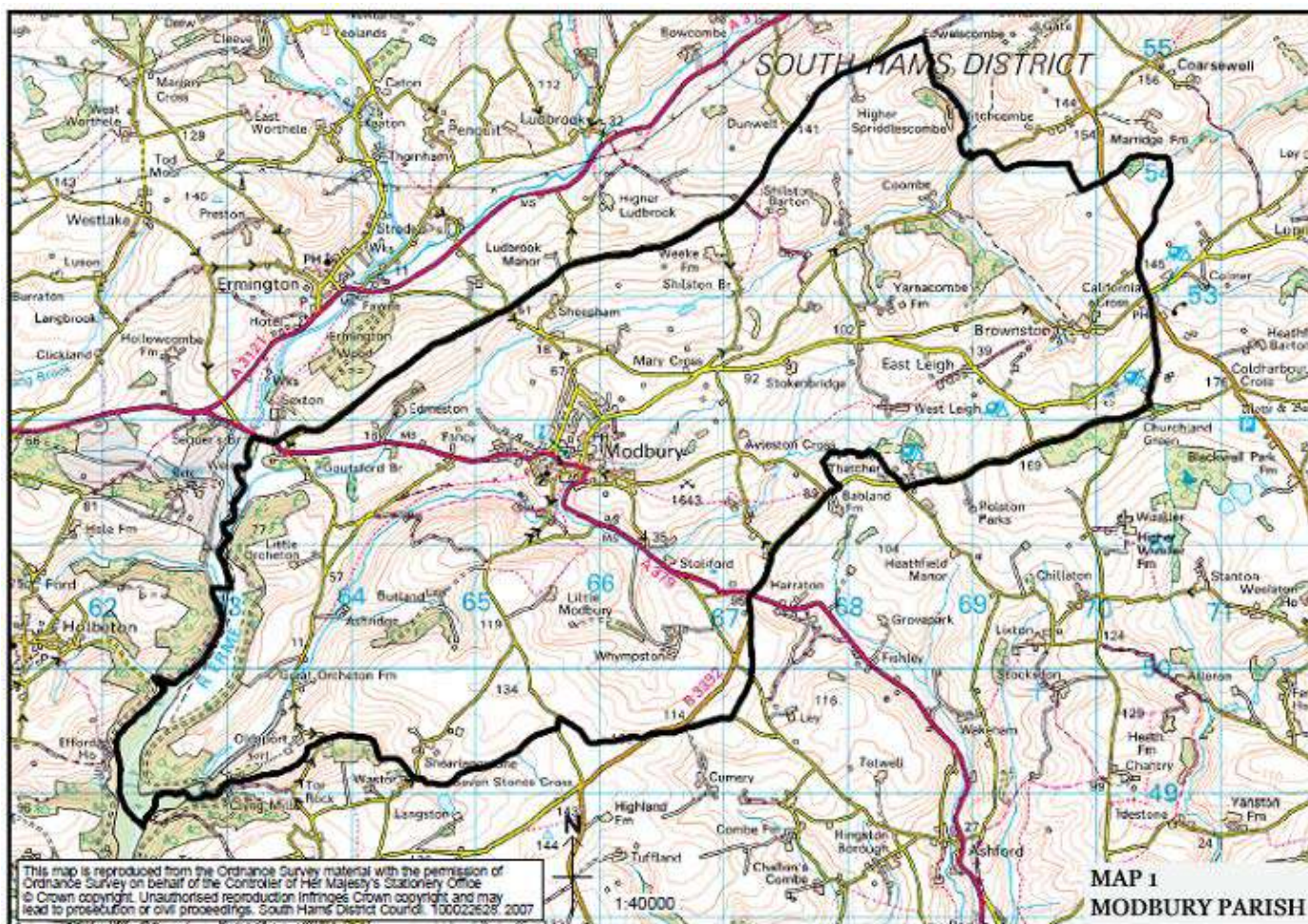
1.3 Modbury lies midway between Plymouth and Kingsbridge. It is a large rural parish with a small country town at its heart. It is an attractive and popular place to live, with a range of issues and opportunities.

1.4 Producing a neighbourhood plan means that the local community can be much more involved in making sure that change and development in future are for the good of the locality. The plan reflects local ideas and opinions, aiming to protect and enhance local assets and to foster a healthy and prosperous future.

1.5 The plan follows a simple structure and is in three main parts. The first part looks at the local context, the second part sets out the community's aspirations and objectives and the third part sets out planning policies to achieve them.

What area does the plan cover?

1.6 The plan covers the whole of the parish of Modbury. Many of its policies focus on the town, but there are also several which will apply across the whole parish.



How has the plan been prepared?

1.7 The plan process began early in 2015, initiated by Modbury Parish Council. The steering group includes representatives of the parish council and volunteers from the local community.

1.8 Widespread public consultation has been carried out to gather local views and opinions and engage people in the process. This has included events, a stall at the Modbury May Fair, a household questionnaire and a neighbourhood plan website¹ www.modburynpg.co.uk.

1.9 The plan making process is shown below. The accompanying Statement of Consultation describes in more detail how the community has been involved.

CONSULTATION AND KEY STAGES OF DEVELOPMENT OF THE NEIGHBOURHOOD PLAN

The Parish Council agreed to support the application for a Neighbourhood Plan at its meeting in December 2014.

The inaugural meeting of Modbury Neighbourhood Plan Group (MNPNG) was held in January 2015.

Formal designation of Neighbourhood Plan area received February 2015.

Public consultation at the White Hart, June 2015.

Household questionnaire delivered to all occupied households within the Parish of Modbury, December 2016.

Public presentation of household questionnaire results, March 2017. Statutory 6 week consultation on the Draft Plan, March to May 2018.

Four weeks re-consultation on development sites, July to August 2019.

Neighbourhood Plan given approval for submission to SDHC by Parish Council, February 2020.

Plan revised in light of changed circumstances and resubmitted to SHDC, March 2022.

Meetings have taken place with representatives of SHDC throughout the process. Consultation process has continued throughout, with public meetings, informal meetings, displays and questionnaires². The minutes of the meetings can be viewed both on The Modbury Neighbourhood Plan Group Website, www.modburynpg.co.uk, and the Modbury Parish Council Website, www.modburypc.co.uk/parish-council/minutes

1.10 The draft plan was issued for a statutory six week public consultation period in March 2018 and a further 4 week sites consultation in July 2019. It was subsequently revised and submitted to the local planning authority to make arrangements for its examination. During the examination process it became clear that changed circumstances required further changes to the plan. This version of the plan incorporates those changes. The extent of the changes is not so great as to require going back to draft plan stage and so the plan has been resubmitted to the local planning authority. Following a further six weeks for comment the examination will recommence. The plan will then proceed to a local referendum. When the process is complete the Neighbourhood Plan will form part of the Local Development Plan helping to guide planning decisions in the area.



¹ www.modburynpg.co.uk/

² www.modburynpg.co.uk/consultations/

How does the plan relate to other plans for the area?

1.11 The plan complies with the National Planning Policy Framework (NPPF)³ and adopted plans for the area. In particular, it complies with the new Plymouth and South West Devon Joint Local Plan (JLP)⁴ with which it shares the same time horizon (2034 or later).

1.12 The JLP establishes a basis to create strong and sustainable communities through its policies. In particular, paragraph 5.116 gives support to neighbourhood plan groups in smaller towns such as Modbury. This neighbourhood plan seeks to ensure a strong and sustainable future for Modbury.

What period does the plan cover?

1.13 The plan formally covers the period to 2034, the same period as that covered by the JLP, and its provisions, so long as they remain fit-for-purpose, may continue to apply beyond that date. In order to maintain its status as a planning tool the plan may be reviewed when necessary.

Are there any limits on the plan?

1.14 The plan will be put before an independent examiner who will judge whether it meets several basic conditions (opposite). If it does so it will proceed to a local public referendum where over 50% of those voting must support the



1.15 To meet the basic conditions at examination a neighbourhood plan must:

- be appropriate, having regard to national policy;
- contribute to the achievement of sustainable development;
- be in general conformity with the strategic policies of the development plan, and
- be compatible with EU obligations, human rights legislation and Regulation 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017.

How will the plan be used and who is it for?

1.16 When the plan has completed formal consultation, examination and referendum it will be "made" and become part of the development plan for the area. This will mean that it will be used alongside other local and national planning policies to help make planning decisions and to guide and manage future development in the area.

1.17 The plan will be used by South Hams District Council to help guide its planning decisions. It will be used by planning inspectors (or the Secretary of State) in relation to planning appeals in the parish. It will be referred to by decision makers of all kinds – planners, investors, developers, funding bodies, community groups and existing and future residents. Its delivery will be the responsibility of us all.

How will other local issues be dealt with?

1.18 The plan can only deal with land use planning matters. Other local priorities will be included in a Community Action Plan⁵ which will sit alongside the neighbourhood plan. This will be used as a basis to seek commitment and action locally and by bodies concerned with or investing in the community.

³ <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

⁴ Joint Local Plan for Plymouth and South West Devon: www.southhams.gov.uk/jointlocalplan

⁵ www.modburynpg.co.uk/Home/community-action-plan/

2. MODBURY IN CONTEXT



2.1 The town of Modbury lies in a hollow surrounded by the rolling hills and ridges of the South Hams. Its dignified terraced houses, slate-hung walls, old shop windows and classical doorways combine to create a fine urban townscape in a rural setting. The wider parish includes the surrounding countryside and farms, is bounded by the River Erme to the west and stretches as far as California Cross in the east. A detailed description of both the built and natural landscape is available in the Village Design Statement (2003)⁶.

Historic context

2.2 Modbury is mentioned in the Domesday Book and records show permission for a weekly market in the town since the late twelfth century. By the thirteenth century Modbury had been made a borough and two annual fairs are also recorded.

2.3 The borough's population has fluctuated over the centuries, reaching a peak with the prosperity of the wool trade in the eighteenth and nineteenth centuries. This was the basis for the impressive architecture seen in many of the town's older buildings.

Modbury today

2.4 Today Modbury town serves as a local centre providing many services and facilities for the wider parish and the surrounding area. It is a lively town with a primary school, meeting hall, churches and a good number of local clubs and associations.

2.5 In 2016 the parish population was approaching 1,700 people, living in just over 800 households. Almost 20% of the population were under 18 and almost 24% were over 65 (similar figures as for Devon as a whole)⁷.

2.6 Much of the parish is protected for its natural, architectural or historic value. The heart of the town is a Conservation Area (see Glossary) and many buildings

are listed. To the south of the A379 lies the South Devon AONB⁸ (see Glossary), and there are many other protected areas and assets.

Aspirations for the future

2.7 The people of Modbury take pride in their town. They want it to flourish and prosper, retaining and caring for its heritage whilst embracing the future and encouraging modern and innovative solutions to problems. The plan aims to build a sound basis for future generations to feel the same way and to ensure that Modbury remains a "balanced, vibrant and healthy place to live."

⁶ www.modburynpg.co.uk/Home/wp-content/uploads/2020/02/Modbury-Village-Design-Statement-2003.pdf

⁷ Census (2011) Office for National Statistics: www.nomisweb.co.uk/reports/localarea?compare=E04003164

⁸ <https://www.southdevonaonb.org.uk/management-plan/>

3. VISION AND OBJECTIVES



The Vision

3.1 The consultations carried out make it clear that people value the intrinsic qualities of Modbury not only as a place but also as a community. The plan will aim to protect, foster and enhance those qualities for the benefit of residents and visitors alike, and the vision for the plan sums this up as follows:

Modbury will seek to embrace the future without compromising its character as an historic market town. It will support a vibrant community living in a safe, sustainable environment. It will be a place where development is in keeping with the existing built form and surrounding landscape and managed to meet the needs of residents and visitors.



Objectives

3.2 Based on the results of the consultations a set of local objectives has been agreed:

- a. Maintain and enhance the historic character of Modbury through listed building and conservation area policies, the preservation of historic sites and buildings and appropriately scaled, phased and sympathetic development. Give high priority to upholding the guidelines laid out in the Modbury Village Design Statement (5 op.cit.) so that all new development is harmonious with the existing built forms which characterise the town;
- b. Enhance the vibrancy of the commercial heart of the town and provide facilities to support increased local employment;
- c. Deliver sufficient new homes, including a range of sizes, types and tenures to meet the needs of local people as well as to contribute to the growth of the town.
- d. Ensure that all new development has sufficient off-street parking for all residents.
- e. Ensure that all new development meets the highest standards of energy efficiency and sustainable construction and takes account of other environmental factors such as landscape impact, flood risk, topography and biodiversity.
- f. Promote a local scheme to deliver community renewable energy
- g. Retain and create new pedestrian and cycle routes through and around the town to reduce reliance on the motorcar and, in particular, provide improvements to pedestrian movements from the Palm Cross area to the Town Centre;
- h. Identify and safeguard or provide community spaces – buildings and open/greenspaces,
- i. Create a town square – that can be used by residents of all ages.
- j. Identify and safeguard or improve play provision to meet NPFA recommendations;
- k. Support a study being undertaken for a relief road for Modbury, respecting the sensitive landscape character of the AONB.
- l. Support a study being undertaken to identify how traffic flow and road safety might be improved around the town.



4. POLICIES AND PROPOSALS

4.1 The policies and proposals of the plan rest upon the issues and concerns which have emerged from the community consultations. Each policy is accompanied by a brief written justification and any additional relevant evidence sources to support the plan's policies are set out in a schedule accompanying the plan. The plan's policies reflect concerns and aspirations expressed by the community in response to consultation undertaken.

4.2 The overall thrust of the plan is to help make sure that Modbury remains a balanced, vibrant and healthy place to live, both now and in the future. Policies are designed to help sustain community well-being, protect local heritage, enable local development, including the provision of affordable housing, improve local communications and traffic conditions, foster thriving local businesses and protect the local environment.

DEVELOPMENT, DESIGN AND CONSTRUCTION

4.3 The plan establishes some key principles to guide development in Modbury. It defines a settlement boundary for the town within which suitable development will generally be acceptable. This aims to ensure that the nature of development taking place will be in keeping with the locality and help to maintain a well-balanced community.

4.4 Outside the town boundary development will be tightly controlled and only permitted where it will meet a proven need for affordable housing for local people (as provided for by JLP policies TTV26 and TTV27 or where it is essential in order to meet agricultural, forestry or other small-scale needs which cannot be met elsewhere. The plan also aims to control the scale, density and character of development so that it is in keeping with the locality and remains geared to meeting local housing needs).

POLICY MNP1: LOCATION, SCALE AND CHARACTER OF DEVELOPMENT

This policy establishes a settlement boundary for Modbury, as shown on Map 2.

1. Development proposals within the settlement boundary will be supported where:
 - a. the scale, density and character of development is in keeping with its site and surroundings, and
 - b. natural or historic assets are protected in accordance with national policy and guidance, and the Development Plan, and
 - c. it protects important views and skylines, and
 - d. there is no adverse impact on local amenity, traffic, parking or safety.
2. Outside the settlement boundary development will be tightly controlled and only supported where it will meet the proven need for affordable housing for local people (as provided for by JLP policies TTV26 and TTV27 or where it is essential in order to meet agricultural, forestry or other small-scale needs which cannot be met elsewhere. The plan also aims to control the scale, density and character of development so that it is in keeping with the locality and remains geared to meet local housing needs).

4.5 New development will be encouraged to display good, sensitive design which is in harmony with the locality and will foster improved environmental and social standards. This means that designers must pay careful attention to the local vernacular and the context and setting of new development, as detailed in the Modbury Village Design Statement (⁶ op.cit.). Good modern designs will be welcome and developers are encouraged to submit their plans to the Design Review Panel⁹ for consideration and comment. Designs must take note of international, national and local targets for carbon reduction^{10,11,12,13} and are strongly encouraged to incorporate the latest effective construction techniques and technology to deliver sustainable, inclusive, energy-efficient buildings which will enhance the area.

⁶ www.modburynpg.co.uk/Home/wp-content/uploads/2020/02/Modbury-Village-Design-Statement-2003.pdf

⁹ Design Review Panel: www.designreviewpanel.co.uk/south-west-design-review-panel

¹⁰ IPCC Special Report, 2018: Global Warming of 1.5 °C <https://www.ipcc.ch/sr15/>

¹¹ Climate Change Act 2008 <http://www.legislation.gov.uk/ukpga/2008/27/section/11>

¹² Net Zero – The UK's contribution to stopping global warming: www.theccc.org.uk/publication/net-zero-the-uks-contribution-to-stopping-global-warming/

¹³ SHDC Climate change and biodiversity website: www.climatechange.southhams.gov.uk

POLICY MNP2: DESIGN AND CONSTRUCTION

All new development will be encouraged to:

- a) be in scale and in keeping with its setting, protecting locally important views and skylines,
- b) respect and where possible enhance local heritage, character and vernacular, safeguarding local distinctiveness and paying due regard to the Modbury Village Design Statement 2003,
- c) retain and where possible enhance local landscape character and tranquillity, including significant field patterns and hedgerows and important trees and woodlands, and incorporating suitable features to reduce scale, improve microclimate and habitat, and integrate new development with the landscape,
- d) include boundary features only utilising local natural stone for walls, clipped native species for hedges or railings, and traditional laid Devon hedge banks wherever development abuts open countryside,
- e) incorporate meters, bin storage and other features appropriately, conveniently and so as not to clutter the street scene,
- f) provide for its own car parking requirements, with residential development providing at least two off-street spaces per dwelling, proportionate to size of dwelling and with facility for EV charging,
- g) be safe, attractive, inclusive and accessible, reducing opportunities for crime and the fear of crime, in consultation with the community, and
- h) safeguard against risks of contamination, erosion or flooding, and ensure satisfactory surface water drainage including Sustainable Urban Drainage Schemes (see Glossary).

All new development will also be encouraged to:

- i) provide three phase electricity supply with sufficient capacity for renewable energy generation, storage and other zero carbon technologies,
- j) preclude use of fossil fuels and enable the incorporation of zero carbon technologies to maximise sustainability and energy efficiency and meet the challenges of climate change.
- k) in consultation with the community, consider community owned renewable energy options,
- l) ensure that installations are registered with appropriate government incentive schemes to allow householders to benefit from energy savings,
- m) exceed government standards for energy efficiency and sustainable construction, taking into account solar gain, sustainable building materials, building design and water efficiency,
- n) achieve zero carbon development in both construction and operation with any offsetting to be within the parish of Modbury, and
- o) provide safeguards during and after construction to protect against environmental damage, local nuisance, unnecessary noise, light or other pollution.

FUTURE DEVELOPMENT

4.6 In March 2018 Modbury Neighbourhood Plan Group, on behalf of Modbury Parish Council, carried out a consultation on the Reg 14 (draft version) of the Modbury Neighbourhood Plan. At that time the local plan for the area (the Plymouth and South West Devon Joint Local Plan, “the JLP”) had been delayed and so there was an uncertain strategic context for the neighbourhood plan.

4.7 The JLP has now been adopted and contains housing development site proposals for Modbury which are shown for information on Map 2 below.

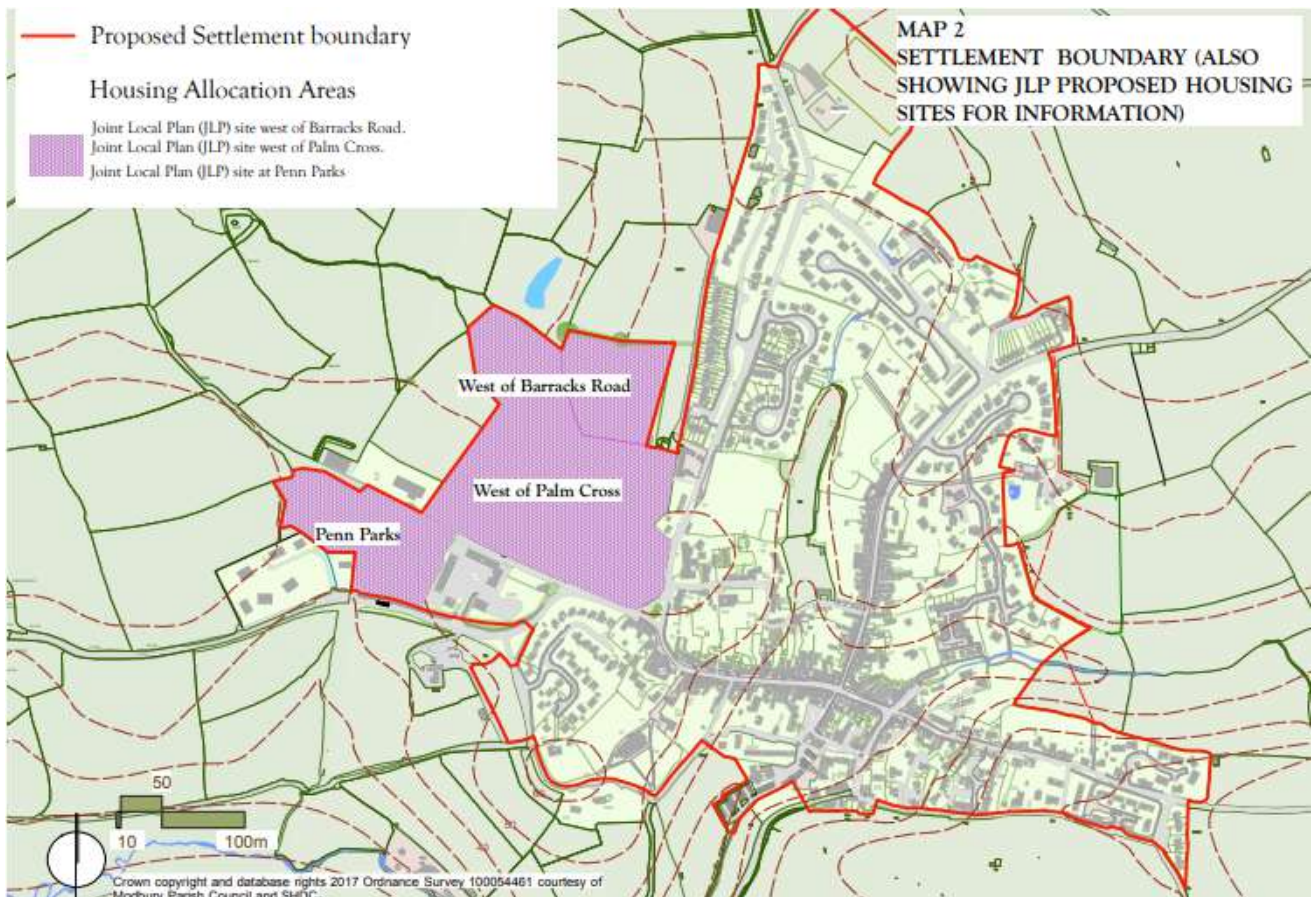
4.8 The JLP proposals extend Modbury to the west. In the future, however, a more balanced and sustainable future for the town could be secured by development elsewhere around the town.

4.9 Previous development plans for Modbury in 1973 and 1996 delineated areas to the east of the town for development. The 1996 Local Plan also contained a requirement that development east of Brownston Street should include landscape belt planting and hedgerow retention both to screen the site and to frame and contain development.

4.10 Further development to the west of the town could further breach the valley to the west, create a ribbon of development along the A379 and edge closer to the Erme Valley SSSI. It would also be more likely to be poorly connected to the town centre thus increasing the potential for greater use of cars.

4.11 In contrast, future development should be well contained within the folds of the surrounding hills, conform more closely to the traditional development patterns of Modbury and deliver much better connectivity, particularly for pedestrians.

4.12 The plan establishes these general principles for new sites for future development in and around the town.



POLICY MNP3: FUTURE DEVELOPMENT IN AND AROUND MODBURY

Future development sites in and adjoining Modbury should:

- a) conform to the town's traditional pattern of development,
- b) contribute to the integrity of the community by being well related to existing development,
- c) be well contained in the landscape,
- d) avoid breaching ridges or further extending existing breaches of ridges, and
- e) be well connected to the town centre, especially for pedestrians.

HISTORY AND HERITAGE

4.13 Modbury's history is strongly reflected in its townscape. The layout of the town and the buildings which line its steep streets create a powerful sense of place and the town's special and distinctive character is recognised through the designation of a Conservation Area and over 100 listed buildings. Across the whole parish 131 buildings are listed for their architectural or historic interest. The Historic Environment Impact Assessment (2016) for the Modbury Flood Relief Scheme by AC Archaeology Ltd provides comprehensive maps and index of the historic assets of Modbury¹⁴.



The main A379 road through Broad Street and Church Street, from Galpin Street



St. George's Church, Grade 1 listed Anglican Church, dating from the 13th century.

4.14 The plan aims to safeguard and care for this precious built heritage, and to enhance public enjoyment and appreciation of it. Designated historic assets, including listed buildings, the conservation area and ancient monuments are protected by national and local strategic policies.^{15,16}



Kingsland, Brownston Street, formerly the Modbury Literary and Scientific Institution, created to provide library and lecture facilities for the town's people.



Poundwell House, owned by members of the Champernowne family during the 17th century, and later the Town's judicial centre, incorporating a Court House and Police Station.

4.15 The district council's Modbury Conservation Area Appraisal¹⁷ describes in more detail the features which create the area's special and distinctive character. This plan protects local historic assets identified in that appraisal, including non-designated buildings, structures and features of special interest and areas of archaeological potential where remnants of medieval and post medieval field systems, woodlands and orchards may survive. In addition to this, the Village Design Statement, produced by the community in 2003 (⁶ op.cit.), further assesses the town's built form and establishes guidelines for good design in new development. The provisions of both documents are relevant and appropriate today and the plan requires new development to pay full regard to their content.

¹⁴ Historic Environment Impact Assessment (2016), AC archaeology Ltd

¹⁵ www.devon.gov.uk/historicenvironment/the-devon-historic-environment-record/historic-landscape-characterisation

¹⁶ <http://modbury-heritage.co.uk/historical-sites-around-modbury/>

¹⁷ www.southhams.gov.uk/article/3469/Conservation-Area-Appraisal-and-Management-Plans

⁶ www.modburynpg.co.uk/Home/wp-content/uploads/2020/02/Modbury-Village-Design-Statement-2003.pdf



Water Supply Conduit,
Brownston Street, 1708.



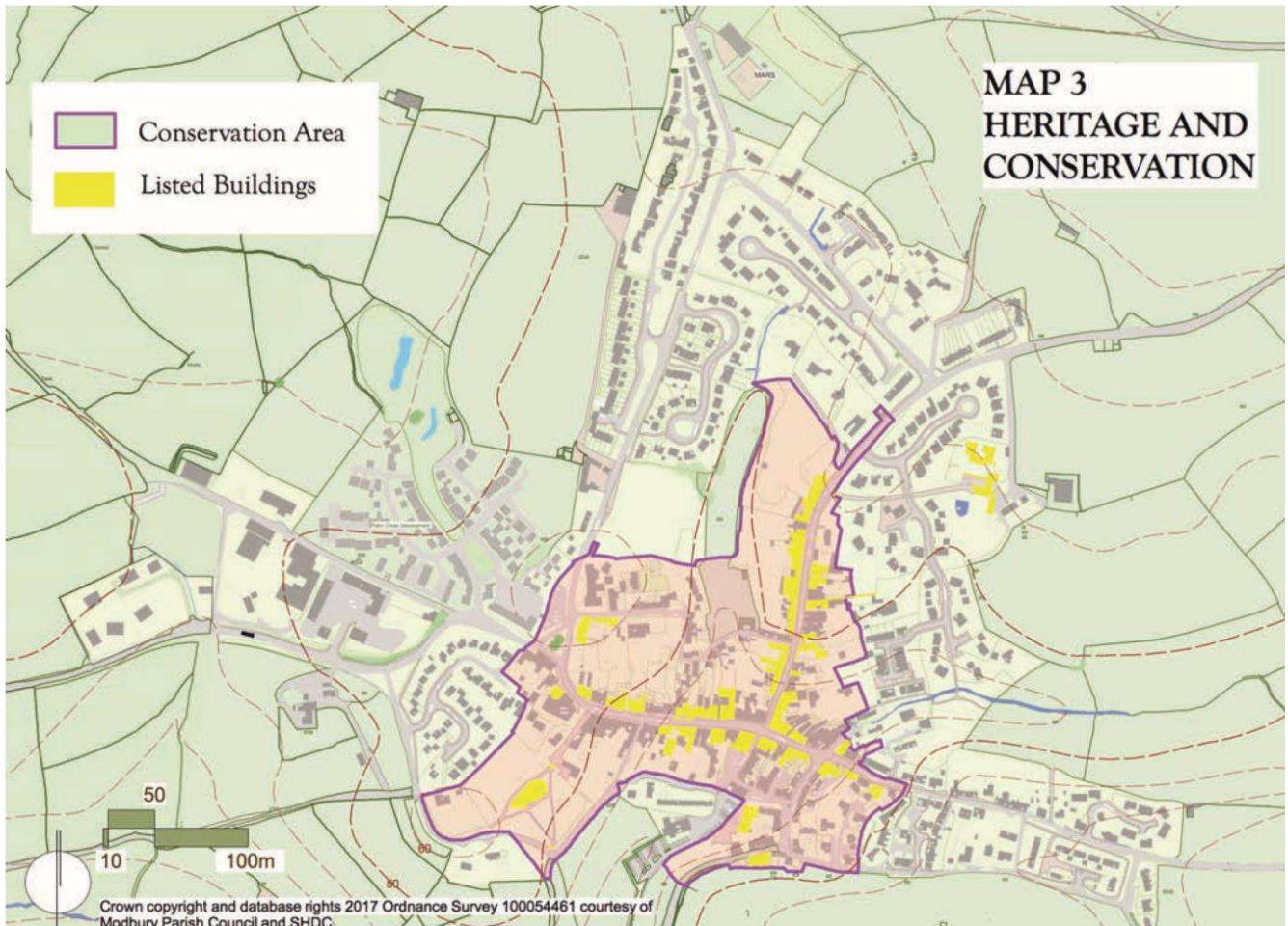
The old Baptist Church, 1806



Runaway Lane. In February 1643, Royalist troops withdrew down this lane from the second Civil War battle of Modbury .

POLICY MNP4: HERITAGE AND CONSERVATION

1. Development proposals affecting heritage assets and their settings or the conservation area must comply with the requirements of national policy and guidance and the Development Plan. New up-to-date uses are encouraged where they retain, restore and enhance the historic fabric that makes each building special, incorporating sensitive retrofitting of energy efficiency measures.
2. Development proposals should pay full regard to the provisions and guidelines contained in the Modbury Conservation Area Appraisal and the Modbury Village Design Statement, particularly for guidance on suitable details and materials.



HOUSING AND DEVELOPMENT

4.16 Modbury is a popular and desirable place to live, attractive across the market, and the number of second homes is higher than the average away from the coast⁷.

4.17 The town is largely unaffordable for first-time buyers and young families¹⁸. The difficulty of entering the housing market drives some to move away and undermines the area's long term sustainability.

4.18 The proportion of older residents is typical for a Devon country town, but there is an unmet need for more manageable accommodation to allow older residents to downsize and release family accommodation for younger households. Community consultation indicated a strong wish for 1, 2 and 3 bedroomed homes².

4.19 The plan aims to address imbalances in housing stock through policies to encourage provision of a greater proportion of smaller and affordable homes, including self-build. The plan particularly encourages the development of affordable homes on a suitable exception site or sites, in accordance with JLP policy TTV27. There is also a local aspiration to see a Community Land Trust¹⁹ established to help bring forward affordable homes in Modbury.

POLICY MNP5: HOUSING DEVELOPMENT

1. New housing development (apart from replacement dwellings) shall supply homes for all ages, to create a healthy demographic spread, avoiding a focus on any one particular age group at the expense of others so that opportunities to own or rent a home are equally available to all. New development of 1, 2 and 3 bedroom homes will be particularly welcomed to help meet local housing needs for single people, couples and families and improve the balance of housing stock in the locality.
2. The delivery of new homes suitable for older residents will be particularly welcomed.
3. Each new housing development which exceeds 10 units shall provide the proportion of affordable homes consistent with JLP policy. The definition of affordable homes, whether for purchase or rent, shall accord with national and local strategic policies.
4. Proposals for affordable housing schemes on rural exception sites will be supported where they meet the requirements of national and local strategic policies and the other policies of this plan.
5. Affordable housing delivered by a Community Land Trust or as self-build will be welcomed as an alternative to the traditional types of affordable housing provision.



Tuckers Brook



Burns Lane

⁷ Census (2011) Office for National Statistics. <https://www.nomisweb.co.uk/reports/localarea?compare=E04003164>

¹⁸ The Local Housing Market and Affordability - Report to Neighbourhood Plan Group: Smith, P, 2018

² www.modburynpg.co.uk/Home/consultations

¹⁹ Community Land Trust: www.communitylandtrust.org.uk

PRINCIPAL RESIDENCE

4.20 There is growing concern about the increasing number of properties which are second homes. The 2011 Census (⁷ op.cit.) put the number of second homes in Modbury at 8.3% but that figure is growing steadily. In neighbouring Bigbury a survey in 2018 found that 24% of properties were used as second homes²⁰. Homes in nearby communities such as Bigbury-on-Sea and Salcombe are among the most expensive coastal properties in the UK²¹ and are increasingly unaffordable for local people.

4.21 Growth in the number of second homes in the area, resulting in rising house prices and adverse impacts on local communities, is likely to increase in future, undermining the longer term sustainability of small towns such as Modbury. While second home ownership does contribute to the local economy, it has been shown that permanent residents spend more locally than owners of second and holiday homes, thereby making a greater contribution to sustainability²². The Plan aims to help Modbury to remain a balanced and sustainable community^{23,24}.

4.22 On the advice of the independent examiner, the originally proposed policy has been deleted by reason that the level of second home ownership is currently not one that would support a principal residency policy. South Hams District Council, as the local planning authority, supports in principle the inclusion of a Principal Residence Requirement within Neighbourhood Plans where such a requirement is justified by an increasing proportion of second homes. We would wish to work with the District Council to keep this matter under review and to implement a workable policy in the future.

⁷ Census (2011) Office for National Statistics. <https://www.nomisweb.co.uk/reports/localarea?compare=E04003164>

²⁰ Bigbury Neighbourhood Plan 2019-2034: www.bigburycommunity.co.uk/?get_group_doc=219/1575555198-NeighbourhoodPlanReferendumVersion.pdf

²¹ www.lloydsbankinggroup.com/media/press-releases/2021/halifax/britains-most-expensive-seaside-towns.

²² Jenny Barnett (2014) Host community perceptions of the contributions of second homes *Annals of Leisure Research*, 17:1, 10-26, DOI: 10.1080/11745398.2014.886156

²³ What is the impact of second home ownership in rural Britain? <http://www.countryfile.com/article/second-home-ownership-problem>

²⁴ The case for a Principal Residence Policy: www.modburynpg.co.uk/Home/evidence-base

ROAD SAFETY AND TRANSPORT

4.23 The A379 passes through the heart of Modbury, bringing trade to the town centre alongside congestion, hazard, noise and fumes. Any measures to improve traffic safety, alleviate congestion and improve car parking will be welcomed. Congestion at peak times, especially during summer tourist season, may lead to a delay in response times of the emergency services. There is a balance of opinion in the parish that a relief road would also be an advantage. This has been considered over many years and a route was safeguarded in some earlier plans. Constructing a relief road would serve to reduce traffic volumes and speeds through the town, but would cause inevitable damage to the surrounding countryside and potentially serve to reduce passing trade for shops and businesses. This plan therefore supports the undertaking of a study to evaluate the feasibility of a relief road.

4.24 Parts of the town are poorly provided with pavements and footpaths. In particular, good, safe pedestrian links around the school and to recreational and green spaces are lacking. Improvements to pedestrian safety and convenience will be required as a part of new developments, as will enhancements in cycle and public transport provision.




4.25 longer term aspirations include the provision of support for studies to identify how traffic flow and road safety might be improved in Modbury, and to explore the feasibility of a relief road.

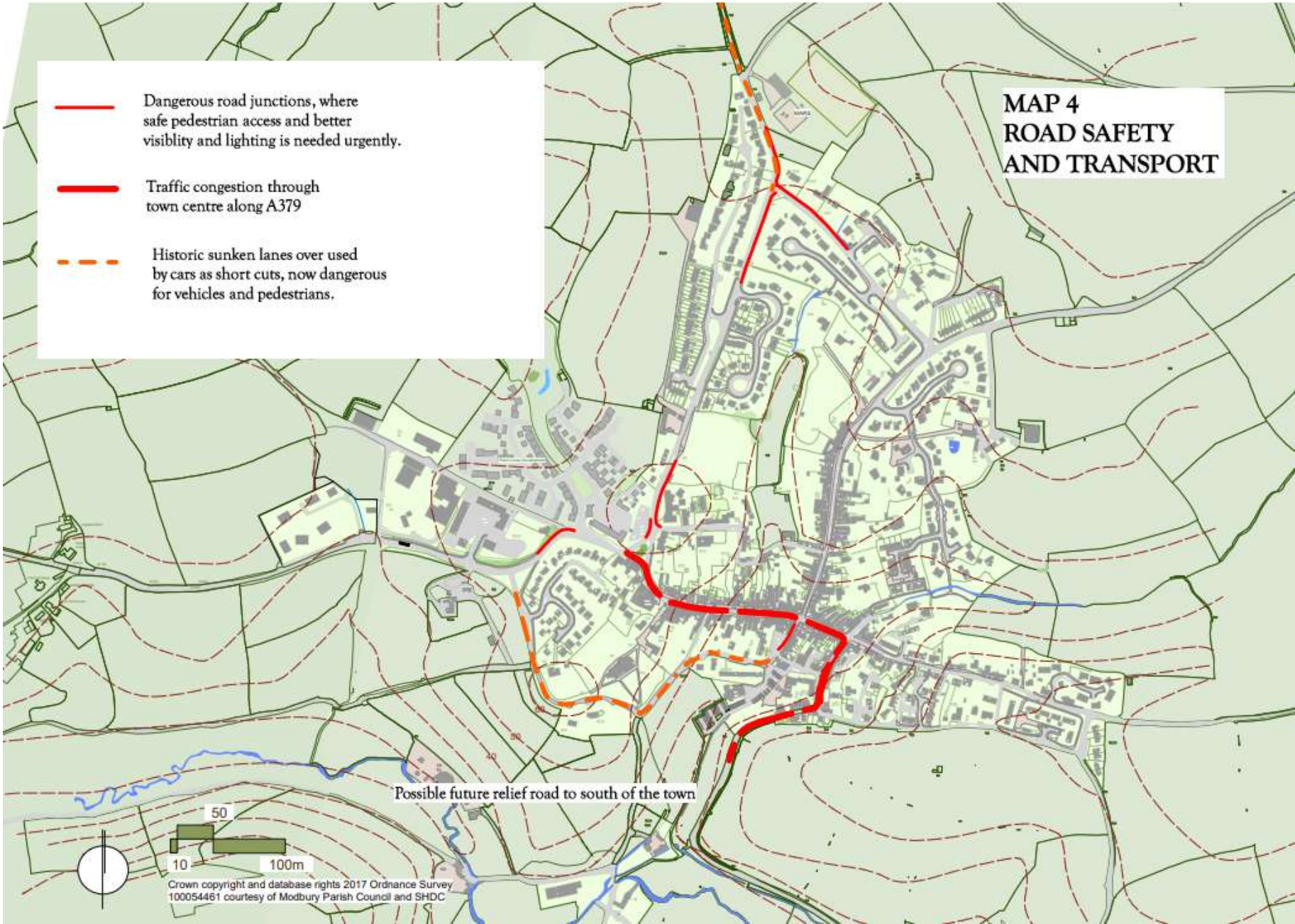
POLICY MNP6: SAFE MOVEMENT AND TRANSPORT

1. Development proposals should include, where appropriate, good, safe pedestrian access and links with enhanced opportunities for walking, cycling, shared mobility and the use of public transport. Improved pedestrian links around the school and to recreational and green spaces are required, in particular at Palm Cross and to the recreation ground.
2. Development should not worsen traffic congestion or adversely affect highway safety, traffic flow and/or parking conditions, particularly on the congested parts of the network highlighted on the Proposals Map. Proposals that would ease traffic congestion or enhance highway safety, traffic flow and/or parking provision will be supported.
3. Streets should be designed and laid out with the purpose of achieving a reduction in traffic speeds through measures such as Home Zones rather than signs.
4. Good, safe pedestrian access to new housing development will be required.



**MAP 4
ROAD SAFETY
AND TRANSPORT**

-  Dangerous road junctions, where safe pedestrian access and better visibility and lighting is needed urgently.
-  Traffic congestion through town centre along A379
-  Historic sunken lanes over used by cars as short cuts, now dangerous for vehicles and pedestrians.



EMPLOYMENT AND BUSINESS

4.26 The plan aims to help sustain and enhance the local economy. New business development in keeping with the locality, including home-based businesses and the expansion of existing businesses, is encouraged. A work-hub is proposed, aimed at supporting local start-ups and community-based enterprises. This could be located in purpose-built accommodation or suitable existing premises. To support the local economy and precious job opportunities the plan also protects key business and employment zones, as shown on Map 5, seeking to retain such premises in that use unless it can be demonstrated no longer to be viable. Opportunities to promote and support local business will be sought through the Community Action Plan (⁵ op.cit.).

4.27 The town centre shops are a part of what makes Modbury special and successful. The plan restricts shopping development to the central area of the town to help support and sustain its retail function.



POLICY MNP7: BUSINESS DEVELOPMENT

1. New business, commercial and employment development, including home-based businesses and expansion of existing businesses, will be supported providing it will:
 - a. not worsen traffic congestion or adversely affect highway safety or traffic flow,
 - b. include adequate space and parking for employees, customers and deliveries, and
 - c. be in keeping with the locality and cause no harm to amenity or nuisance to neighbours.
2. A work hub for local start-ups and community-based enterprises will be supported in suitable premises.
3. In the designated business and employment zones (at Plymouth Road, Barrack Road, and Poundwell Street) changes of use of existing business or employment premises will not be permitted unless it can be demonstrated that the existing business is no longer viable and that reasonable efforts have been made to find an alternative business user by evidence of the premises being marketed for business use over at least 2 years.

POLICY MNP8: TOWN CENTRE SHOPPING

In the town centre changes of use which will support its retail character will be welcomed. Changes of use which would undermine that character, detract from the appearance of the centre or adversely affect local amenity because of noise, smell, litter or other disturbance will be discouraged.

**MAP 5
TOWN CENTRE RETAIL ZONE AND
BUSINESS AND EMPLOYMENT ZONES**

 Town Centre Retail Zone
 Business and Employment Zones



Crown copyright and database rights 2017 Ordnance Survey 100054461 courtesy of Modbury Parish Council and SHDC

COMMUNICATION



4.28 The plan lays emphasis on enhanced communications through improved electronic communications infrastructure. National and local policy support good broadband infrastructure, but coverage and connectivity in South Hams is falling behind, with a superfast availability of only 78% compared to a national average of 95% , gigabit availability of only 18% (national average 36%) and poor mobile coverage in some areas.

4.29 To address the rural digital connectivity gap new development will be expected to provide the required industry standard infrastructure to allow for the installation and maintenance of full fibre optic broadband. With broadband technology constantly improving and the continued goals of increasing speed, there is also a requirement to allow for the upgrade of current broadband with minimal disruption to customers.

POLICY MNP9: BROADBAND AND COMMUNICATIONS INFRASTRUCTURE

This Plan supports the provision of on-site infrastructure for the installation of, and to allow for, the future upgrade and maintenance of fibre optic broadband technology.

1. Developers are encouraged to submit a connectivity statement to set out the proposed broadband provision.
2. New residential and non-residential development should, wherever possible include appropriate open access gigabit capable fiber optic infrastructure to enable high speed and reliable broadband connection in accordance with national and local objectives to increase coverage.
3. The creation of a building to act as a fibre hub to enable fibre connections within the area will be supported.



SERVICES AND FACILITIES

4.30 Local services and facilities for the parish are concentrated in Modbury town. It offers a good range of local facilities – shops, pubs, post office, primary school, churches and meeting places, open space and sports and play facilities. There are also more than 50 local organisations active in the town, demonstrating its vibrancy and helping to sustain the health and strength of the community. The plan aims to safeguard these facilities and other important local infrastructure or to improve provision. Where appropriate these aspirations will be addressed in the Community Action Plan (⁵ op.cit.).

4.31 The need to improve safe pedestrian and cycle access to all facilities has been an overwhelming priority of the community expressed in both formal and informal consultations, to enable community life, social cohesion and healthy lifestyles to be sustained²⁵.

4.32 New development will be required to contribute towards maintaining and improving the town's social fabric. There has long been an aspiration in Modbury to create a central public space – a safe, pedestrian-friendly civic space. The focus has been on the area behind The White Hart and the plan seeks contributions from development towards making this long held aspiration a reality. In doing so the aim will be to also seek to maintain levels of town centre car parking provision, especially for the disabled.

4.33 New development will also be required to contribute towards improving pedestrian links to the Recreation Ground and Pavilion, road safety around the school and safety and provision for pedestrians and cyclists in general, particularly aimed at supporting the more vulnerable groups, including children, the elderly and those living with disability. Proposals for play and sports provision complement and support the detailed recommendations made in the Open Space, Sport and Recreation (OSSR)²⁶ assessment (2018).

New developments in Modbury will be required to contribute to the above priorities through a Section 106 (see Glossary obligation or through Community infrastructure Levy (see Glossary, in accordance with adopted standards.



⁵ www.modburynpg.co.uk/Home/community-action-plan/
²⁵ Modbury Neighbourhood Plan Household Questionnaire. www.modburynpg.co.uk
²⁶ OSSR Open Spaces, Sport and Recreation Assessment (2018) prepared by Modbury Association for Recreation and Sport (MARS) for the Parish Council. <http://www.modburypc.co.uk/wp-content/uploads/2018/04/OSSR-March-2018.pdf>

POLICY MNP10: EXISTING COMMUNITY FACILITIES AND INFRASTRUCTURE

In order to help safeguard the sustainability of the local community, development that would result in the loss of an asset of community value will not be permitted unless:

- a. there is adequate alternative provision in the parish, or
- b. the facility can be shown to be no longer viable.

The assets of community value safeguarded by the policy are the Health Centre, pharmacy, Post Office, primary school, Memorial Hall, QE11 pavilion and recreation ground, established children's play areas, public lavatories, St George's Church and St Monica's Church.

MNP11: NEW COMMUNITY FACILITIES AND INFRASTRUCTURE

1. Development that will demonstrably support the vibrancy and vitality of the town and wider community or provide additional community facilities and infrastructure will be supported, providing it will:

- a. not worsen traffic congestion or adversely affect highway safety or traffic flow,
- b. include safe access and adequate parking provision for all,
- c. provide safe pedestrian access to the town centre and recreation ground, and
- d. be in keeping with the locality and cause no harm to amenity or nuisance to neighbours.

2. Proposals to expand electronic communications and broadband will be supported, providing:

- a. apparatus is erected on existing buildings or structures wherever possible,
- b. apparatus is kept to the minimum necessary for efficient operation, and
- c. apparatus will be sited to minimise impacts on the AONB.



Memorial Hall



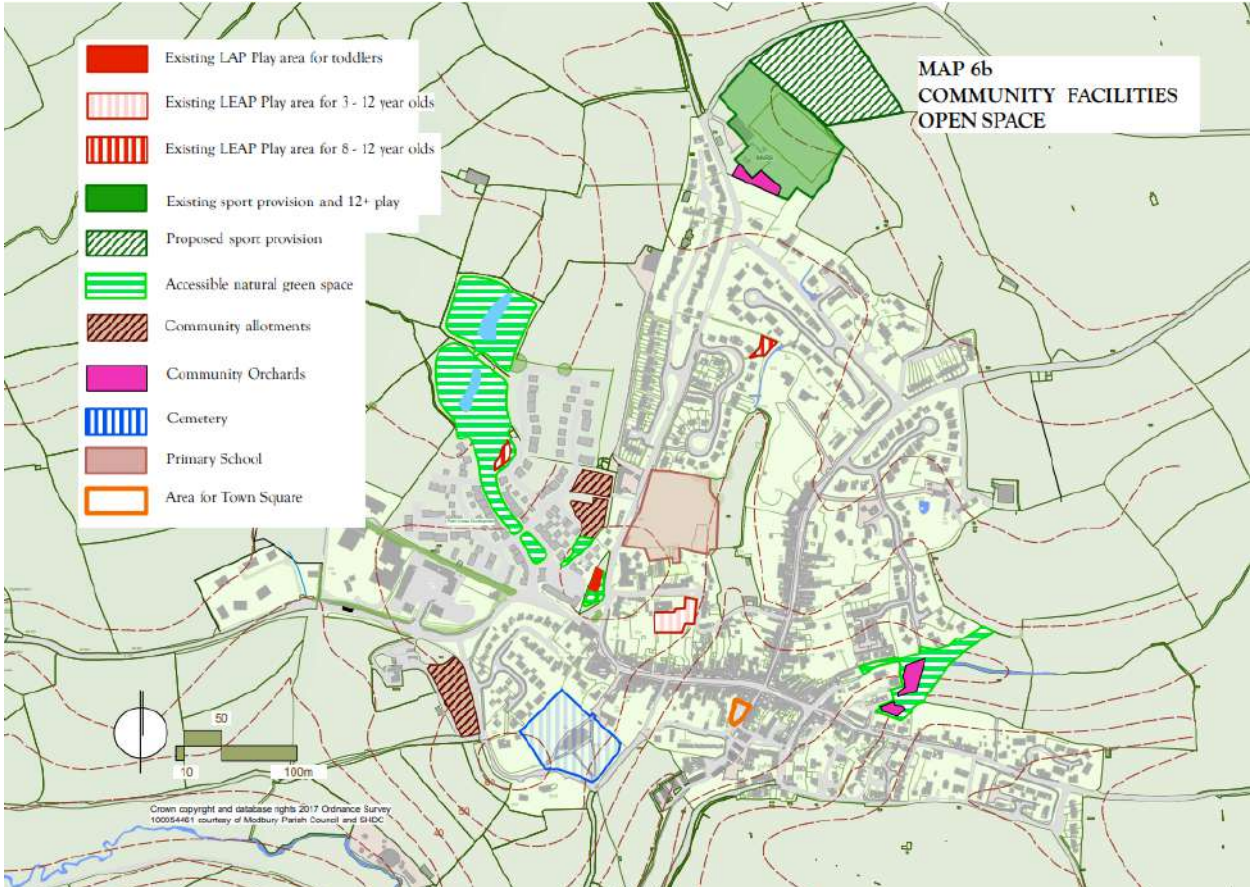
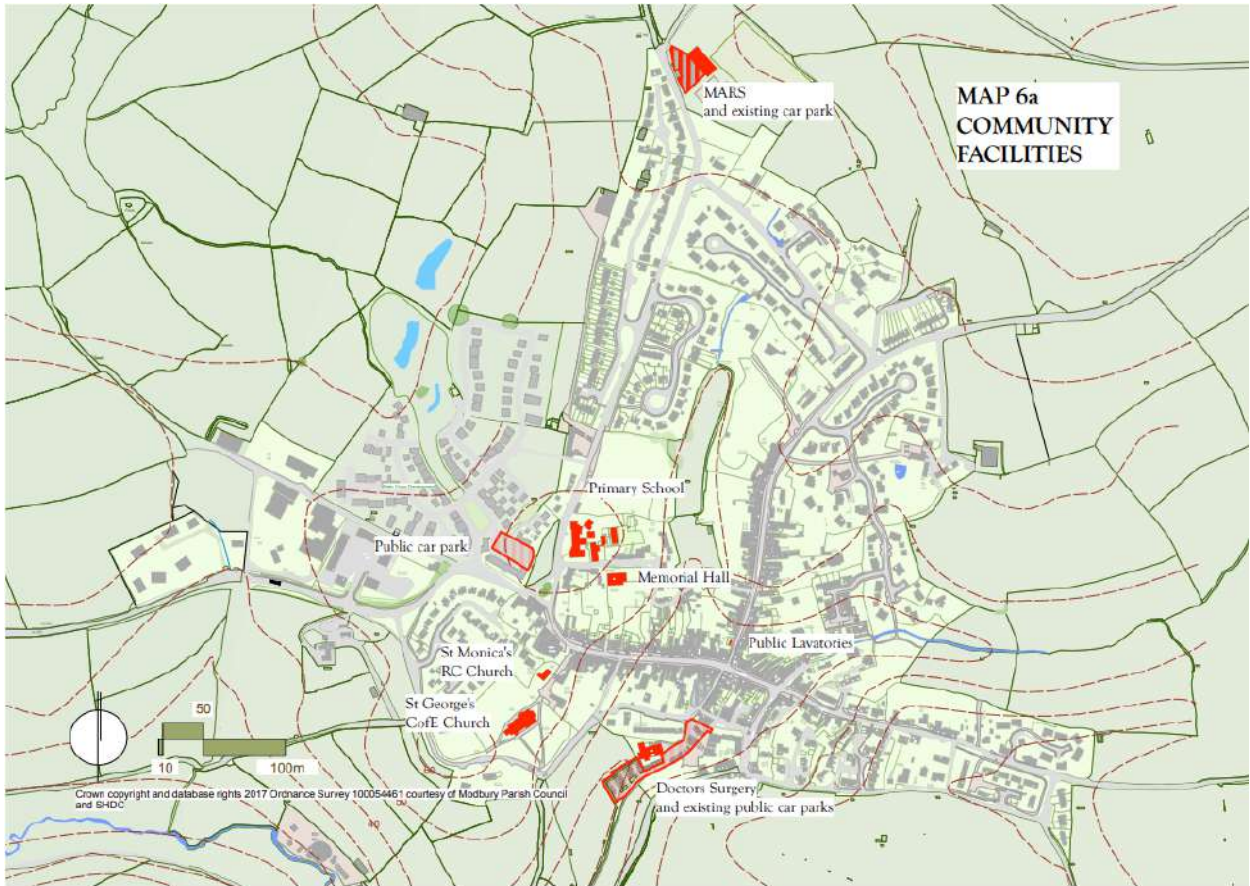
Fire station

MNP12: PRIORITIES FOR COMMUNITY FACILITIES AND INFRASTRUCTURE

New developments in Modbury will be required, where appropriate and where the requirement arises directly from the proposed development, to contribute through a Section 106 obligation or through Community Infrastructure Levy (see glossary), towards the following local objectives and in accordance with adopted standards:

- a. to improve safe pedestrian and cycle access to all facilities, particularly between the town and the Recreation Ground,
- b. to improve road safety around the school,
- c. to protect and improve public rights of way, footpaths and cycle routes,
- d. to ensure that children's play areas are evenly distributed across the town,
- e. to maintain and improve sports provision,
- f. to provide electric vehicle recharging points in the car parks,
- g. to increase the provision of residential car parking,
- h. to achieve the provision of public open space to contribute towards a necklace of spaces around the town,
- i. to develop community woodland for habitat and recreation.
- j. to maintain and develop community allotments and public community orchards for food security,
- k. to create a civic space in the area behind The White Hart.





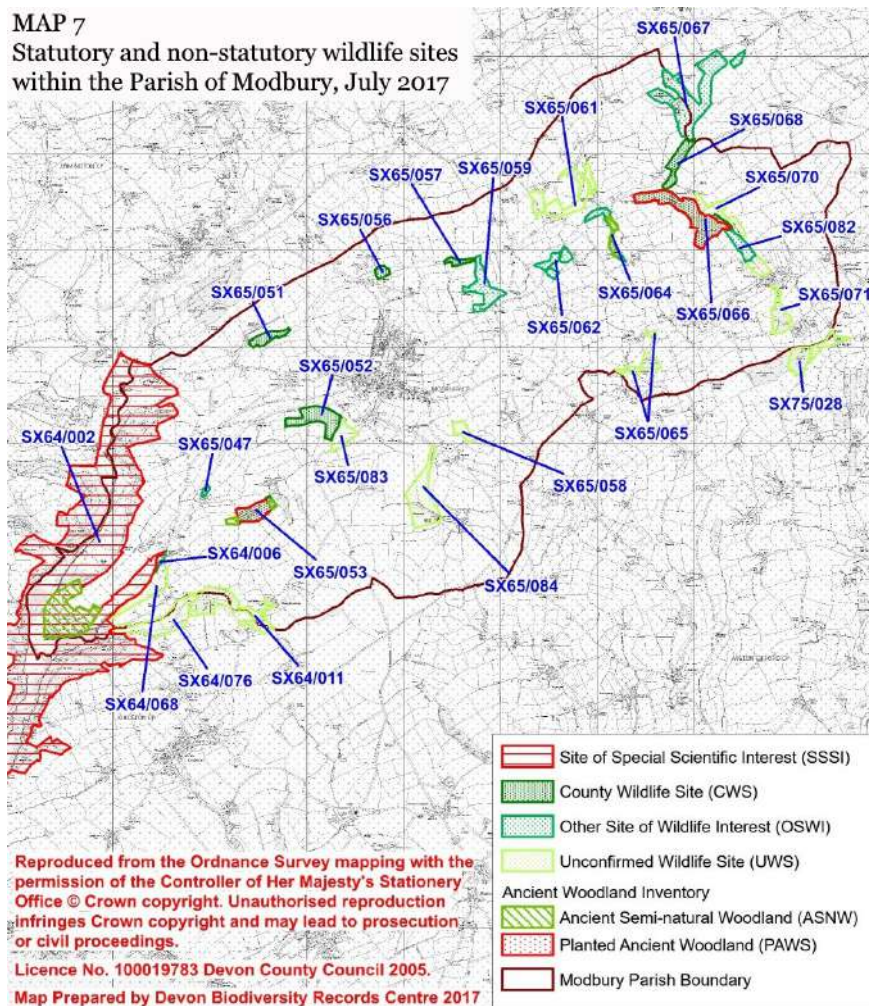


ENVIRONMENT AND SUSTAINABILITY

4.34 The plan aims to protect and enhance the natural environment and environmental assets, in particular the Area of Outstanding Natural Beauty (⁸ op.cit. and locally important green spaces (³ op.cit., paras 99-101, both for their beauty and public enjoyment and for their ecological value. This also is important for flood risk management and protection of water quality and mitigation of the impact of climate change. The AONB and Site of Special Scientific interest (see Glossary) are protected by national policy. The Devon Biodiversity report for Modbury²⁷ gives details of wildlife sites, shown in Map 7, below. To help protect the setting of the town the plan also identifies important local views which ought to be maintained. Other protected areas and green spaces are also shown on Map 9. A flood management scheme was completed in 2019.

4.35 Modbury lacks sufficient public open space. The plan protects existing green spaces, aiming to keep them green and available for public enjoyment. New green spaces, recreational spaces, play spaces or allotments are also required. In particular new community orchards and a community woodland are sought, to be located on the town perimeter in readily accessible locations, to provide for recreation and play and as a managed wood fuel source. Where feasible, restoration of existing green lanes for pedestrian use.

4.36 The Parish of Modbury contains a number of statutory and non-statutory sites which are important to conserve and protect the biodiversity of wildlife in the area.



⁸ <https://www.southdevonaonb.org.uk/management-plan/>

³ <https://www.gov.uk/government/publications/national-planning-policy-framework--2>

²⁷ Wildlife site resource map and species information for neighbourhood planning – Modbury, July 2017: Devon Biodiversity Records Centre: www.devonwildlifetrust.org/devon-biodiversity-record-centre

POLICY MNP13: PROTECTING THE LANDSCAPE

Development shall not harm but conserve and enhance the landscape by:

- a. complying with national and local strategic policies for the AONB, including the South Devon AONB Management Plan,
- b. protecting important views, as shown on Map 8, ensuring sensitive development that would not adversely affect the countryside,
- c. safeguarding and enhancing local features that make a positive contribution to the landscape, particularly areas of green space and woods, and
- d. incorporating high quality landscape design which retains existing features, reinforces local landscape character, restores degraded landscapes, retains significant local heritage trees and groups of trees and provides mitigation from harm.



Looking south west toward Erme estuary



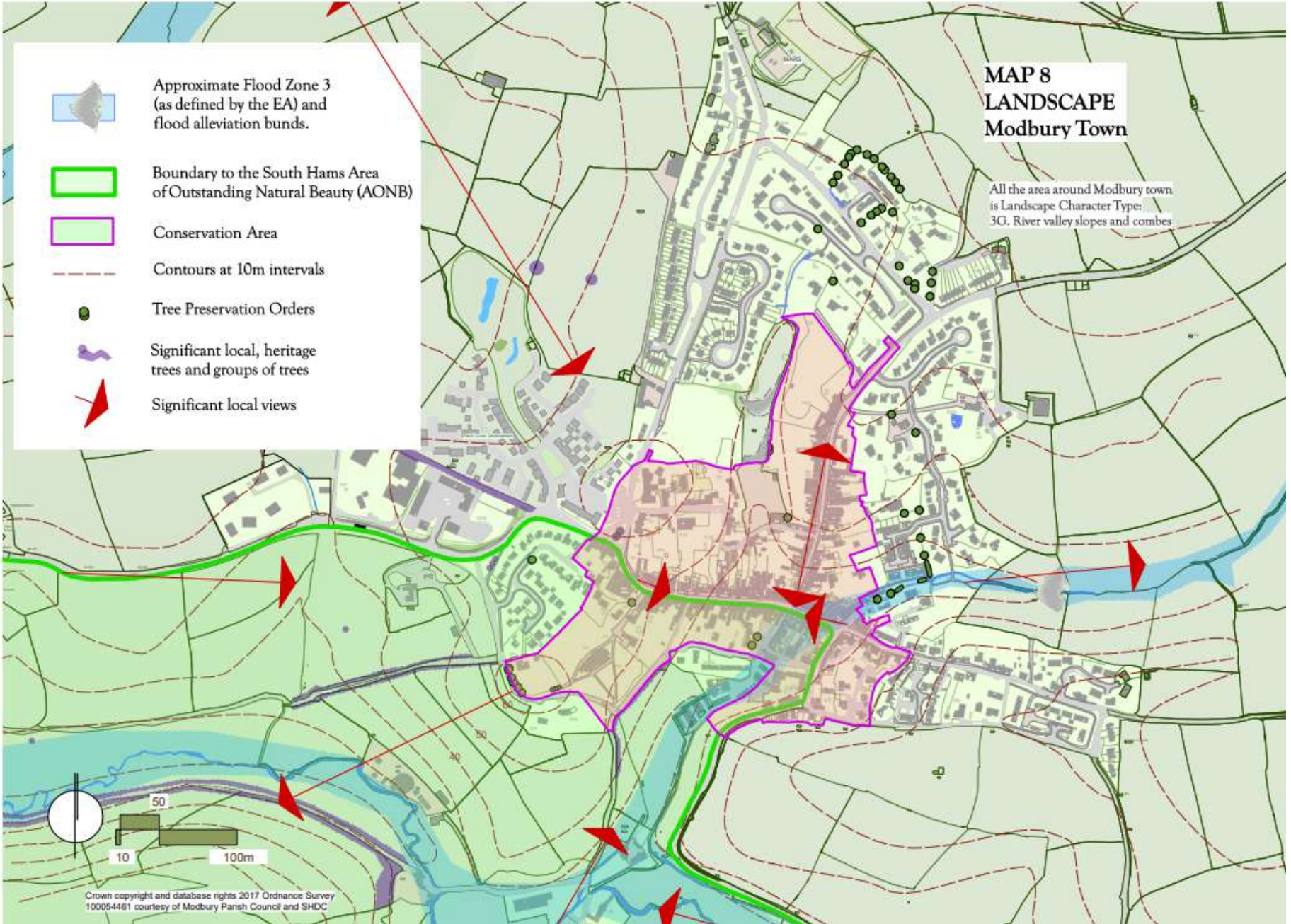
Ridge road



Broad street and Church Street



From west toward Palm Cross development



POLICY MNP14: SUPPORTING BIODIVERSITY

Development shall not harm but maintain and enhance biodiversity, paying due regard to:

- a. internationally important sites including existing, candidate or proposed Special Protection Areas and Special Areas of Conservation,
- b. nationally important sites including Sites of Special Scientific Interest, National Nature Reserves and Marine Conservation Zones,
- c. locally important sites including County Wildlife Sites, Local Nature Reserves, Ancient Woodlands, County Geological Sites and other priority habitats, and
- d. the network of wildlife corridors and ecological features that connect habitats and areas of biodiversity.



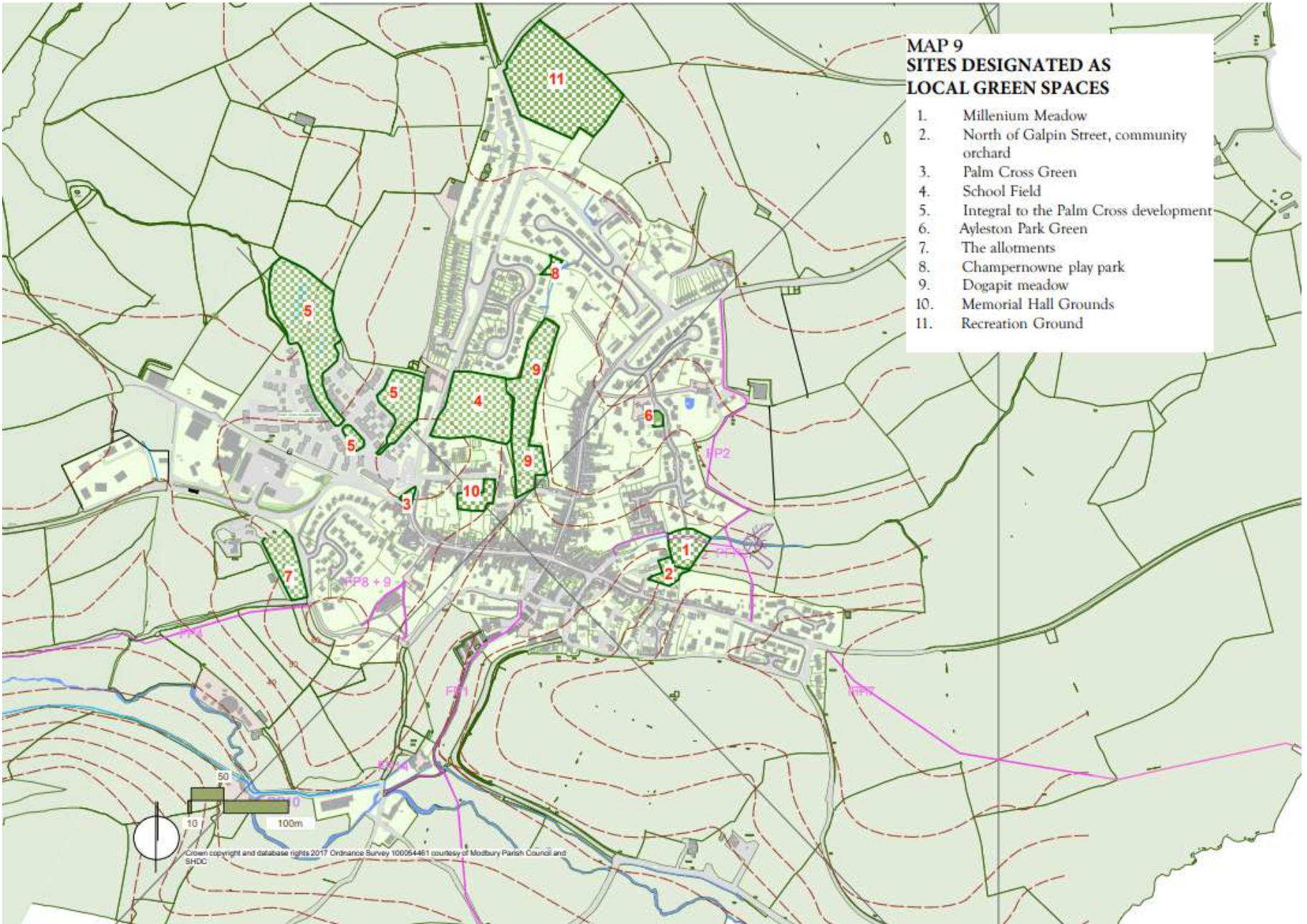
Sequers Bridge, river Erme SSSI site



River Erme SSSI site



Wild orchids, CWS Cotlass



POLICY MNP15: LOCAL GREEN SPACES AND PUBLIC OPEN SPACE

The following are designated as Local Green Spaces:

1. **Millennium Meadow**
(Public open space, community orchard)
2. **North of Galpin Street**
(Community orchard/public open space)
3. **Palm Cross Green**
(Historic, local character)
4. **School field**
(School sports field and play area, community orchard, recreational, wildlife)
5. **Integral to the Palm Cross development**
(Public open space, allotment and wildlife, play, proximity to housing)
6. **Ayleston Park Green**
(Chestnut tree with Tree Preservation Order, historic, local character)
7. **Allotments**
(Community amenity)
8. **Champernowne playpark**
(Community recreation)
9. **Dogapit meadow**
(Landscape buffer, green lung, local character, wildlife, attenuation for flood risk, planted for wildlife)
10. **Memorial Hall grounds**
(Public amenity, play area)
11. **Recreation ground**
(Public amenity, community orchard, play area)

Inappropriate development will not be supported, except in very special circumstances.

4.37 Longer term aspirations are:

- a. To create a necklace of community woodland around Modbury. As land on the margins of the town is made available for such a purpose it will also be designated as public open space. Developments on the town's margins should include such provision.
- b. New areas of public open space, play space, allotments or local green space (see Glossary), including a community woodland and community orchards, will be encouraged and required where necessary, in association with development or otherwise.



Millennium Meadow



Church Lane allotments

5. DELIVERING THE PLAN

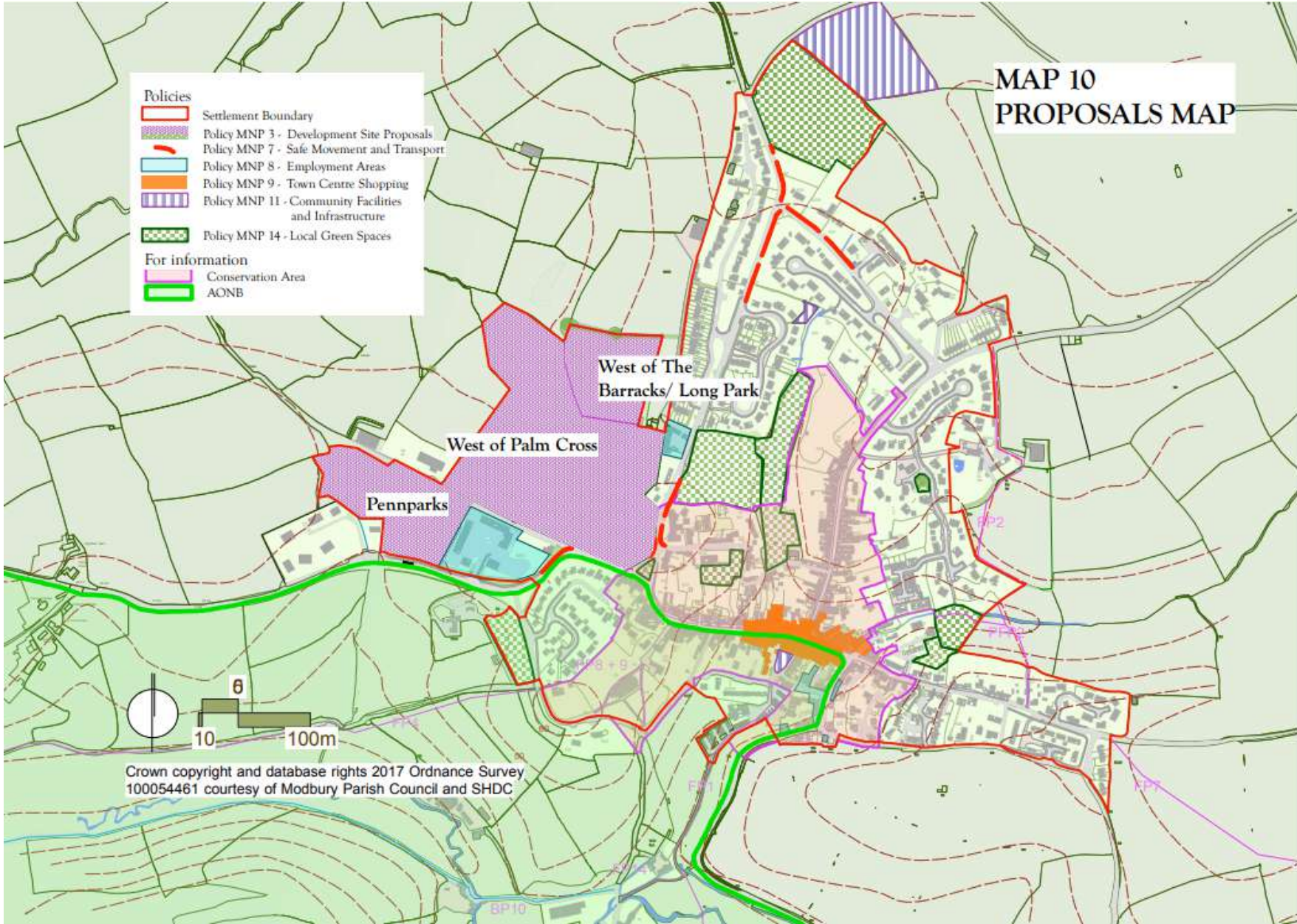
5.1 Many of the plan's proposals will only happen with private sector investment, but this does not remove Devon County, South Hams District and Modbury Parish Councils or other public bodies from their responsibilities for infrastructure and services. The Plan's policies aim to steer and shape development. It is, however, expected that developer contributions will be gathered through S106 agreements, Community Infrastructure Levy, or similar, in order to address any specific mitigation required by new development, or the broader impacts of development.

5.2 The policies of this Plan and the JLP will be complementary, together providing a firm platform for all parties to cooperate in promoting, enabling and delivering beneficial developments and improvements of all kinds. Conformity between plans will be key to unlocking funds to support this plan's delivery, and it is hoped that Devon County, South Hams District and Modbury Parish Councils will take a proactive role in this regard.

5.3 Once the Neighbourhood Plan is formally adopted by South Hams Council it will become part of the local development plan. This means that it will be a material consideration in the determination of planning applications. The Council will therefore assess development proposals against the objectives of the Neighbourhood Plan alongside the JLP and any related implementation plan to ensure that the aspirations of the community are being met.

5.4 Monitoring may require the plan to be reviewed in due course to keep it up-to-date and relevant. A monitoring framework is suggested to help judge the effectiveness of the plan's policies. Any formal amendments to the plan will have to follow a similar process as was used to prepare the original plan.





GLOSSARY OF TERMS

HOUSING TERMINOLOGY	
Affordable Housing	Affordable housing for planning purposes includes housing from a range of tenures where the cost of occupation does not exceed 80% of the market rent for similar accommodation in the local area. Housing which qualifies as affordable is:
	a. Social housing - Including Council and Housing Association housing let at social rent levels (which are substantially below market levels).
	b. Affordable rented housing - Other housing let, usually but not exclusively by Housing Associations, at a cost no greater than 80% of the local market rent.
	c. Low-cost homeownership - This can be shared ownership or other low-cost home ownership housing where the cost is below 80% of the open market rent level in the local area. There must be an element of perpetuity in this housing to qualify as affordable in planning terms.
Registered Social Landlord	A landlord, usually a housing association, which is regulated by the Homes and Communities Agency to provide affordable housing. The term has now been replaced with the term Registered Provider.
Registered Provider	The new term for a Registered Social Landlord.
Home	Also known as a dwelling, it is a building occupied as a domestic residence for a single household. It can be a house, bungalow, flat, maisonette, apartment or park home. It is usually self-contained (i.e. with its own facilities) but can occasionally be part of a larger building sharing facilities (a House in Multiple Occupation).
Principal Residence	A person's principal or primary residence is a dwelling where (s)he usually lives. It is the legal residence of an individual, for instance for income tax or electoral registration purposes. An individual cannot have more than one principal residence at any given time.
GENERAL TERMINOLOGY	
AONB	A national designation of equal standing to a national park, intended to help protect and manage the landscape.
Community Infrastructure Levy	This is a planning charge, introduced by the Planning Act 2008 as a tool for local authorities in England and Wales to help deliver infrastructure to support the development of their area. Development may be liable for a charge under the Community Infrastructure Levy (CIL), if the local planning authority has chosen to set a charge in its area. (Community Infrastructure Levy Regulations 2010)
Community Land Trust	A form of community-led housing set up by members of the community to develop and manage homes or other community assets
Conservation Area	An area of special architectural or historic interest, designated under the Planning (Listed Buildings and Conservation Areas) Act 1991, whose character and appearance it is desirable to preserve and enhance.
Demographic	Characteristics of a population expressed statistically, such as age and occupation.

GENERAL TERMINOLOGY *continued*

Local Green Space	Green areas of particular importance to local communities designated to provide special protection against development.
Modbury	The Parish of Modbury
National Planning Policy Framework (NPPF)	Sets out government planning policies for England and how they should be applied
PoS	Public open Space.
Shared space	Where pedestrians have equal rights to use a space also used by vehicles, thereby reducing vehicle speeds and enhancing pedestrian safety.
Site of Special Scientific Interest (SSSI)	A conservation designation, denoting a protected area of land considered to be of special interest by virtue of its fauna, flora, geological or physiographical/geomorphological features.
Sustainable Urban Drainage System	Includes measures to prevent pollution, reduce surface water runoff at source and provide a range of physical structures designed to receive the runoff
Sustainability	Long term secure wellbeing of Modbury (of its economy/environment/population).
Sustainability Appraisal	The consideration of policies and proposals to assess their impact on sustainable development objectives.
Neighbourhood Plan	Prepared by a Parish Council or Neighbourhood Forum for a designated neighbourhood area.
Section 106	Section 106 (S106) Agreements are legal agreements between Local Authorities and developers; these are linked to planning permissions and can also be known as planning obligations. Section 106 agreements are drafted when it is considered that a development will have significant impacts on the local area that cannot be moderated by means of conditions attached to a planning decision. A Planning obligation will aim to balance the pressure created by the new development with improvements to the surrounding area ensuring that where possible the development would make a positive contribution to the local area and community.



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- 27 Wildlife site resource map and species information for neighbourhood planning – Modbury, July 2017: Devon Biodiversity Records Centre-Report for Modbury NP: www.modburynpg.co.uk/Home/evidence-base

ACKNOWLEDGMENTS

Below is a list of people, who have given many hours of their time on a voluntary basis, except for the posts of independent Planning Consultant and Website Manager for whom payment was agreed by the Parish Council.

The NPG have prepared this Plan by working in close consultation with the residents of Modbury to obtain their views on the full range of issues affecting life in the town and their preferred vision of the way forward. Acknowledgment is therefore due to the indispensable contribution of all those who engaged in the range of consultation events between 2016-2019.

Members of Neighbourhood Plan Group

- ❖ Ann Turner, Chair
- ❖ Phil Jolly, Treasurer
- ❖ Alison Wood, Minutes Secretary, Community Services and Facilities Group
- ❖ Chris Barnes, Parish Councillor/Transport Group
- ❖ Jeff Booth, Environment and Sustainability Group (co-opted)
- ❖ Nicky Crawford, Historic Environment Group (co-opted)
- ❖ Burda Gage, Housing and Transport Groups
- ❖ Mark Lawrence, (previous Parish Councillor) Housing Group / Grant Applications /Questionnaire Analysis and Statistician)
- ❖ Rosemary Parker
Historic Environment group (co-opted)
- ❖ Andy Rathbone, Environment / Sustainability Group Lead
- ❖ Charlotte Rathbone, Environment / Landscape Group lead and Housing Subgroup
- ❖ Nicky Shepley, Parish Councillor representative
- ❖ Phil Smith, Housing and Planning Sub Group/ Development Programme (co-opted)
- ❖ Jon Sullivan, Housing and Planning Group and Employment and Business Group
- ❖ Mark Trewin, Historic Environment Group Lead
- ❖ Daniel Turner, Website Manager/Environment
- ❖ Peter Watts, Chair of the Parish Council (from 2019)
- ❖ Brian Weekes, Environment and Sustainability subgroup/compiler of list of local organisations and services, Parish Councillor
- ❖ Barry White Road Safety and Transport Group
- ❖ Colin Whybrow, Communications and Parish Councillor Representative

Providers of Professional Support

- ❖ Lee Bray, Independent Planning Consultant
- ❖ Jason Elson, South Hams District Council, Graphic Design
- ❖ Duncan Smith, South Hams District Council, Neighbourhood Plan Adviser

Additional Contributors

- ❖ Lynne Barnes, Environment and Sustainability Group/Questionnaire Design
- ❖ Tim Beavon, Grant Application, Questionnaire Analysis
- ❖ Charlotte Kendrick, Questionnaire Logistics of Distribution (co-opted)
- ❖ Margaret Middleton, former Secretary to the Neighbourhood Plan Group
- ❖ Sue Rogers, Questionnaire logistics of Distribution (co-opted)
- ❖ Roy Sims, Communication/Modbury Association for Recreation and Sports representative
- ❖ Emily Sullivan, Logo
- ❖ Bernard Taylor, Chair of the Parish Council (to 2019); South Hams District Councillor (from 2019).
- ❖ Cate Thompson, Brownston Consultation
- ❖ Neil Turner, Questionnaire Design/Analysis
- ❖ Lindsay Ward, previous District Councillor
- ❖ Ron Wood, Questionnaire Analysis/Photographs

General Thanks

- ❖ Modbury School children and the staff who supported them in putting forward their ideas for Modbury in the future
- ❖ Modbury Health Centre for hosting a consultation display
- ❖ Modbury Post Office for holding a comments box
- ❖ Modbury Memorial Hall for hosting a number of Neighbourhood Plan meetings and events
- ❖ Modbury Messenger delivery volunteers who helped with delivery of questionnaires
- ❖ Modbury Messenger for inclusion of regular reports
- ❖ The White Hart, Exeter Inn, Modbury Inn and California Inn for hosting events
- ❖ MARS pavilion for hosting events
- ❖ Modbury Town Crier, David Scott, for announcing events around the Town
- ❖ Modbury Tourist Information Centre for hosting exhibition



MODBURY NEIGHBOURHOOD PLAN

Making a balanced, vibrant and healthy place to live.

Page 264

Independent Examiner's Report of the
Modbury Parish Neighbourhood Development
Plan

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Planning Consultant

NPIERS Examiner

CEDR accredited mediator

8 December 2022

SECTION 1 Contents

CONTENTS

Section 1

Contents.....	3
---------------	---

Section 2

Summary.....	4-5
--------------	-----

Section 3

Introduction.....	6-8
-------------------	-----

Section 4

The

Report.....	9-45
-------------	------

1. Appointment of the Independent Examiner.....	9
2. Qualifying Body.....	9
3. Neighbourhood Plan Area.....	9
4. Plan Period.....	9
5. South Hams District Council Regulation 15 assessment of the plan.....	9
6. Site Visit.....	9
7. Consultation Process.....	9
8. Regulation 16 Consultation and Comment on Responses.....	9
9. Compliance with the Basic Conditions.....	10
10. Planning Policy.....	10
11. Other Relevant Policy Considerations.....	11-17
12. Modbury Parish Neighbourhood Plan Policies.....	18-45

Section 5

Conclusions and Recommendations.....	46
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SECTION 2

Summary

As the Independent Examiner appointed by South Hams District Council to examine the Modbury Parish Neighbourhood Plan, I can summarise my findings as follows:

1. I find the Modbury Parish Neighbourhood Plan and the policies within it, subject to the recommended modifications does meet the Basic Conditions.
2. I am satisfied that the Referendum Area should be the same as the Plan Area, should the Modbury Parish Neighbourhood Plan go to Referendum.
3. I have read the Modbury Consultation Statement and the representations made in connection with this subject I consider that the consultation process was robust and that the Neighbourhood Plan and its policies reflect the outcome of the consultation process including recording representations and tracking the changes made as a result of those representations.
4. I find that the Modbury Parish Neighbourhood Plan can, subject to the recommended modifications proceed to Referendum.
5. The Modbury Parish Neighbourhood Plan Area is within the area covered by South Hams District Council. The development plan for the area is the Plymouth and South West Devon Joint Local Plan (the JLP), adopted in March 2019.
6. The Modbury Neighbourhood Development Plan was initially submitted under Regulation 15 in July 2020 and Regulation 16 consultation was undertaken between 3 August 2020 and 21 December 2020 however, on the 25 August 2021 the plan was withdrawn following a decision by the neighbourhood plan group and parish council to delete the proposed housing allocation to the east of Aylestone Park from the plan. This allocation had generated a large number of representations at Regulation 16. Those representations are available to view on the SHDC website. Following withdrawal of the plan and deletion of the allocation to the east of Aylestone Park, the plan was taken back out to consultation from the 11

July 2022 to the 12 September 2022., effectively a re -run of Regulation 16, and as a result of this further consultation additional representations were made. During my examination I have had regard for the representations submitted during the initial period of Regulation 16 consultation, where these were relevant to the modified plan and those submitted in relation to the modified plan.

SECTION 3

Introduction

1. Neighbourhood Plan Examination.

My name is Deborah McCann, and I am the Independent Examiner appointed to examine the Modbury Parish Neighbourhood Plan.

I am independent of the qualifying body, I do not have any interest in the land in the plan area, and I have appropriate qualifications and experience, including experience in public, private and community sectors.

My role is to consider whether the submitted Modbury Parish Neighbourhood Plan meets the Basic Conditions and has taken into account human rights; and to recommend whether the Modbury Parish Neighbourhood Plan should proceed to Referendum. My role is as set out in more detail below under the section covering the Examiner's Role. My recommendation is given in summary in Section 2 and in full under Section 5 of this document.

The Modbury Parish Neighbourhood Plan has to be independently examined following processes set out in the Town and County Planning Act 1990 (as amended by the Localism Act 2011) and the subsequent Neighbourhood Planning (General) Regulations 2012.

The expectation is that the examination of the issues by the examiner is to take the form of the consideration of the written representations. However, there are two circumstances when an examiner may consider it necessary to hold a hearing. These are where the examiner considers that it is necessary to ensure adequate examination of an issue or to ensure a person has a fair chance to put a case. Having read the plan and considered the representations I concluded that it was not necessary to hold a Hearing.

2. The Role of Examiner including the examination process and legislative background.

The examiner is required to check whether the neighbourhood plan:

- Has been prepared and submitted for examination by a qualifying body
- Has been prepared for an area that has been properly designated for such plan preparation
- Meets the requirements to
 - i) specify the period to which it has effect;
 - ii) not include provision about excluded development; and
 - iii) not relate to more than one neighbourhood area and that
- Its policies relate to the development and use of land for a designated neighbourhood plan area.

The examiner must assess whether a neighbourhood plan meets the basic conditions and other matters set out in paragraph 8 of Schedule 4B of the Town and Country Planning Act 1990 (as amended).

As an independent Examiner, having examined the Plan, I am required to make one of the following recommendations:

1. The Plan can proceed to a Referendum
2. The Plan with recommended modifications can proceed to a Referendum

Where a policy does not meet the Basic Conditions or other legal requirement I may, on occasion, need to delete wording, including potentially an entire plan policy and/or section of text, although I will first consider modifying the policy rather than deleting it. Where a policy concerns a non-land use matter, advice in the Planning Practice Guidance states “Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable. For example, set out in a companion document or annex.” As such, when considering the deletion of any non-land use matters from the plan, I will consider if I can make a modification to place the relevant proposed actions in a non-statutory annex to the plan, dealing with ‘Wider Community Aspirations’. I will not generally refer back to parties on these detailed revisions. I will make modification either in order to meet the Basic Conditions, to correct errors or provide clarification. However, the focus

of my examination, as set out in legislation is relatively narrow, I must focus on compliance with the Basic Conditions. The main purpose of a neighbourhood plan is to provide a framework for the determination of planning applications, policies in a plan which have elements which either seek to control things which fall outside the scope of the planning system or introduce requirements which are indiscriminate in terms of the size of development or are overly onerous and would not meet the Basic Conditions. In these circumstances it will be necessary to make modifications to the plan. In making any modifications I have a duty to ensure that the Basic Conditions are met however I am also very careful to ensure, where possible that the intention and spirit of the plan is retained so that the plan, when modified still reflects the community's intent in producing their neighbourhood plan.

3. The Plan does not meet the legal requirements and cannot proceed to a Referendum

3.1 I am also required to recommend whether the Referendum Area should be different from the Plan Area, should the Modbury Parish Neighbourhood Plan go to Referendum.

3.2 In examining the Plan, I am required to check, under Paragraph 8(1) of Schedule 4B to the Town and Country Planning Act 1990, whether:

- the policies in the Plan relate to the development and use of land for a designated Neighbourhood Area are in line with the requirements of Section 38A of the Planning and Compulsory Purchase Act 2004
- the Plan meets the requirements of Section 38B of the Planning and Compulsory Purchase Act 2004 to specify the period for which it has effect
- the Plan has been prepared for an area designated under the Localism Act 2011 and has been developed and submitted for examination by a qualifying body.

3.3 I am also required to determine whether the Plan complies with the Basic Conditions, which are that the proposed Neighbourhood Plan:

- Has regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contributes to the achievement of sustainable development; and
- Is in general conformity with the strategic policies contained in the Development Plan for the area; and
- Does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017; and
- Does not breach, and otherwise is compatible with EU obligations and Human Rights requirements

South Hams District Council will consider my report and decide whether it is satisfied with my recommendations. The Council will publicise its decision on whether or not the plan will be submitted to a referendum, with or without modifications. If the Neighbourhood Plan is submitted to a referendum, then 28 working days' notice will be given of the referendum procedure and Neighbourhood Plan details. If the referendum results in more than half those voting (i.e. greater than 50%), voting in favour of the plan, then the Council must "make" the Neighbourhood Plan a part of its Development Plan as soon as possible. If approved by a referendum and then "made" by the local planning authority, the Neighbourhood Plan then forms part of the Development Plan.

SECTION 4

The Report

1. Appointment of the Independent examiner

South Hams District Council appointed me as the Independent Examiner for the Modbury Parish Neighbourhood Plan with the agreement of Modbury Parish Council.

2. Qualifying body

I am satisfied that Modbury Parish Council is the Qualifying Body.

3. Neighbourhood Plan Area

The Modbury Parish Neighbourhood Plan Area was designated on the 24 February 2015 under the Neighbourhood Planning Regulations 2012 (part 2 S6). The area covers the administrative boundaries of the Parish of Modbury. The Qualifying Body have confirmed that there are no other neighbourhood plans covering the designated area.

4. Plan Period

The Plan identifies the period to which it relates as 2014 to 2034 a period chosen to tie in with the development plan for the area, the Plymouth and South West Devon Joint Local Plan (the JLP).

5. South Hams District Council Regulation 15 Assessment of the Plan.

Modbury Parish Council submitted the plan to South Hams District Council for consideration under Regulation 15 of the Neighbourhood Planning (General) Regulations 2012. The Council has made an initial assessment of the submitted Modbury Parish Neighbourhood Plan and the supporting documents and is satisfied that these comply with the specified criteria.

6. The Consultation Process

The Modbury Parish Neighbourhood Plan has been submitted for examination

with a Consultation Statement which sets out the consultation process that has led to the production of the plan, as set out in the regulations in the Neighbourhood Planning (General) Regulations 2012.

The Statement describes the approach to consultation, the stages undertaken and explains how the Plan has been amended in relation to comments received. It is set out according to the requirements in Regulation 15.1.b of the Neighbourhood Planning (General) Regulations 2012):

(a) It contains details of the persons and bodies who were consulted about the proposed Neighbourhood Plan;

(b) It explains how they were consulted;

(c) It summarises the main issues and concerns raised by the persons consulted; and

(d) It describes how these issues and concerns were considered and, where relevant, addressed in the proposed Neighbourhood Plan.

Having examined the documents and considered the focus of the Neighbourhood Plan I conclude that the consultation process was robust, well conducted and recorded.

A list of statutory bodies consulted is included in the Consultation Statement.

7.Regulation 16 consultation by South Hams District Council and record of responses.

The Modbury Neighbourhood Development Plan was initially submitted under Regulation 15 in July 2020 and Regulation 16 consultation was undertaken between 3 August 2020 and 21 December 2020 however, on the 25 August 2021 the plan was withdrawn following a decision by the neighbourhood plan group and parish council to delete the proposed housing allocation to the east of Aylestone Park from the plan. This allocation had generated a large number of representations at Regulation 16. Those representations are available to view on the SHDC website. Following withdrawal of the plan and

deletion of the allocation to the east of Aylestone Park, the plan was taken back out to consultation from the 11 July 2022 to the 12 September 2022., effectively a re -run of Regulation 16, and as a result of this further consultation additional representations were made. During my examination I have had regard for the representations submitted during the initial period of Regulation 16 consultation, where these were relevant to the modified plan and those submitted in relation to the modified plan.

A number of detailed representations were received during the consultation period, and these were supplied by the Council as part of the supporting information for the examination process. I considered the representations, have taken them into account in my examination of the plan and referred to them where appropriate.

8.Site Visit

I carried out an unaccompanied site visit to familiarise myself with the Neighbourhood Plan Area on the 29 July 2021.

9. Compliance with the Basic Conditions

The Qualifying Body have produced a Basic Conditions Statement. The purpose of this statement is to set out in some detail how the Neighbourhood Plan as submitted meets the Basic Conditions. It is the Examiner's Role to take this document into consideration but also take an independent view as to whether or not the assessment as submitted is correct.

I have to determine whether the Modbury Parish Neighbourhood Plan:

- Has regard to national policies and advice contained in guidance issued by the Secretary of State;
- Contributes to the achievement of sustainable development; and
- Is in general conformity with the strategic policies contained in the Development Plan for the area; and
- Does not breach the requirements of Chapter 8 of Part 6 of the Conservation of Habitats and Species Regulations 2017; and

- Does not breach, and otherwise is compatible with EU obligations and Human Rights requirements.

Documents brought to my attention by the Borough Council for my examination include:

- Modbury Parish Neighbourhood Plan - the main document which includes policies developed in consultation with the community at various engagement events and workshops.
- Basic Conditions Statement - sets out how the plan meets the Basic Conditions
- Consultation Statement – sets out how the community, and other stakeholders, have been involved in preparing the Plan.
- Strategic Environmental Assessment (SEA) Screening Report
- Habitats Regulations Assessment (HRA) screening opinion

Comment on Documents submitted

I am satisfied having regard to these documents and other relevant documents, policies and legislation that the Modbury Parish Neighbourhood Plan does, subject to the recommended modifications, meet the Basic Conditions.

4.10. Planning Policy

4.10.1. National Planning Policy

National Policy guidance is in the National Planning Policy Framework (NPPF). At the time of the preparation of the Neighbourhood Plan the relevant NPPF was the National Planning Policy Framework (NPPF) July 2021(as updated).

To meet the Basic Conditions, the Plan must have “regard to national policy and advice”. In addition, the NPPF requires that a Neighbourhood Plan "must be in general conformity with the strategic policies of the local plan”.

Paragraph 29 states:

“Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area or undermine those strategic policies.”

The Modbury Parish Neighbourhood Plan does not need to repeat these national policies, but to demonstrate it has taken them into account.

I have examined the plan and consider that, subject to modification, the plan does have “regard for National Policy and Advice” and therefore the Plan, subject to minor modification does meet the Basic Conditions in this respect.

4.11 Local Planning Policy- The Development Plan

The Modbury Parish Neighbourhood Plan Area is within the area covered by South Hams District Council. At the time of my examination, the Development Plan for the area was the Plymouth and South West Devon Joint Local Plan (the JLP), adopted in March 2019.

To meet the Basic Conditions, the Modbury Parish Neighbourhood Plan Neighbourhood Plan must be in “general conformity” with the strategic policies of the development plan.

The NPPF 2021 (as updated) states:

“20. Strategic policies should set out an overall strategy for the pattern, scale and quality of development, and make sufficient provision¹² for:

- a) housing (including affordable housing), employment, retail, leisure and other commercial development;
 - b) infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);
 - c) community facilities (such as health, education and cultural infrastructure);
- and

d) conservation and enhancement of the natural, built and historic environment, including landscapes and green infrastructure, and planning measures to address climate change mitigation and adaptation.”

Neighbourhood Plans should only contain non-strategic policies. The NPPF 2021(updated) states:

“Non-strategic policies

28. Non-strategic policies should be used by local planning authorities and communities to set out more detailed policies for specific areas, neighbourhoods or types of development. This can include allocating sites, the provision of infrastructure and community facilities at a local level, establishing design principles, conserving and enhancing the natural and historic environment and setting out other development management policies.

29. Neighbourhood planning gives communities the power to develop a shared vision for their area. Neighbourhood plans can shape, direct and help to deliver sustainable development, by influencing local planning decisions as part of the statutory development plan. Neighbourhood plans should not promote less development than set out in the strategic policies for the area or undermine those strategic policies.”

Should there be a conflict between a policy in a neighbourhood plan and a policy in a Local Plan, section 38(5) of the Planning and Compulsory Purchase Act 2004 requires that the conflict must be resolved in favour of the policy, which is contained in the last document to become part of the development plan.

The distinction between strategic and non-strategic policies is important because of the relationship with Neighbourhood Plans. Neighbourhood Plans only have to be in general conformity with the strategic policies of the development plan (Localism Act 2011, Schedule 4B, s7 (2)(e)) When made, neighbourhood plan policies take precedence over existing non-strategic policies in the local plan, where they are in conflict.

Planning Policy Guidance paragraph 41-076-20140306 sets out that:

“Strategic policies will be different in each local planning authority area. When reaching a view on whether a policy is a strategic policy the following are useful considerations:

- whether the policy sets out an overarching direction or objective
- whether the policy seeks to shape the broad characteristics of development
- the scale at which the policy is intended to operate
- whether the policy sets a framework for decisions on how competing priorities should be balanced
- whether the policy sets a standard or other requirement that is essential to achieving the wider vision and aspirations in the Local Plan
- in the case of site allocations, whether bringing the site forward is central to achieving the vision and aspirations of the Local Plan
- whether the Local Plan identifies the policy as being strategic”

I have examined the Modbury Parish Neighbourhood Plan and consider that, subject to modification, the plan is in general conformity with the Strategic Policies of the Development Plan and does meet the Basic Conditions in this respect.

4.12. Other Relevant Policy Considerations

4.12.1 European Convention on Human Rights (ECMR) and other European Union Obligations

As a ‘local plan’, the Neighbourhood Plan is required to take cognisance of the EU Strategic Environmental Assessment (SEA) Directive 2001/42/EC.

South Hams District Council carried out a Strategic Environmental Assessment (SEA) screening exercise (June 2019) in consultation with relevant statutory bodies. Having taken all of the relevant policies of the draft

Modbury Neighbourhood Plan (Pre-Regulation 14 Version submitted in May 2019) into account and assessed the potential environmental impact on designated sites and landscapes, it was the Council's opinion that a full SEA was not required for the Neighbourhood Plan as the plan's provisions will not undermine environmental, habitats or species considerations.

Despite the screening exercise being carried out in 2019 I am satisfied that the conclusion is still appropriate.

Habitats Regulations Assessment (HRA)

In June 2019, South Hams District Council as the competent authority carried out HRA to comply with Regulation 105 of the Habitats Regulations 2017. Under these Regulations, a competent authority must consider whether a relevant plan is likely to have a significant effect on any European sites before deciding to give any consent, permission or other authorisation.

The conclusion of the assessment was that Habitats Regulations Assessment (HRA) was not required since the plan's provisions will not undermine environmental, habitats or species considerations. Natural England agreed with this conclusion.

Despite the screening exercise being carried out in 2019 I am satisfied that the conclusion is still appropriate.

Prescribed Matters

Regulation 32 of the Neighbourhood Planning (General) Regulations 2012 (as amended) set out a further basic condition for a Neighbourhood Development Plan in addition to those set out in the primary legislation. Being that:

- the making of the neighbourhood plan is not likely to have a significant effect on a European site (as defined in the Conservation of Habitats and Species Regulations 2012) or a European offshore marine site (as defined in the Offshore Marine Conservation (Natural Habitats, &c.) Regulations 2007) (either alone or in combination with other plans or projects). (See Schedule 2 to the Neighbourhood Planning (General) Regulations 2012 (as amended) in

relation to the examination of neighbourhood development plans.)

The Modbury NDP Screening Opinion confirms that the Modbury NDP will not cause significant environmental effects on these areas.

I am satisfied with this conclusion.

4.12.2 Sustainable development

Paragraphs 7 to 14 of the NPPF (July 2021 as updated) identify the components of sustainable development, and how planning applications and local plans can meet these requirements.

The Basic Conditions Statement sets out how the neighbourhood plan addresses the requirement to achieve sustainable development.

My conclusion is that the principles of Sustainable Development required in the NPPF have been taken into account in the development of the plan and its policies and where issues have been identified they were addressed by revisions to the document prior to submission. I am satisfied that the Modbury Parish Neighbourhood Plan subject to the recommended modifications addresses the sustainability issues adequately.

Human Rights

The Neighbourhood Plan is required to take cognisance of the European Convention of Human Rights and to comply with the Human Rights Act 1998.

I am satisfied that the Modbury Parish Neighbourhood Plan has done so.

I am therefore satisfied that the Modbury Parish Neighbourhood Plan meets the basic conditions on EU obligations.

4.12.3 Excluded development

I am satisfied that the Modbury Parish Neighbourhood Plan does not cover County matters (mineral extraction and waste development), nationally significant infrastructure such as highways and railways or other matters set out in Section 61K of the Town and Country Planning Act 1990.

4.12.4 Development and use of land

I am satisfied that the Modbury Parish Neighbourhood Plan, subject to modification covers development and land use matters.

General Comments

Planning Guidance on preparing neighbourhood plans and policies is clear, it states:

“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.

Neighbourhood planning can inspire local people and businesses to consider other ways to improve their neighbourhood than through the development and use of land. They may identify specific action or policies to deliver these improvements. Wider community aspirations than those relating to development and use of land can be included in a neighbourhood plan, but actions dealing with non-land use matters should be clearly identifiable. For example, set out in a companion document or annex.”

In order to provide clarity and to ensure that the policies in the Modbury Parish Neighbourhood Plan meet the Basic Conditions it has been necessary for me to make modifications to a number of policies. This includes modifications where policies have sought to introduce controls outside the scope of the planning system or where existing policy already sets out the scope of control.

As I have found it necessary to modify a number of policies it may also be necessary to modify the supporting text within the plan to align with the modified policies, where this is necessary. The details of these modifications are set out within my comments on the related policies. My comments on

policies are in blue with the modified policies in red.

4.13 The Neighbourhood Plan Vision, Strategic Aims and Policies

4.13.1 VISION Statement

“Modbury will seek to embrace the future without compromising its character as an historic market town. It will support a vibrant community living in a safe, sustainable environment. It will be a place where development is in keeping with the existing built form and surrounding landscape and managed to meet the needs of residents and visitors.”

Objectives

- a. Maintain and enhance the historic character of Modbury through listed building and conservation area policies, the preservation of historic sites and buildings and appropriately scaled, phased and sympathetic development. Give high priority to upholding the guidelines laid out in the Modbury Village Design Statement (5 op.cit.) so that all new development is harmonious with the existing built forms which characterise the town;
- b. Enhance the vibrancy of the commercial heart of the town and provide facilities to support increased local employment;
- c. Deliver sufficient new homes, including a range of sizes, types and tenures to meet the needs of local people as well as to contribute to the growth of the town.
- d. Ensure that all new development has sufficient off-street parking for all residents.
- e. Ensure that all new development meets the highest standards of energy efficiency and sustainable construction and takes account of other environmental factors such as landscape impact, flood risk, topography and biodiversity.
- f. Promote a local scheme to deliver community renewable energy

- g. Retain and create new pedestrian and cycle routes through and around the town to reduce reliance on the motorcar and, in particular, provide improvements to pedestrian movements from the Palm Cross area to the Town Centre;
- h. Identify and safeguard or provide community spaces – buildings and open/greenspaces,
- i. Create a town square – that can be used by residents of all ages.
- j. Identify and safeguard or improve play provision to meet NPFA recommendations;
- k. Support a study being undertaken for a relief road for Modbury, respecting the sensitive landscape character of the AONB.
- l. Support a study being undertaken to identify how traffic flow and road safety might be improved around the town.

COMMENT

I am satisfied that the Modbury NDP vision and objectives were developed from the consultation process and that the policies within the plan reflect the vision and objectives.

4.13.2 MODBURY PARISH NEIGHBOURHOOD PLAN POLICIES

DEVELOPMENT, DESIGN AND CONSTRUCTION

POLICY MNP1: LOCATION, SCALE AND CHARACTER OF DEVELOPMENT

1. Within the settlement boundary the scale, density and character of development shall be in keeping with its site and surroundings and cause no adverse impacts on natural or historic assets, important views and skylines, local amenity, traffic, parking or safety.

2. Outside the town boundary development will be tightly controlled and only

permitted where it will meet the proven need for affordable housing for local people (as provided for by JLP policies TTV26 and TTV27 or where it is essential in order to meet agricultural, forestry or other small-scale needs which cannot be met elsewhere. The plan also aims to control the scale, density and character of development so that it is in keeping with the locality and remains geared to meet local housing needs).

COMMENT

I have carefully considered the proposed development boundaries and am satisfied that the process to establish the modified boundaries was thorough and consistent.

The Local Planning Authority are the decision making authority for planning applications and therefore neighbourhood plan policies should refer to “supported” rather than “permitted” within policies in the neighbourhood plan.

For clarity and to meet the Basic Conditions, the policy should be modified as follows:

POLICY MNP1: LOCATION, SCALE AND CHARACTER OF DEVELOPMENT

This policy establishes a settlement boundary for Modbury, as shown on Map 2.

1. Development proposals within the settlement boundary will be supported where:

i. the scale, density and character of development is in keeping with its site and surroundings; and

ii. natural or historic assets are protected in accordance with national policy and guidance and the Development Plan; and

iii. it protects important views and skylines; and

iv. there is no adverse impact on local amenity, traffic, parking or safety.

2. Outside the settlement boundary development will be tightly controlled and only supported where it will meet the proven need for affordable housing for local people (as provided for by JLP policies TTV26 and TTV27 or where it is essential in order to meet agricultural, forestry or other small-scale needs which cannot be met elsewhere. The plan also aims to control the scale, density and character of development so that it is in keeping with the locality and remains geared to meet local housing needs).

POLICY MNP2: DESIGN AND CONSTRUCTION

All new development will be encouraged to:

- a) be in scale and in keeping with its setting, protecting locally important views and skylines,
- b) respect and where possible enhance local heritage, character and vernacular, safeguarding local distinctiveness and paying due regard to the Modbury Village Design Statement 2003,
- c) retain and where possible enhance local landscape character and tranquility, including significant field patterns and hedgerows and important trees and woodlands, and incorporating suitable features to reduce scale, improve microclimate and habitat, and integrate new development with the landscape,
- d) include boundary features only utilising local natural stone for walls, clipped native species for hedges or railings, and traditional laid Devon hedge banks wherever development abuts open countryside,
- e) incorporate meters, bin storage and other features appropriately, conveniently and so as not to clutter the street scene,
- f) provide for its own car parking requirements, with residential development

providing at least two off-street spaces per dwelling, proportionate to size of dwelling and with facility for EV charging,

g) be safe, attractive, inclusive and accessible, reducing opportunities for crime and the fear of crime, in consultation with the community, and

h) safeguard against risks of contamination, erosion or flooding, and ensure satisfactory surface water drainage including Sustainable Urban Drainage Schemes (see Glossary).

All new development will also be encouraged to:

i) provide three phase electricity supply with sufficient capacity for renewable energy generation, storage and other zero carbon technologies,

j) preclude use of fossil fuels and enable the incorporation of zero carbon technologies to maximise sustainability and energy efficiency and meet the challenges of climate change.

k) in consultation with the community, consider community owned renewable energy options,

l) ensure that installations are registered with appropriate government incentive schemes to allow householders to benefit from energy savings,

m) exceed government standards for energy efficiency and sustainable construction, taking into account solar gain, sustainable building materials, building design and water efficiency, n) achieve zero carbon development in both construction and operation with any offsetting to be within the parish of Modbury, and

o) provide safeguards during and after construction to protect against environmental damage, local nuisance, unnecessary noise, light or other pollution.

COMMENT

I have no comment on this policy.

FUTURE DEVELOPMENT

POLICY MNP3: FUTURE DEVELOPMENT IN AND AROUND MODBURY

Future development sites in and adjoining Modbury should:

- a) conform to the town's traditional pattern of development,
- b) contribute to the integrity of the community by being well related to existing development,
- c) be well contained in the landscape,
- d) avoid breaching ridges or further extending existing breaches of ridges, and
- e) be well connected to the town centre, especially for pedestrians.

COMMENT

I have no comment on this policy.

HISTORY AND HERITAGE

POLICY MNP4: HERITAGE AND CONSERVATION

1. Development proposals are required to not harm but enhance non-designated historic and heritage assets and their settings. New up-to-date uses are encouraged and must retain, restore and enhance the historic fabric that makes each building special, incorporating sensitive retrofitting of energy efficiency measures.

2. Development proposals shall pay full regard to the provisions and guidelines contained in the Modbury Conservation Area Appraisal and the Modbury Village Design Statement, particularly for guidance on suitable details and materials.

COMMENT

The policy regime for heritage assets and conservation areas is set out in the NPPF 2021 and does not need to be repeated in a neighbourhood plan policy. For clarity and to meet the Basic Conditions, the policy should be modified as follows:

POLICY MNP4: HERITAGE AND CONSERVATION

1. Development proposals affecting heritage assets and their settings or the conservation area must comply with the requirements of national policy and guidance and the Development Plan. New up-to-date uses are encouraged where they retain, restore and enhance the historic fabric that makes each building special, incorporating sensitive retrofitting of energy efficiency measures.

2. Development proposals should pay full regard to the provisions and guidelines contained in the Modbury Conservation Area Appraisal and the Modbury Village Design Statement, particularly for guidance on suitable details and materials.

HOUSING AND DEVELOPMENT

POLICY MNP5: HOUSING DEVELOPMENT

1. New housing development (apart from replacement dwellings) shall supply homes for all ages, to create a healthy demographic spread, avoiding a focus on any one particular age group at the expense of others so that opportunities to own or rent a home are equally available to all. New development of 1, 2 and 3 bedroom homes will be particularly welcomed to help meet local housing needs for single people, couples and families and improve the balance of housing stock in the locality.

2. The delivery of new homes suitable for older residents will be particularly welcomed.

3. Each new housing development which exceeds 10 units shall provide the proportion of affordable homes consistent with JLP policy. The definition of

affordable homes, whether for purchase or rent, shall accord with national and local strategic policies.

4. Proposals for affordable housing schemes on rural exception sites will be supported where they meet the requirements of national and local strategic policies and the other policies of this plan.

5. A Community Land Trust or self-build solution will be welcomed as an alternative to the traditional types of affordable housing provision.

COMMENT

For clarity paragraph 5. of the policy should be modified as follows:

5. Affordable housing delivered by a Community Land Trust or as self-build will be welcomed as an alternative to the traditional types of affordable housing provision.

POLICY MNP6: PRINCIPAL RESIDENCE POLICY

1. This policy will only apply where it has been identified in the latest Census that in the plan area there are 20% or more "household spaces with no usual residents". Once this threshold has been exceeded new open market housing (excluding replacement dwellings) will only be supported where first and future occupation of each new dwelling is restricted in perpetuity to occupancy only as a 'principal residence' and this must be guaranteed through a planning condition or legal agreement.

2. A principal residence is defined as one occupied as the residents' sole or main residence, where the residents spend the majority of their time when not working away from home, and the condition or obligation on new open market homes will require that they are occupied only as the principal residence of those persons entitled to occupy them.

3. A replacement dwelling is defined as a single new build dwelling replacing an existing dwelling of equivalent size and design as the original dwelling.

4. Occupiers of homes with a Principal Residence condition or legal agreement will be required to keep proof that they are meeting the obligation or condition and will be obliged to provide this proof if and when the local planning authority requests it.
5. New unrestricted second homes will not be supported at any time.
6. Once the 20% threshold has been exceeded this policy will apply to all new build development, both allocated and windfall sites, where open market housing is proposed within the plan area.

COMMENT

I have concerns in relation to this policy. Firstly, as I set out in my general comments, Planning Guidance on preparing neighbourhood plans and policies is clear, it states:

“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”

This policy seeks to control an event that may occur at some time in the future, when the level of second home ownership reaches a level of 20%. I have not been provided with evidence to support or justify the 20% threshold, why the impact of 20% of second homes would be a tipping point as opposed to 19% or 21%. This would in itself lead to a significant problem in successfully and consistently applying this policy in the determination of a planning application and defending it on appeal if necessary. There is, in addition, a lack of clarity on who would be responsible for gathering the necessary statistical information and how it would be monitored. I am also not convinced that relying on Census

information would be adequately robust. My conclusion on this point is that the policy does not provide the certainty and clarity required to meet the tests set out above.

Secondly, the evidence before me suggests the overall number of second homes across the parish in 2011 was 8.3% and I accept that this is likely to have increased since that date however this figure is significantly lower than other areas in the South Hams. Whilst I accept that there is an affordability issue within the parishes, I have not been provided with any evidence that links the number of second homes to the level of affordability or the impact of second homes on the local economy or local community, for example the sustainability of local schools due to falling roles resulting from increased second home ownership.

I accept that it is not easy to provide the information and statistics relating to ownership/ occupation of houses within any parish area however the imposition of a principal residence policy has serious implications, and it is necessary to ensure that there is strong evidence to support the imposition of such a restriction.

I have given very serious consideration as to whether or not I can find that this policy meets the Basic Conditions particularly having regard to the NPPF (2021) – “delivering a wide choice of quality homes” and “delivering sustainable development” together with how the policy meets the requirements of the Human Rights Act 1988 and other European Legislation.

I have also considered in detail Mr. Justice (now Lord Justice) Hickinbottom’s judgment in R (RLT Environment Ltd) v Cornwall Council in relation to Policy H2 of the St. Ives Neighbourhood Development Plan. He concluded:

“that Policy H2 is in pursuit of legitimate public interests identified in article 8(2), namely the interests of the economic well-being of the

country, and for the protection of the rights and freedoms of others.”

However, in this instance it was considered that there was adequate evidence to support the policy however, there is always a planning balance to be arrived at in consideration of this type of policy.

I have also carefully considered the potential for unintended consequences on the local housing market and the future delivery of affordable housing.

I accept that the level of second homes in the parish is likely to increase over the plan period and that this does have implications for the local community however at this time I am not satisfied that this policy meets the Basic Conditions. The imprecise nature of the policy and evidence required would make it difficult to apply consistently leading to uncertainty and the potential for challengeable decisions and implications for Natural Justice and Human Rights.

I acknowledge that there is community concern with regard to the growth of second homes and the impact this can have on local house prices, the local economy and local community. However, after careful consideration I have decided that this policy does not meet the Basic Conditions and couldn't be modified within the scope of my examination to do so. My decision is one of planning balance and I conclude that in this instance POLICY MNP6: PRINCIPAL RESIDENCE POLICY should be deleted.

I understand that this may disappoint the community however there is an opportunity to review the plan as a whole or just this policy should the situation arise when the impact of second home ownership can be adequately evidenced to support the introduction of a Principal Residence policy. The supporting text for this policy could be retained in the plan but should be modified as follows.

There is a growing concern in Modbury about the increasing number of properties which are second homes. The 2011 Census put the number of

second homes in Modbury at 8.3% but that figure is growing steadily. In neighbouring Bigbury a survey in 2018 found that 24% of properties were used as second homes. Homes in nearby communities, such as Bigbury on Sea and Salcombe are among the most expensive coastal properties in the UK and are increasingly unaffordable for local people.

Growth in the number of second homes in the area, resulting in rising house prices and adverse impacts on local communities, is likely to increase in future, undermining the longer-term sustainability of communities such as Modbury. It has been shown that permanent residents spend more locally than owners of second and holiday homes, thereby making a greater contribution to the sustainability of communities. This plan aims to help Modbury to remain a balanced and sustainable community. Currently the level of second home ownership is not at a level that could support a principal residency policy however, we are aware that this is an issue that South Hams District Council, as the local planning authority, are working to manage across the area and we would wish to work with them in the future to keep this matter under review and to implement a workable policy in the future.

ROAD SAFETY AND TRANSPORT

POLICY MNP7: SAFE MOVEMENT AND TRANSPORT

1. Development shall include good, safe pedestrian access and links with enhanced opportunities for walking, cycling, shared mobility and the use of public transport. Improved pedestrian links around the school and to recreational and green spaces are required, in particular at Palm Cross and to the recreation ground.
2. Development shall not worsen traffic congestion or adversely affect highway safety, traffic flow and/or parking conditions, particularly on the congested parts of the network highlighted on the Proposals Map. Proposals that would ease traffic congestion or enhance highway safety, traffic flow and/or parking provision will be supported.
3. Streets shall be designed and laid out so as to instinctively reduce traffic speeds through measures such as Home Zones rather than signs.
4. Support will be given to a study to identify how traffic flow and road safety

might be improved in Modbury.

5. Support will be given to a study to explore the feasibility of a relief road.

6. Good, safe pedestrian access to new housing development will be required.

COMMENT

There are elements of this policy which should be deleted from the policy and included in the community projects/aspiration section of the plan as follows:

4. Support will be given to a study to identify how traffic flow and road safety might be improved in Modbury.

5. Support will be given to a study to explore the feasibility of a relief road.

For clarity and to meet the Basic Conditions, the policy should be modified as follows:

POLICY MNP7: SAFE MOVEMENT AND TRANSPORT

1. Development proposals should include, where appropriate, good, safe pedestrian access and links with enhanced opportunities for walking, cycling, shared mobility and the use of public transport. Improved pedestrian links around the school and to recreational and green spaces are required, in particular at Palm Cross and to the recreation ground.

2. Development should not worsen traffic congestion or adversely affect highway safety, traffic flow and/or parking conditions, particularly or the congested parts of the network highlighted on the Proposals Map. Proposals that would ease traffic congestion or enhance highway safety, traffic flow and/or parking provision will be supported.

3. Streets should be designed and laid out so as to instinctively reduce

traffic speeds through measures such as Home Zones rather than signs.

6. Good, safe pedestrian access to new housing development will be required.

EMPLOYMENT AND BUSINESS

POLICY MNP8: BUSINESS DEVELOPMENT

1. New business, commercial and employment development, including home-based businesses and expansion of existing businesses, will be supported providing it will:

a. not worsen traffic congestion or adversely affect highway safety or traffic flow,

b. include adequate space and parking for employees, customers and deliveries, and

c. be in keeping with the locality and cause no harm to amenity or nuisance to neighbours.

2. A work hub for local start-ups and community-based enterprises will be supported in suitable premises.

3. In the designated business and employment zones (at Plymouth Road, Barrack Road, and Poundwell Street) changes of use of existing business or employment premises will not be permitted unless it can be demonstrated that the existing business is no longer viable and that reasonable efforts have been made to find an alternative business user by evidence of the premises being marketed for business use over at least 2 years.

COMMENT

I have no comment on this policy.

POLICY MNP9: TOWN CENTRE SHOPPING

In the town centre changes of use which will support its retail character will be welcomed. Changes of use which would undermine that character, detract from the appearance of the centre or adversely affect local amenity because of noise, smell, litter or other disturbance will be discouraged.

COMMENT

I have no comment on this policy.

COMMUNICATION

POLICY MNP10 BROADBAND AND COMMUNICATIONS INFRASTRUCTURE

1. New development shall incorporate infrastructure to support the installation of, and allow the future upgrade and maintenance of, fiber optic broadband technology.
2. All development will be required to submit a connectivity statement to set out the proposed broadband provision. The statement shall include which broadband supplier(s) can provide full fiber or fixed wireless coverage to the development to provide gigabit capable broadband provision.
3. On sites of 10 or more dwellings and on all non-residential sites, all new properties must be served with an appropriate open access gigabit capable fiber optic infrastructure to enable high speed and reliable broadband connection in accordance with national and local objectives to increase coverage.
4. On sites of fewer than 10 dwellings all new properties shall be served with an appropriate open access fiber optic infrastructure to enable high speed and reliable broadband connection unless there is evidence which demonstrates that providing the required infrastructure is not feasible or economically viable.
5. Installed infrastructure should allow all premises that form part of the approved development to access superfast or better broadband prior to

occupancy.

6. The creation of a building to act as a fiber hub to enable fiber connections within the area will be supported.

COMMENT

Elements of this policy are overly onerous. Neighbourhood plan policy cannot require the submission of a connectivity statement or prescribe who can deliver broadband services. For clarity and to meet the Basic Conditions the policy should be modified as follows:

POLICY MNP10 BROADBAND AND COMMUNICATIONS INFRASTRUCTURE

This Plan supports the provision on site infrastructure for the installation of, and allow the future upgrade and maintenance of, fiber optic broadband technology.

a) Developers are encouraged to submit a connectivity statement to set out the proposed broadband provision.

b) New residential and non-residential development should, wherever possible include appropriate open access gigabit capable fiber optic infrastructure to enable high speed and reliable broadband connection in accordance with national and local objectives to increase coverage.

c) The creation of a building to act as a fiber hub to enable fiber connections within the area will be supported.

SERVICES AND FACILITIES

POLICY MNP11: EXISTING COMMUNITY FACILITIES AND INFRASTRUCTURE

In order to help safeguard the sustainability of the local community, development that would result in the loss of an asset of community value will

not be permitted unless:

- a. there is adequate alternative provision in the parish, or
- b. the facility can be shown to be no longer viable.

The assets of community value safeguarded by the policy are the Health Centre, pharmacy, Post Office, primary school, Memorial Hall, QE11 pavilion and recreation ground, established children's play areas, public lavatories, St George's Church and St Monica's Church.

COMMENT

I have no comment on this policy.

MNP12: NEW COMMUNITY FACILITIES AND INFRASTRUCTURE

1. Development that will demonstrably support the vibrancy and vitality of the town and wider community or provide additional community facilities and infrastructure will be supported, providing it will:

- a. not worsen traffic congestion or adversely affect highway safety or traffic flow,
- b. include safe access and adequate parking provision for all,
- c. provide safe pedestrian access to the town centre and recreation ground, and
- d. be in keeping with the locality and cause no harm to amenity or nuisance to neighbours.

2. Proposals to expand electronic communications and broadband will be supported, providing:

- a. apparatus is erected on existing buildings or structures wherever possible;
- b. apparatus is kept to the minimum necessary for efficient operation, and c.

apparatus will be sited to minimise impacts on the AONB.

COMMENT

I have no comment on this policy.

MNP13: PRIORITIES FOR COMMUNITY FACILITIES AND INFRASTRUCTURE

New developments in Modbury will be required, where appropriate and where the requirement arises directly from the proposed development, to contribute through a Section 106 obligation or through Community Infrastructure Levy (see glossary), towards the following local objectives and in accordance with adopted standards:

- a. to improve safe pedestrian and cycle access to all facilities, particularly between the town and the Recreation Ground,
- b. to improve road safety around the school,
- c. to protect and improve public rights of way, footpaths and cycle routes,
- d. to ensure that children's play areas are evenly distributed across the town,
- e. to maintain and improve sports provision,
- f. to provide electric vehicle recharging points in the car parks,
- g. to increase the provision of residential car parking,
- h. to achieve the provision of public open space to contribute towards a necklace of spaces around the town,
- i. to develop community woodland for habitat and recreation.
- j. to maintain and develop community allotments and public community orchards for food security,

k. to create a civic space in the area behind The White Hart.

COMMENT

I have no comment on this policy.

ENVIRONMENT AND SUSTAINABILITY

POLICY MNP14: PROTECTING THE LANDSCAPE

Development shall not harm but conserve and enhance the landscape by:

- a. complying with national and local strategic policies for the AONB, including the South Devon AONB Management Plan,
- b. protecting important views, as shown on Map 8, ensuring sensitive development that would not adversely affect the countryside,
- c. safeguarding and enhancing local features that make a positive contribution to the landscape, particularly areas of green space and woods, and
- d. incorporating high quality landscape design which retains existing features, reinforces local landscape character, restores degraded landscapes, retains significant local heritage trees and groups of trees and provides mitigation from harm.

COMMENT

I have no comment on this policy.

POLICY MNP15: SUPPORTING BIODIVERSITY

Development shall not harm but maintain and enhance biodiversity paying due regard to:

- a. internationally important sites including existing, candidate or proposed Special Protection Areas and Special Areas of Conservation,

- b. nationally important sites including Sites of Special Scientific Interest, National Nature Reserves and Marine Conservation Zones,
- c. locally important sites including County Wildlife Sites, Local Nature Reserves, Ancient Woodlands, County Geological Sites and other priority habitats, and
- d. the network of wildlife corridors and ecological features that connect habitats and areas of biodiversity.

COMMENT

I have no comment on this policy.

POLICY MNP16: LOCAL GREEN SPACES AND PUBLIC OPEN SPACE

- a. New areas of public open space, play space, allotments or local green space (see Glossary), including a community woodland and community orchards, will be encouraged and required where necessary in association with development or otherwise.
- b. The Local Green Spaces identified in the plan will be safeguarded from development. Only minor development directly associated with and necessary for the public enjoyment of the green space will be permitted.
- c. The following areas are designated as green spaces in the plan:
 - 1. Millennium Meadow (Public open space, community orchard)
 - 2. North of Galpin Street (Community orchard/public open space)
 - 3. Palm Cross Green (Historic, local character)
 - 4. School field (School sports field and play area, community orchard, recreational, wildlife)
 - 5. Integral to the Palm Cross development (Public open space, allotment and

wildlife, play, proximity to housing)

6. Ayleston Park Green (Chestnut tree with Tree Preservation Order, historic, local character)

7. Allotments (Community amenity)

8. Champernowne playpark (Community recreation)

9. Dogapit meadow (Landscape buffer, green lung, local character, wildlife, attenuation for flood risk, planted for wildlife)

10. Memorial Hall grounds (Public amenity, play area)

11. Recreation ground (Public amenity, community orchard, play area)

d. A necklace of community woodland is proposed to be created around Modbury. As land on the margins of the town are made available for such a purpose they will also be designated as public open spaces. Developments on the town's margins should include such provision.

COMMENT

During the course of my examination, I sought clarification regarding the consultation of the owners of the proposed Local Green Spaces and any representations received. It was confirmed that the known owners of the proposed LGSs were directly consulted. I also sought clarification regarding the evidence supporting the proposed designations, this can be viewed on the SHDC website.

Paragraphs 99 of the NPPF 2021 states:

“Existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:

a) an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or

b) the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or

c) the development is for alternative sports and recreational provision, the benefits of which clearly outweigh the loss of the current or former use.”

Local Green Space designation is a “restrictive and significant policy designation” equivalent to Green Belt designation. It is essential that, when allocating Local Green Space, plan-makers can clearly demonstrate that the requirements for its allocation are met in full.

The NPPF 2021 states:

“101. The designation of land as Local Green Space through local and neighbourhood plans allows communities to identify and protect green areas of particular importance to them. Designating land as Local Green Space should be consistent with the local planning of sustainable development and complement investment in sufficient homes, jobs, and other essential services. Local Green Spaces should only be designated when a plan is prepared or updated and be capable of enduring beyond the end of the plan period.

102. The Local Green Space designation should only be used where the green space is:

a) in reasonably close proximity to the community it serves;

b) demonstrably special to a local community and holds a particular local significance, for example because of its beauty, historic significance, recreational value (including as a playing field), tranquility or richness of its wildlife; and

c) local in character and is not an extensive tract of land.

103. Policies for managing development within a Local Green Space should be consistent with those for Green Belts.”

Given that the Framework is not ambiguous in stating that a Local Green Space designation is not (my emphasis) appropriate for most green areas or open space, it is entirely reasonable to expect compelling evidence to demonstrate that any such allocation meets national policy requirements.

In addition, Neighbourhood planning guidance states:

" Different types of designations are intended to achieve different purposes. If land is already protected by designation, then consideration should be given to whether any additional local benefit would be gained by designation as Local Green Space."

Importantly, sites which are already subject to a statutory designation such as Historic Parks and Gardens or Scheduled Ancient Monuments are already subject to high levels of protection and would not benefit from an additional local designation. Likewise, sites which fall within the curtilage of a listed building or Conservation Area do not necessarily need additional protection under this policy as their importance and contribution to a settlement must already be considered if any application falls within or in the vicinity of these sites.

I have carefully considered the evidence put before me for the designations proposed. The decision to designate a particular site is a matter of planning balance and I have made my decision based on whether or not I consider the proposed designations meet the NPPF tests and I find that the proposed LGSs do meet the requirements of the NPPF.

Paragraph 103 of the NPPF states that the policies for managing development within a Local Green Space should be consistent with those for Green Belts. Paragraphs 147-149 detail the policy framework

for development affecting the Green Belt. Paragraph 147, in particular states:

“Inappropriate development is, by definition, harmful to the Green Belt and should not be approved except in very special circumstances.”

Designation as a LGS does not preclude all development. It protects a designated site from inappropriate development except in very special circumstances. Paragraph 149 of the NPPF (2021) sets out what types of development would not (my emphasis) be considered inappropriate:

" 149. A local planning authority should regard the construction of new buildings as inappropriate in the Green Belt. Exceptions to this are:

a) buildings for agriculture and forestry;

b) the provision of appropriate facilities (in connection with the existing use of land or a change of use) for outdoor sport, outdoor recreation, cemeteries and burial grounds and allotments; as long as the facilities preserve the openness of the Green Belt and do not conflict with the purposes of including land within it;

c) the extension or alteration of a building provided that it does not result in disproportionate additions over and above the size of the original building;

d) the replacement of a building, provided the new building is in the same use and not materially larger than the one it replaces;

e) limited infilling in villages;

f) limited affordable housing for local community needs under policies set out in the development plan (including policies for rural exception sites); and

g) limited infilling or the partial or complete redevelopment of previously

developed land, whether redundant or in continuing use (excluding temporary buildings), which would:

- not have a greater impact on the openness of the Green Belt than the existing development; or
- not cause substantial harm to the openness of the Green Belt, where the development would re-use previously developed land and contribute to meeting an identified affordable housing need within the area of the local planning authority.”

The following paragraphs should be deleted from the policy but included in the community projects/aspiration section of the plan:

a. New areas of public open space, play space, allotments or local green space (see Glossary), including a community woodland and community orchards, will be encouraged and required where necessary in association with development or otherwise.

d. A necklace of community woodland is proposed to be created around Modbury. As land on the margins of the town are made available for such a purpose they will also be designated as public open spaces. Developments on the town’s margins should include such provision.

For Clarity, the policy should be modified to reflect the requirements of the NPPF 2021 and recent caselaw (see Court of Appeal Judgement in the Case of The Queen (On the Application of Lochailort Investments Limited) and Mendip District Council Norton St Philip Parish Council 2nd October 2020) which clearly states that Local Green Space polices in neighbourhood plans should not deviate from the policy requirements of the NPPF. For clarity and to meet the Basic Conditions the policy should be modified as follows:

POLICY MNP16: LOCAL GREEN SPACES AND PUBLIC OPEN SPACE

The following are designated as Local Green Space. These areas

illustrated in Figure 17 and detailed in Appendix A3.

1. Millennium Meadow (Public open space, community orchard)
2. North of Galpin Street (Community orchard/public open space)
3. Palm Cross Green (Historic, local character)
4. School field (School sports field and play area, community orchard, recreational, wildlife)
5. Integral to the Palm Cross development (Public open space, allotment and wildlife, play, proximity to housing)
6. Ayleston Park Green (Chestnut tree with Tree Preservation Order, historic, local character)
7. Allotments (Community amenity)
8. Champernowne playpark (Community recreation)
9. Dogapit meadow (Landscape buffer, green lung, local character, wildlife, attenuation for flood risk, planted for wildlife)
10. Memorial Hall grounds (Public amenity, play area)
11. Recreation ground (Public amenity, community orchard, play area)

Inappropriate development will not be supported except in very special circumstances.

SECTION 5

Conclusion and Recommendations

1. I find that the Modbury Parish Neighbourhood Plan has been prepared in accordance with the statutory requirements and processes set out in the Town and County Planning Act 1990 (as amended by the Localism Act 2011) and the subsequent Neighbourhood Planning (General) Regulations 2012.
2. The Neighbourhood Plan does not deal with County matters (mineral extraction and waste development), nationally significant infrastructure such as highways and railways or other matters set out in Section 61K of the Town and Country Planning Act 1990.
3. The Modbury Parish Neighbourhood Plan does not relate to more than one Neighbourhood Area and there are no other Neighbourhood Plans in place within the Neighbourhood Area.
4. The Strategic Environmental Assessment (SEA) and Habitats Regulations Assessment (HRA) screening, meet the EU Obligation.
5. The policies and plans in the Modbury Parish Neighbourhood Plan, subject to the recommended modifications would contribute to achieving sustainable development. They have regard to national policy and to guidance, and generally conform to the strategic policies of the Development Plan. At the time of my examination, the development plan for the area is the Plymouth and South West Devon Joint Local Plan (the JLP), adopted in March 2019.
6. I therefore conclude that the Modbury Parish Neighbourhood Plan subject to the recommended modifications can proceed to Referendum.

Deborah McCann BSc MRICS MRTPI Dip Arch Con Dip LD

Planning Consultant

NPIERS Examiner

CEDR accredited mediator

8 December 2022

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Working together



South Hams District Council

The Modbury Neighbourhood Plan – Regulation 18 Decision Statement

Date of Publication – **TBD**

Following an independent examination of the Modbury Neighbourhood Plan and the receipt of the Examiner's Report, the Council has decided that, subject to the Examiner's proposed specific modifications, the Modbury Neighbourhood Plan should proceed to referendum for the following reasons; the Neighbourhood Plan:

- will be compatible with the European Convention of Human Rights, and in particular, to Article 8 (privacy); Article 14 (discrimination); and Article 1 of the first Protocol (Property);
- will not breach, and is otherwise compatible with European Union obligations;
- is not likely to have significant effect on a European designated site or a European Offshore Marine site either alone or in combination with other plans or projects;
- taken as a whole has regard to national policies and advice contained in guidance issued by the Secretary of state and would contribute to the achievement of sustainable development;
- is in general conformity with the strategic policies contained in the Development Plan for the area;
- meets the Basic Conditions; and
- has undergone consultation in accordance with the requirements of the Regulations.

The Council also agreed with the Examiner's recommendation that the referendum for the Neighbourhood Plan should be based on the designated Neighbourhood Area approved by the Council on 24 February 2015.

This Decision Statement, the Examiner's Report, including the proposed modifications, and the Modbury Neighbourhood Plan can be viewed on South Hams District Council's website:- <https://www.neighbourhoodplanning.swdevon.gov.uk/modbury>

The Plan is also available for inspection as follows:

- Access to the Council's Offices in Totnes is restricted. If you wish to arrange to view the documents, please contact:-

Elliott Hale
Neighbourhood Planning Officer
South Hams District and West Devon Borough Councils
Email: elliott.hales@swdevon.gov.uk Telephone: 01803 861178

Or visit:-

- Modbury Town Council, Parish Office, 2 Galpin Street Modbury Devon PL21 0QA by appointment. Ring Town Clerk, Sally Smale - 01548 830222 or email parishclerk@modburypc.co.uk who will arrange for the Neighbourhood Plan to be viewed.

To meet the requirements of the Localism Act 2011 a referendum which poses the question, 'Do you want South Hams District Council to use the Neighbourhood Plan for Modbury to help it decide planning applications in the Neighbourhood Area?' will be held in the area formally designated as the Modbury Neighbourhood Plan Area.

For any questions please contact the Neighbourhood Planning Team on 01803 861178 or e-mail to SW-Neighbourhood Planning elliott.hales@swdevon.gov.uk



MODBURY PARISH COUNCIL

Parish Office, 2 Galpin Street, Modbury, PL21 0QR
Tel: 01548 830222
Email: Parishclerk@modburypc.co.uk
Chair: Councillor Pete Watts
Clerk: Sally Smale

Elliot Hale
Neighbourhood Planning Officer
South Hams District Council
Follaton House
Totnes
TQ9 5NE

12 January 2023

Dear Elliot

Modbury Neighbourhood Plan – Post Examination Report, Modifications and Referendum

Reference: Deborah McCann's Independent Examiner's Final Report dated 8 December 2022.

As the qualifying body for the Modbury Neighbourhood Plan (the Plan), Modbury Parish Council is pleased to submit the Referendum version of the Plan (attached). The Plan will be available to view on the Parish Council Website. <https://modburyparishcouncil.gov.uk/neighbourhood-plan>. Printed copies will be available on request to the Parish Office.

The Plan has been successful at examination, and meets the basic conditions. The Examiner concluded that the Plan, subject to recommended modifications, could proceed to Referendum. The Council duly considered the Examiner's report at a meeting held on 1st November 2022 and accepted the findings. The Plan has, therefore, been modified in accordance with the Examiner's recommendations.

We request that South Hams District Council take the next steps to proceed to Referendum at the earliest opportunity, and the making of the Plan. The Referendum area should be the same as, and not extend beyond, the Plan area. An anticipated date for the Referendum would be appreciated in order that we can publicise locally.

Yours sincerely

Sally Smale
Modbury Parish Clerk

Enc: Modbury Neighbourhood Plan – Referendum Version, December 2022

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Examiner's comment/ proposed changes	District Council Officers comment/ recommendation	Modbury Parish Council implemented
Summary Comments		
<p>I am satisfied that the Referendum Area should be the same as the Plan Area, should the Modbury Parish Neighbourhood Plan go to Referendum.</p>	<p>Recommendation: Agree</p> <p>Advice: Officers see no reason to extend the area of referendum beyond the area to which the plan applies and therefore agree with the examiners recommendation.</p>	<p>No decision needed.</p>
<p>I have read the Modbury Consultation Statement and the representations made in connection with this subject I consider that the consultation process was robust and that the Neighbourhood Plan and its policies reflect the outcome of the consultation process including recording representations and tracking the changes made as a result of those representations.</p>	<p>Recommendation: Agree</p> <p>Advice: Officers have made representation on the Modbury NP and conducted statutory consultations as required by the regulations.</p>	<p>No decision needed.</p>
Comments on the Plan Policies		
<p>VISION Statement - I am satisfied that the Modbury NDP vision and objectives were developed from the consultation process and that the policies within the plan reflect the vision and objectives.</p>	<p>Recommendation: Agree</p>	<p>No decision needed.</p>
<p>POLICY MNP1: LOCATION, SCALE AND CHARACTER OF DEVELOPMENT</p>	<p>Recommendation: Agree</p> <p>Advice: Policy to be modified, basic conditions require the</p>	<p>Yes</p>

<p>I have carefully considered the proposed development boundaries and am satisfied that the process to establish the modified boundaries was thorough and consistent. The Local Planning Authority are the decision making authority for planning applications and therefore neighbourhood plan policies should refer to “supported” rather than “permitted” within policies in the neighbourhood plan.</p> <p>For clarity and to meet the Basic Conditions, the policy should be modified as follows:</p> <p>POLICY MNP1: LOCATION, SCALE AND CHARACTER OF DEVELOPMENT This policy establishes a settlement boundary for Modbury, as shown on Map 2.</p> <p>1. Development proposals within the settlement boundary will be supported where:</p> <ul style="list-style-type: none"> i. the scale, density and character of development is in keeping with its site and surroundings; and ii. natural or historic assets are protected in accordance with national policy and guidance and the Development Plan; and iii. it protects important views and skylines; and <p>Modbury Neighbourhood Development Plan</p> <p>iv. there is no adverse impact on local amenity, traffic, parking or safety.</p> <p>2. Outside the settlement boundary development will be tightly controlled and only supported where it will meet the proven need for affordable housing for local people (as provided for by JLP policies TTV26 and TTV27 or where it is essential in order to meet agricultural, forestry or other small-scale needs which cannot be met elsewhere. The plan also aims to control the scale, density and character of development so that it is in keeping with the locality and remains geared to meet local housing needs).</p>	<p>removal of ‘permitted’ and change to ‘supported’. Council Officers recommended the inclusion of JLP policies TTV26 and TTV27</p>	
<p>POLICY MNP4: HERITAGE AND CONSERVATION</p> <p>1. Development proposals are required to not harm but enhance nondesignated historic and heritage assets and their settings. New up-to-date uses are encouraged</p>	<p>Recommendation: Agree</p> <p>Advice: Officers recommended the inclusion of JLP policies</p>	

<p>and must retain, restore and enhance the historic fabric that makes each building special, incorporating sensitive retrofitting of energy efficiency measures. 2. Development proposals shall pay full regard to the provisions and guidelines contained in the Modbury Conservation Area Appraisal and the Modbury Village Design Statement, particularly for guidance on suitable details and materials.</p> <p>COMMENT The policy regime for heritage assets and conservation areas is set out in the NPPF 2021 and does not need to be repeated in a neighbourhood plan policy. For clarity and to meet the Basic Conditions, the policy should be modified as follows:</p> <p>POLICY MNP4: HERITAGE AND CONSERVATION 1. Development proposals affecting heritage assets and their settings or the conservation area must comply with the requirements of national policy and guidance and the Development Plan. New up-to-date uses are encouraged where they retain, restore and enhance the historic fabric that makes each building special, incorporating sensitive retrofitting of energy efficiency measures. 2. Development proposals should pay full regard to the provisions and guidelines contained in the Modbury Conservation Area Appraisal and the Modbury Village Design Statement, particularly for guidance on suitable details and materials.</p>	<p>and TTV27, this was not included. Officers do not deem this to be a point to raise further as the JLP provides guidance</p>	
<p>POLICY MNP5: HOUSING DEVELOPMENT 5. A Community Land Trust or self-build solution will be welcomed as an alternative to the traditional types of affordable housing provision. COMMENT For clarity paragraph 5. of the policy should be modified as follows: 5. Affordable housing delivered by a Community Land Trust or as selfbuild will be welcomed as an alternative to the traditional types of affordable housing provision.</p>	<p>Recommendation: Agree Advice: Clarification made to paragraph 5 in the policy</p>	<p>yes</p>
<p>POLICY MNP6: PRINCIPAL RESIDENCE POLICY</p>	<p>Recommendation: Agree</p>	<p>Yes, the policy has been</p>

<p>COMMENT</p> <p>I have concerns in relation to this policy. Firstly, as I set out in my general comments, Planning Guidance on preparing neighbourhood plans and policies is clear, it states:</p> <p>“A policy in a neighbourhood plan should be clear and unambiguous. It should be drafted with sufficient clarity that a decision maker can apply it consistently and with confidence when determining planning applications. It should be concise, precise and supported by appropriate evidence. It should be distinct to reflect and respond to the unique characteristics and planning context of the specific neighbourhood area for which it has been prepared.”</p> <p>This policy seeks to control an event that may occur at some time in the future, when the level of second home ownership reaches a level of 20%. I have not been provided with evidence to support or justify the 20% threshold, why the impact of 20% of second homes would be a tipping point as opposed to 19% or 21%. This would in itself lead to a significant problem in successfully and consistently applying this policy in the determination of a planning application and defending it on appeal if necessary. There is, in addition, a lack of clarity on who would be responsible for gathering the necessary statistical information and how it would be monitored. I am also not convinced that relying on Census information would be adequately robust. My conclusion on this point is that the policy does not provide the certainty and clarity required to meet the tests set out above.</p> <p>Secondly, the evidence before me suggests the overall number of second homes across the parish in 2011 was 8.3% and I accept that this is likely to have increased since that date however this figure is significantly lower than other areas in the South Hams. Whilst I accept that there is an affordability issue within the parishes, I have not been provided with any evidence that links the number of second homes to the level of affordability or the impact of second homes on the local economy or local community, for example the sustainability of local schools due to falling roles resulting from increased second home ownership. I accept that it is not easy to provide the information and statistics relating to ownership/ occupation of houses within any parish area however the imposition of a principal</p>	<p>Advice: Officers agree with the examiners recommendations and comments, Policy MNP6 should be deleted. Policy MNP6 does not meet the threshold of 20% and a policy should be made to account for an unknown future occurrence of this regard. Modbury is currently at 18% and this could continue to rise, however, the imprecise nature of the policy and evidence required would make it difficult to apply consistently leading to uncertainty and the potential for challengeable decisions.</p> <p>Officers would recommend that supporting text be provided so a modification to the NP can be made if and when the threshold is met. This recommendation is consistent with recent Neighbourhood plans (Dartmouth).</p>	<p>deleted and supporting text has been inserted.</p>
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<p>residence policy has serious implications, and it is necessary to ensure that there is strong evidence to support the imposition of such a restriction. I have given very serious consideration as to whether or not I can find that this policy meets the Basic Conditions particularly having regard to the NPPF (2021) – “delivering a wide choice of quality homes” and “delivering sustainable development” together with how the policy meets the requirements of the Human Rights Act 1988 and other European Legislation. I have also considered in detail Mr. Justice (now Lord Justice) Hickinbottom’s judgment in R (RLT Environment Ltd) v Cornwall Council in relation to Policy H2 of the St. Ives Neighbourhood Development Plan. He concluded:</p> <p>“that Policy H2 is in pursuit of legitimate public interests identified in article 8(2), namely the interests of the economic well-being of the country, and for the protection of the rights and freedoms of others.” However, in this instance it was considered that there was adequate evidence to support the policy however, there is always a planning balance to be arrived at in consideration of this type of policy. I have also carefully considered the potential for unintended consequences on the local housing market and the future delivery of affordable housing. I accept that the level of second homes in the parish is likely to increase over the plan period and that this does have implications for the local community however at this time I am not satisfied that this policy meets the Basic Conditions. The imprecise nature of the policy and evidence required would make it difficult to apply consistently leading to uncertainty and the potential for challengeable decisions and implications for Natural Justice and Human Rights. I acknowledge that there is community concern with regard to the growth of second homes and the impact this can have on local house prices, the local economy and local community. However, after careful consideration I have decided that this policy does not meet the Basic Conditions and couldn’t be modified within the scope of my examination to do so. My decision is one of planning balance and I conclude that in this instance POLICY MNP6: PRINCIPAL RESIDENCE POLICY should be deleted.</p> <p>I understand that this may disappoint the community however there is</p>		
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<p>an opportunity to review the plan as a whole or just this policy should the situation arise when the impact of second home ownership can be adequately evidenced to support the introduction of a Principal Residence policy. The supporting text for this policy could be retained in the plan but should be modified as follows. [Please see document for supporting text]</p>		
<p>POLICY MNP7: SAFE MOVEMENT AND TRANSPORT</p> <ol style="list-style-type: none"> 1. Development shall include good, safe pedestrian access and links with enhanced opportunities for walking, cycling, shared mobility and the use of public transport. Improved pedestrian links around the school and to recreational and green spaces are required, in particular at Palm Cross and to the recreation ground. 2. Development shall not worsen traffic congestion or adversely affect highway safety, traffic flow and/or parking conditions, particularly or the congested parts of the network highlighted on the Proposals Map. Proposals that would ease traffic congestion or enhance highway safety, traffic flow and/or parking provision will be supported. 3. Streets shall be designed and laid out so as to instinctively reduce traffic speeds through measures such as Home Zones rather than signs. 4. Support will be given to a study to identify how traffic flow and road safety might be improved in Modbury. 5. Support will be given to a study to explore the feasibility of a relief road. 6. Good, safe pedestrian access to new housing development will be required. <p>COMMENT</p> <p>There are elements of this policy which should be deleted from the policy and included in the community projects/aspiration section of the plan as follows:</p> <ol style="list-style-type: none"> 4. Support will be given to a study to identify how traffic flow and road safety might be improved in Modbury. 5. Support will be given to a study to explore the feasibility of a relief road. <p>For clarity and to meet the Basic Conditions, the policy should be modified as follows:</p>	<p>Recommendation: Agree</p> <p>Advice: On account of the basic conditions points 4 and 5 of policy should be moved to projects/aspiration section of the plan as they create ambiguity in the implementation of the policy it would also make it difficult to apply consistently leading to uncertainty and the potential for challengeable decisions.</p>	<p>Yes</p>

<p>POLICY MNP7: SAFE MOVEMENT AND TRANSPORT</p> <p>1. Development proposals should include, where appropriate, good, safe pedestrian access and links with enhanced opportunities for walking, cycling, shared mobility and the use of public transport. Improved pedestrian links around the school and to recreational and green spaces are required, in particular at Palm Cross and to the recreation ground.</p> <p>2. Development should not worsen traffic congestion or adversely affect highway safety, traffic flow and/or parking conditions, particularly or the congested parts of the network highlighted on the Proposals Map. Proposals that would ease traffic congestion or enhance highway safety, traffic flow and/or parking provision will be supported.</p> <p>3. Streets should be designed and laid out so as to instinctively reduce traffic speeds through measures such as Home Zones rather than signs.</p> <p>6. Good, safe pedestrian access to new housing development will be required.</p>		
<p>POLICY MNP10 BROADBAND AND COMMUNICATIONS INFRASTRUCTURE</p> <p>1. New development shall incorporate infrastructure to support the installation of, and allow the future upgrade and maintenance of, fiber optic broadband technology.</p> <p>2. All development will be required to submit a connectivity statement to set out the proposed broadband provision. The statement shall include which broadband supplier(s) can provide full fiber or fixed wireless coverage to the development to provide gigabit capable broadband provision.</p> <p>3. On sites of 10 or more dwellings and on all non-residential sites, all new properties must be served with an appropriate open access gigabit capable fiber optic infrastructure to enable high speed and reliable broadband connection in accordance with national and local objectives to increase coverage.</p> <p>4. On sites of fewer than 10 dwellings all new properties shall be served with an appropriate open access fiber optic infrastructure to enable high speed and reliable broadband connection unless there is evidence which demonstrates that providing the required infrastructure is not feasible or economically viable.</p>	<p>Recommendation: Agree</p> <p>Advice: Policy is too onerous to be implemented, Officers agree with the examiner's changes.</p>	<p>Yes</p>

<p>5. Installed infrastructure should allow all premises that form part of the approved development to access superfast or better broadband prior to occupancy.</p> <p>6. The creation of a building to act as a fiber hub to enable fiber connections within the area will be supported.</p> <p>COMMENT Elements of this policy are overly onerous. Neighbourhood plan policy cannot require the submission of a connectivity statement or prescribe who can deliver broadband services. For clarity and to meet the Basic Conditions the policy should be modified as follows:</p> <p>POLICY MNP10 BROADBAND AND COMMUNICATIONS INFRASTRUCTURE</p> <p>This Plan supports the provision on site infrastructure for the installation of, and allow the future upgrade and maintenance of, fiber optic broadband technology.</p> <p>a) Developers are encouraged to submit a connectivity statement to set out the proposed broadband provision.</p> <p>b) New residential and non-residential development should, wherever possible include appropriate open access gigabit capable fiber optic infrastructure to enable high speed and reliable broadband connection in accordance with national and local objectives to increase coverage.</p> <p>c) The creation of a building to act as a fiber hub to enable fiber connections within the area will be supported.</p>		
<p>For Clarity, the policy should be modified to reflect the requirements of the NPPF 2021 and recent caselaw (see Court of Appeal Judgement in the Case of The Queen (On the Application of Lochailort Investments Limited) and Mendip District Council Norton St Philip Parish Council 2nd October 2020) which clearly states that Local Green Space polices in neighbourhood plans should not deviate from the policy requirements of the NPPF. For clarity and to meet the Basic Conditions the policy should be modified as follows:</p> <p>POLICY MNP16: LOCAL GREEN SPACES AND PUBLIC OPEN SPACE</p>	<p>Recommendation: Agree</p> <p>Advice: Changes needed to meet basic conditions - neighbourhood plans should not deviate from the policy requirements of the NPPF</p>	

<p>The following are designated as Local Green Space. These areas illustrated in Figure 17 and detailed in Appendix A3.</p> <ol style="list-style-type: none"> 1. Millennium Meadow (Public open space, community orchard) 2. North of Galpin Street (Community orchard/public open space) 3. Palm Cross Green (Historic, local character) 4. School field (School sports field and play area, community orchard, recreational, wildlife) 5. Integral to the Palm Cross development (Public open space, allotment and wildlife, play, proximity to housing) 6. Ayleston Park Green (Chestnut tree with Tree Preservation Order, historic, local character) 7. Allotments (Community amenity) 8. Champernowne playpark (Community recreation) 9. Dogapit meadow (Landscape buffer, green lung, local character, wildlife, attenuation for flood risk, planted for wildlife) 10. Memorial Hall grounds (Public amenity, play area) 11. Recreation ground (Public amenity, community orchard, play area) <p>Inappropriate development will not be supported except in very special circumstances.</p>		
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**MINUTES OF THE MEETING OF
THE SALCOMBE HARBOUR BOARD
HELD AT CLIFF HOUSE, SALCOMBE, ON MONDAY, 14 NOVEMBER 2022**

Members in attendance			
* Denotes attendance		∅ Denotes apology for absence	
*	Cllr J Brazil (Chairman)	*	Mr P Brown
*	Cllr D Brown	∅	Ms A Jones
*	Cllr R J Foss	*	Mr A Owens
*	Cllr M Long	*	Mr C Plant
		*	Mr I Shipperley
		*	Mr I Stewart

Other Members in attendance and participating:
Cllrs H Bastone and J Pearce

Item No	Minute Ref No below refers	Officers in attendance and participating
All agenda items		Director of Place & Enterprise; Salcombe Harbour Master; Deputy Harbour Masters; Deputy Section 151 Officer and Democratic Services Manager

SH.19/22 APOLOGIES FOR ABSENCE
It was noted that an apology for absence for this Board Meeting had been received from Ms Jones.

SH.20/22 MINUTES
The minutes of the Salcombe Harbour Board meetings held on 13 June 2022 and 26 September 2022 were both confirmed as a true and correct record.

SH.21/22 URGENT BUSINESS
There were no items of urgent business raised at this meeting.

SH.22/22 DECLARATIONS OF INTEREST
Members were invited to declare any interests in the items of business to be considered during the course of the meeting, and the following was made:

Messrs Owens and Stewart both declared a disclosable pecuniary interest in all related agenda items by virtue of paying harbour duties. As a result of the Deputy Monitoring Officer having granted each Board Member a dispensation, they were able to take part in the debate and vote on any related matters (Minute SH.05/22 refers).

SH.23/22 PUBLIC QUESTION TIME
In accordance with the Public Question Time Procedure Rules, there were no Questions raised at this Board Meeting.

SH.24/22

FEEDBACK FROM HARBOUR COMMUNITY FORUMS

The Board received verbal update reports from those Members who attended the Harbour Community Forums. The updates were given as follows:

Salcombe Kingsbridge Estuary Conservation Forum (SKECF)

The Board was informed that the Forum had met on 18 October 2022. Items that were discussed included:

- A presentation had been received from two University of Plymouth students on their Estuary research projects;
- An update on the publication of the Area of Outstanding Natural Beauty guide;
- A recent Natural England survey had established that oyster and limpet species were significant within the Estuary. The Forum was informed that a specific oyster removal project was planned to be carried out during the winter months;
- The ongoing Washabrook stream silt project;
- An update on the East Portlemouth seagrass issue;
- The role of the Harbour Authority with regard to the disposal of dead birds. Whilst DEFRA had produced mixed messages regarding their disposal, the Harbour Master confirmed that the Harbour Authority continued to follow the published guidance and was currently looking to find an approved disposal contractor;
- Water quality monitoring. With the agreement of the Board, the Forum representative committed to setting up a Briefing for the Board on the key issues affecting water quality in the Estuary during the spring of 2023.

South Devon & Channel Shellfishermen

The representative advised that the price of crab meat had increased and the Shellfishermen were generally content.

The Shellfishermen had expressed their support for a meeting being held with the Harbour Master and the re-build of the Fish Quay continued to be an ongoing saga.

Kingsbridge and Salcombe Marine Business Forum

As advised earlier, the Board representative had submitted her apologies to this meeting and there was therefore no update given.

Kingsbridge Estuary Boat Club (KEBC)

Having been reported to the Board at its last meeting (Minute SH.16/22 refers), the representative informed that the Boat Club remained adamant that the Kingsbridge Slipway could be better utilised. In particular, the introduction of a dinghy rack and a kayak storage area would be most welcomed additions. The Board recognised that a meeting was being held with the Chairman and Vice-Chairman of the Boat Club on 22 November and it was felt that this would be an appropriate opportunity to discuss these points further.

The Boat Club had also expressed some concerns over access issues associated with the Kingsbridge Skatepark proposals. In light of these, officers committed to following these up outside of this Board meeting.

Finally, the Boat Club had made the point that the Security Key Code for the pontoons had been the same for a good period of time and should be changed.

East Portlemouth Parish Council

The representative confirmed that there were no issues arising from the Parish Council.

SH.25/22

GOVERNANCE ARRANGEMENTS – MEMORANDUM OF UNDERSTANDING WITH THE EXECUTIVE

The Board considered a report that reminded it that a review of the Council's governance arrangements had resulted in the Executive assuming the role of duty holder for the purposes of the Port Marine Safety Code with the Board thereby becoming an advisory board to the Executive.

The report sought approval for the Board Chairman to sign a Memorandum of Understanding with the Executive setting out the respective roles of the Board and the Executive.

In discussion, the following points were raised:

- (a) It was confirmed that Executive Members had now been in receipt of Duty Holder Training and that any recommendations from the Board would be presented to the Executive for onward consideration;
- (b) The Board requested that the Harbour Board Guidance Notes (Annex 3 of the published agenda report refers) be updated to reflect that the Board comprised 4 appointed South Hams District Council Member representatives and 6 Co-Opted Member representatives. Furthermore, it was agreed that the Notes should include the point that the Vice-Chairman of the Board had to be a Co-Opted Member;
- (c) With regard to whether the Council or the Harbour Authority was responsible for certain 'wet side' and 'dry side' assets, the Harbour Master committed to seeking further legal advice following this Board meeting.

It was then:

RECOMMENDED

That the Board agrees to its Chairman signing the Memorandum of Understanding with the Executive in relation to the exercise of the Executive's Harbour functions and its role as Duty Holder for the purposes of the Port Marine Safety Code and **RECOMMENDS** that the Executive authorise the Leader of Council to also sign it on behalf of the Executive.

SH.26/22 REVENUE BUDGET MONITORING 2022/23

A report was presented that updated Members on income and expenditure variations against the approved budget and provided a forecast on the year-end position.

In discussion, the following points were raised:

- (a) A Member felt it would be helpful to have a better understanding of the competing demands that were placed upon the Harbour Reserves;
- (b) The Harbour Master informed that the piles were tested every year but acknowledged that the outcome of this exercise was not always reported to the Board;
- (c) Some Members were of the view that the Harbour Authority required a detailed Asset Management Plan;
- (d) With regard to the interest payable to the Council, officers confirmed that the interest rates were fixed at the time that the loan was taken out and the Council did not make any income from these arrangements;
- (e) The Board recognised that some of the variances were attributed to the unprecedented circumstances related to the COVID pandemic over the last two years.

It was then:

RESOLVED

That the forecast income and expenditure variations for the 2022/23 Financial Year and the projected surplus of £92,200 be noted.

(Meeting commenced at 2:30 pm and concluded at 4:05 pm)

Chairman

Report to: **Executive**

Date: **26 January 2023**

Title: **Memorandum of Understanding with the Salcombe Harbour Board**

Portfolio Area: **Councillor Judy Pearce – Leader of the Council**

Wards Affected: **All**

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

Date next steps can be taken:

Author: **David Fairbairn** Role: **Head of Legal Services and Monitoring Officer**

Contact: **Telephone/email: 01803861359/david.fairbairn@swdevon.gov.uk**

Recommendations:

It is recommended that that the Executive agrees to the Leader of the Council signing the Memorandum of Understanding with the Salcombe Harbour Board in relation to the exercise of the Executive's harbour functions and its role as duty holder for the purposes of the Port Marine Safety Code.

1. Executive summary

- 1.1 The review of the Council's governance arrangements resulted in the Executive assuming the role of duty holder for the purposes of the Port Marine Safety Code ("the Code") and the Salcombe Harbour Board becoming an advisory board to the Executive.
- 1.2 This report seeks approval for the Leader to sign a memorandum of understanding with the Board setting out the respective roles of the Executive and the Board.

2. Background

- 2.1 The Council is the Harbour Authority for Salcombe Harbour. There is therefore an expectation that it will comply with the Code. The Code requires the Council to have a "duty holder" who is accountable for their compliance with the Code and their performance in ensuring safe marine operations.

- 2.2 The full Council has agreed that the Executive should be the duty holder. It has also been agreed that given the knowledge and experience of the Salcombe Harbour Board, the Board should provide advice to the Executive in performing its role as duty holder.
- 2.3 External solicitors with experience of harbour governance matters were instructed to draft a memorandum of understanding explaining the roles and relationship between the Executive and the Harbour Board. The Memorandum of Understanding is attached as **Appendix A**.
- 2.4 The memorandum of understanding is consistent with the recommendations of the Ports Good Governance Guidance published by the Department for Transport in March 2018. It provides a framework for decision-making, accountability and the financial management of the Harbour under which the Harbour Board will provide advice and assistance to the Executive so that it can exercise its functions that takes account of the needs of the Harbour as a business and an environmental and community asset, in the light of the commercial realities of municipal port operations.
- 2.5 At its meeting on 14 November 2022, the Harbour Board authorised its chairman to sign the Memorandum of Understanding on behalf of the Harbour Board (Min. * refers)

3. Outcomes/outputs

- 3.1 The Memorandum of Understanding, although not legally binding, will provide the clarity that the Code and Guidance seek in port and harbour governance arrangements.

4. Options available and consideration of risk

- 4.1 The option of not proceeding with the memorandum of understanding is not realistic as it would undermine the clarity that the Council has been seeking to bring to the governance arrangements for the Harbour. This would be something that would be taken into account by regulatory bodies when deciding if the Council had failed in its legal duties as a harbour authority. This in turn may result in the Council suffering reputational damage.
- 4.2 Members of the Executive have been briefed formally and the draft memorandum of understanding was circulated to all members of the Harbour Board before formal authority to sign was sought

5. Implications

Implications	Relevant to	Details and proposed measures to address
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	proposals Y/N	
Legal/Governance	Y	<p>The Pier and Harbour Order (Salcombe) Confirmation Act 1954 made the Council the Harbour Authority for Salcombe Harbour. As such, the Council has a duty to:</p> <p>a) take reasonable care, so long as the harbour is open for public use, that all who may choose to navigate in it may do so without danger to their lives or property;</p> <p>b) conserve and promote the safe use of the harbour, and prevent loss or injury through the Council's negligence;</p> <p>c) have regard to efficiency, economy and safety of operation as respects the services and facilities provided; and</p> <p>d) take such action that is necessary or desirable for the maintenance, operation, improvement or conservancy of the harbour.</p> <p>The Council has now clarified responsibility for exercising its harbour authority functions and the memorandum of understanding is the final piece in the governance arrangements.</p>
Financial implications to include reference to value for money	N	There are no financial implications arising directly from this report
Risk	Y	The memorandum of understanding will complete the governance arrangements and therefore ensure the clarity that the Code requires.
Supporting Corporate Strategy	Y	In accordance with the principles of the Ports Good Governance Guidance 2016, ensuring good governance for Salcombe Harbour is in the interests of stakeholders including the local community both for employment and leisure purposes.
Consultation & Engagement Strategy	N	
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:

Appendix A –Memorandum of Understanding

Background Papers:

There are none.

Draft MoU

Dated

20[]

(1) South Hams District Council (Executive)

(2) Salcombe Harbour Board

**MEMORANDUM OF UNDERSTANDING
IN RESPECT OF SALCOMBE HARBOUR**

CONTENTS

Clause

1. **Definitions and Abbreviations.**
2. **Purpose of Memorandum of Understanding.**
3. **Ports Good Governance Guidance.**
4. **General commitments of the Executive of South Hams District Council and the Salcombe Harbour Board**
5. **Agreements of Executive of South Hams District Council and the Salcombe Board**
6. **Agreement of the Executive of South Hams District Council**
7. **Agreement of Salcombe Harbour Board.**
8. **General.**
9. **Term.**
10. **Confidentiality.**

Appendices

- (1) **Extract from the Ports Good Governance Guidance – Harbour Management Committees**
- (2) **Asset Register**
- (3) **Salcombe Harbour Board Guidance Notes**
- (4) **Organisational Structure**

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding is made on the day of 2022

Between

The Executive of South Hams District Council whose principal place of business is at Follaton House, Plymouth Rd, Totnes, TQ9 5NE (hereinafter referred to as 'the Executive')

and

Salcombe Harbour Board (an advisory Committee of the Council) whose principal place of business is at Follaton House, Plymouth Rd, Totnes, TQ9 5NE (hereinafter referred to as "the HMC")

Who are jointly referred to in this Memorandum of Understanding as 'the Parties'

WHEREAS:

- South Hams District Council ("the Council") is the Owner and Statutory Harbour Authority for Salcombe Harbour ("the Harbour");
- The Council which operates a Leader and Executive model of governance arrangements, has agreed that as part of a review of its governance arrangements, the Executive should exercise the Council's functions as Harbour Authority insofar as such functions were not already Executive Functions within the meaning of the Local Authorities (Functions and Responsibilities) (England) Regulations 2000
- The Salcombe Harbour Board (hereinafter referred to as "the Harbour Board") is a Committee of the Council. The Harbour Board is advisory in nature and has been established to assist with improvement of the governance of the Harbour having regard to the recommendations for governance changes made in the Ports Good Governance Guidance ('PGGG') published by the Department for Transport in March 2018;
- The MOU is made pursuant to the recommendations made in the PGGG. The Parties wish to set out their commitment to implementing the recommendations contained in the PGGG relevant to the establishment of the Harbour Board.

1) Definitions and Abbreviations

For the purposes of this MOU the following definitions and abbreviations shall apply;

- a) The "Assets" shall mean the property, equipment and all other matters set out in the Asset Register at **Annex 3** annexed hereto.
- b) The "Constitution" shall mean the constitution of the Council as amended from time to time.
- c) The "Council" shall mean South Hams District Council.
- d) The "Executive" shall mean the Executive of the Council.
- e) The "DfT" shall mean the Department for Transport.

- f) The “Harbour” shall mean Salcombe Harbour, the limits of which are established under the 1954 Order.
- g) The “Harbour Board” shall mean Salcombe Harbour Board.
- h) “Harbour Board Guidance Notes” shall mean the guidance notes contained in Annex 4 of this MoU
- i) The “Harbour Business Plan” shall mean the Harbour Business Plan for the relevant period as approved by the Executive.
- j) The “Harbour Revenue” shall include the charges dues rates tolls and other moneys and receipts which may be taken and received by way of income from or in respect of the harbour undertaking under the authority of the 1954 Order, the Harbours Act 1964 or the Harbours, Docks and Piers Clauses Act 1847.
- k) “MoU” shall mean this Memorandum of Understanding.
- l) The “Parties” shall mean the Executive and the Harbour Board.
- m) “PGGG” shall mean the report published by the Department for Transport in March 2018 called *Ports Good Governance Guidance*.
- n) “Terms of Reference” shall mean the matters incorporated into the Constitution under Table 3B.
- o) “1954 Order” means the Salcombe Harbour Order 1954 (contained in the Schedule to the Pier and Harbour Order (Salcombe) Confirmation Act 1954), as amended from time to time.

2) Purpose of MoU

- a) Subject to the requirements of the Constitution the purpose of this MoU is to
 - (i) Provide a clear framework for the decision making, accountability, and financial management of the Harbour to enable the Harbour Board (in exercising its advisory role to the Executive) to assist the Executive in addressing the needs of the Harbour as a business and an environmental and community asset, which takes full account of the commercial realities of municipal port operations; and
 - (ii) Assist in clarifying the role of the Harbour Board to carry out its functions as an advisory body to the Executive in respect of the Harbour under its Terms of Reference
- b) The statutory role and functions of the Council and the Parties are not affected by the requirements of the MoU.
- c) This MoU is a statement of the understanding between the Executive and the Harbour Board. The MoU is not, and is not intended to be, legally binding to either Party. The detailed working arrangements may change over time by the agreement of the Executive.
- d) The MoU provides that the Harbour will be governed according to best practices as set out in the PGGG.

3) Ports Good Governance Guidance 2018.

- a) The PGGG was published by the DfT in March 2018, following extensive consultation with Industry. It sets out a number of recommendations for the accountability, governance, and finance of statutory harbour authorities and Part C applies specifically to Ports and Harbours within the Municipal Sector.
- b) The PGGG is based on a number of other documents, particularly the UK Corporate Governance Code (UKCGC). It replaces that in previous documents such as Modernising Trust Ports (MTP), published by the then DETR in 2000, its second edition Modernising Trust Ports (MTP2), published by DfT in 2009, and Opportunities for Ports in Local Authority Ownership, published by DfT in 2006. The guidance also reflects the recommendations of the Department's Trust Port Study, published in May 2016.
- c) The PGGG does not have force of law and is not legally binding. It does not replace any legal duties or obligations that SHAs might have in their own legislation or general acts of Parliament, such as the Harbours Act 1964 or the Companies Act 2006. Where such legal duties conflict with the PGGG, the legal duties take precedence.
- d) Whilst the guidance is advisory, the DfT expects all SHAs to carefully consider it and to implement its principles if these are not already in place, where practical and appropriate to the circumstances of the SHA.
- e) It has been agreed by the Executive that this MoU is drawn up to address the recommendations contained in the PGGG. An extract from the PGGG related to the establishment of Harbour Management Committees is set out at **Annex 1**.
- f) This MoU is prepared on the basis of the findings of the PGGG. However, it is recognised by the Parties that the PGGG deals with short, medium and long-term issues. It is fully appreciated that circumstances may change and for this reason a review and monitoring mechanism is essential to underpin this process.
- g) On this basis it is intended that a report will be put to the Harbour Board annually to allow the Harbour Board to review and monitor this MoU and recommend to the Executive any changes to it as are required by amendments to the PGGG or developments in respect of the PGGG.

3) General Commitments of the Executive and the Harbour Board

- a) This MoU records that the Executive and Harbour Board have considered the guidance of the PGGG and records the commitment of the Executive and the Harbour Board to implement the recommendations contained therein; and
- b) This MoU further records that Executive and Harbour Board shall take all reasonable steps to work together constructively to mutually facilitate the implementation of the recommendations contained in the PGGG.

4) Agreements of the Executive and Harbour Board

The Executive and Harbour Board agree that:

- a) The reporting lines relevant to an advisory Committee of the Council advising the Executive pursuant to the provisions of section 102(4) of the Local Government Act 1972 and having regard to the recommendations of the PGGG will be maintained to assist the Harbour Board to carry out its functions under its Terms of Reference.

- b) The Harbour Board will be required to exercise an advisory role to the Executive in respect of the Harbour.
- c) The Executive will exercise the functions of the Council and make decisions in respect of the Harbour under and in accordance with the Harbours Act 1964, the 1954 Order and the Harbour Docks Piers and Clauses Act 1847 (as incorporated).
- d) **Annex 4** sets out the organisational structure that is to be put into place defining the reporting lines between the Parties; and
- e) **Accounts:** It is the intention of the Parties that the Council will keep separate accounts for the undertaking with capital distinguished from revenue in accordance with article 34 of the 1954 Order and for the Harbour Revenue to be applied in accordance with article 35 of the 1954 Order.
- f) The Accounts are to include any monies in any reserve fund established under article 35 of the 1954 Order.
- g) Companies Act accounts are to be established and maintained for ease of understanding for the Harbour Board, and to fulfil statutory obligations under the Harbours Act 1964.

5) Agreement of the Executive

The Executive agrees that:

- a) The Assets (including land, buildings, infrastructure, plant and machinery) of the Council that are utilised for the running of the Harbour as listed in **Annex 2** form part of the Harbour and that the Harbour Board may advise the Executive in relation to them in accordance with its Terms of Reference, the Harbour Business Plan, the Council's plans and policies and the provisions of this MoU; and
- b) An annual budget including all harbour rental charges and central re-charges will be recommended by the Harbour Board and will then be reviewed and determined by the Executive annually; and
- c) The annual charges and dues for the Harbour will be recommended by the Harbour Board at the same time as the annual budget and will be reviewed and determined by the Executive annually; and
- d) The Harbour Board shall not be permitted to obtain specialist services from external sources, but can recommend to the Executive that they should take such action; and
- e) The Executive will ensure that its aims and objectives regarding the advice and recommendations it seeks to receive in relation to its management of the Harbour are agreed and clearly set out between the Parties in policies and plans; and
- f) The Council's policies and plans for the Harbour are stated by the Executive to be:
 - (i) [the Environmental Policy]; and
 - (ii) [the Harbour Business Plan].

- g) It is the intention of the Parties that these policies and plans will support the Harbour as a financially self-sustainable body, without the need to call upon the Council's General Fund; and
- h) The Executive will consider for approval updated policies and plans proposed by the Harbour Board from time to time, and utilise the skills and experience of the Harbour Board to its best advantage; and
- i) Borrowing facilities may be recommended to the Executive by Harbour Board to fund revenue generating projects in the Harbour if the Harbour Board can demonstrate that such borrowing facilities are consistent with the Council's policies and plans and the 1954 Order; and
- j) The Executive will make payments to Harbour Board members in accordance with the Council's Members' Allowances Scheme set out in Chapter 7 of the Constitution.

6) Agreement of the Harbour Board

The Harbour Board agrees that:

- a) The Harbour Board is a committee of the Council constituted by virtue of section 102(4) of the Local Government Act 1972 and is therefore an advisory body and can only make recommendations to the Executive in respect of the management of the Harbour.
- b) In accordance with the PMSC, the Executive as duty holder cannot delegate its accountability for compliance with the PMSC to the Harbour Board.
- c) In advising and making recommendations to the Executive the Harbour Board will ensure to address the needs of the Harbour as a business and an environmental and community asset, which takes full account of the commercial realities of harbour operations; and
- d) The Harbour Board shall, subject to Clause 7(e) and (f), make recommendations to the Executive regarding the management, acquisition and disposal of assets.
- e) Recommendations made to the Executive in respect of the management, acquisition and disposal of assets must be made in accordance with the Council's acquisitions and disposals policy, financial procedure rules and contracts procedures rules; and
- f) The Harbour Board shall not make recommendations to the Executive on the disposal or acquisition of property assets unless the recommendation(s) accords with the provisions of the 1954 Order and Council's plans, policies and strategies and in particular the Harbour Business Plan;
- g) The Harbour Board will review and then recommend an annual budget, (including rental charges and central re-charges) to the Executive and an annual schedule of charges and dues for the Harbour and these will be determined by the Executive; and
- h) The Harbour Board will monitor performance against approved budgets and recommend appropriate action to the Executive where this is required; and
- i) The Harbour Board make a six monthly and annual report to the Executive reporting on performance against budget; and

- j) The Harbour Board will produce a Harbour Business Plan and any other plan required from time to time and recommend its contents to the Executive for publishing; and
- k) The Harbour Business Plan and other plans should promote the Harbour to be a financially self-sustainable body in the long term; and
- l) The Harbour Board will discharge its role in accordance with its Terms of Reference, the Harbour Board Guidance Notes contained in **Annex 3** of this MoU, this MoU and with consideration of other relevant policies and plans such as the Port Marine Safety Code, PGGG, Health and Safety at Work legislation, Harbour Byelaws and any other appropriate policies, plans and legislation; and
- m) The Harbour Board will provide an annual report to the Executive on how it is advising and making recommendations in relation to the Harbour in a manner that is consistent with relevant policies plans and legislation; and
- n) Borrowing facilities may be recommended by the Harbour Board and considered by the Executive to fund revenue generating projects in the harbour where the Harbour Board can demonstrate that such borrowing facilities are consistent with the terms of the 1954 Order and the Council's policies and plans including the sustainability of the Council's budget; and
- o) The Harbour Board will take all reasonable steps to engage appropriately with the stakeholder community. It will maintain formal links with stakeholder forum(s) as appropriate; and

7) General

- a) This MoU neither expands nor is in derogation of those powers and authorities vested in the participating Parties by applicable law.
- b) For the avoidance of doubt, the Harbour Board is neither the Designated Person nor the Duty Holder under the Port Marine Safety Code. The Duty Holder is the Executive.

8) Term

- a) This MoU in this form or such amended form as agreed between the Parties shall remain effective for as long as the present governance arrangements are in place.
- b) The Parties shall review this MoU at periods of 12 months, or such earlier period as appropriate should the need arise. The Executive may agree to amend this MoU if circumstances dictate.
- c) The MoU may be terminated by resolution of the Executive.

9) Data protection and information

- a) The Parties agree to comply with the Data Protection Act 2018, the General Data Protection Regulation, the Freedom of Information Act 2000, the Environmental Information Regulations 2004 and other statutory information regimes.

Signed for and on behalf of

The Executive of
South Hams District
Council

.....

Cllr Judy Pearce, Leader of the Council

Signed for and on behalf of

Salcombe Harbour Board

.....

Chairperson of Salcombe Harbour Board

DRAFT

Annex 1 Extract from Part C PGGG – Harbour Management Committees

Harbour Management Committees

4.6 Some LAs have established Harbour Management Committees (HMCs) as a means of governing their harbours. These have some of the features of a trust port board or board of a private SHA and are a good example of how corporate governance best practice principles can be applied in the context of local authority harbours.

4.7 The establishment of an HMC (which would be constituted as a committee within the current LA system) can bring openness and additional accountability to port decisions, along with more expertise and experience (as a skills audit will be carried out prior to HMC members being decided upon).

4.8 LAs may wish to consider formally establishing HMCs by legislative routes. The BPA has produced guidance for LAs that have or are planning to put in place HMCs.

Key points are set out in the box below.

Harbour Management Committees

The formation and membership of the committee is critical. It should be strategic and aware of the commercial and legal framework within which ports operate. Based on particular experiences the Committee should ideally comprise:

- approximately 50% LA elected members of a constituent authority. These do not all have to be LA councillors, but can be co-opted representatives who are appointed by the LA or provide specific skills in support of port management;
- the port chief executive/harbour master should have access to the HMC in an advisory role, but as an officer of the Council they cannot serve on the committee or have voting rights;
- external appointees who are stakeholder representatives or individuals with valuable skills and experiences;
- a Chair appointed on merit, skills and suitability;
- external members should be appointed by public advertisement using the guidance applicable to public appointments, in line with the advice given above.

The HMC Chair should ideally be an elected representative of the LA as this will automatically maintain reporting lines and accountability to the Council. Should the LA favour the appointment of an independent Chair, it is important that reporting lines and voting arrangements are clear and in line with LA corporate governance practice.

Before recruiting, local authorities should undertake a skills audit to assess the balance of skills required to effectively govern the port and deliver against the business plan. These skills should be considered for all committee members.

In order for the HMC to operate effectively a formal memorandum of understanding could be established between the harbour committee and the local authority. The memorandum of understanding could set out the recommended ground rules for a framework between the port and its authority.

Annex 2 – Asset Register

To be completed by the Executive and then reviewed by the Harbour Board before the MoU is signed by both parties.

Annex 3 – Harbour Board Guidance Notes

Harbour Board Guidance Notes

A Establishment of the Harbour Board

1. The functions of the Executive conferred under the Constitution: Functions within the definition of a Harbour Authority in Section 57(1) of the Harbours Act 1964 and the Salcombe Harbour Order 1954 and the Harbour Docks and Piers Clauses Act 1847 (as incorporated).
2. Functions arising out of any Byelaws of Harbour Directions made under the above Acts.
3. That the Harbour Board will provide advice to the Executive in relation to the discharge of these functions within any policy and budget approved by the Council as set out in the Terms of Reference and Memorandum of Understanding between the Executive and the Harbour Board.
4. All Meetings of the Harbour Board shall be conducted in accordance with the Council's Procedure Rules as set out in the Council's Constitution.

B Membership of the Harbour Board

1. The Harbour Board shall consist of 10 members, 6 Members of the Council and 4 Co-opted Members. Each Co-opted Member, as far as it is achievable, will be appointed on a 'fit for purpose basis' through assessment of each nominee's skills, knowledge, experience and commitment on matters identified from time to time by a skills audit as being the main skills requirements for the Harbour Board.
2. All Members of the Harbour Board, including any Co-opted Members, will be bound by the South Hams District Council Code of Conduct as set out in the Council's Constitution and will be required to sign the declaration of acceptance of office (contained in Schedule 1) as required by law in any event within 14 days of their appointment. A Co-opted Member is under the same obligations as Members of the Council that appoints the Co-opted Member, and that member must observe the Council's Constitution and most importantly comply with the statutory rules relating to conduct and the disclosure of interests.
3. No Co-opted Member shall act as a Member until that person has made the declaration of acceptance of office (contained in Schedule 1); and a Co-opted Member shall cease to be a Member of the Harbour Board if that person fails to make that declaration within three months of his / her appointment.
4. The Chairperson and Vice Chairperson of the Harbour Board shall be elected in accordance with the Council's Constitution. Only Council Members shall be the Chairperson and Vice Chairperson of the Harbour Board.
5. As the harbour authority function rests with the Executive, the Harbour Board is constituted as a Committee of the Council by virtue of s102(4) of the Local Government Act 1972. The formation of the Harbour Board under this provision permits the appointment of Co-opted member to an advisory Committee. Council member appointees must accord with the political representation requirements in s15 of the Local Government and Housing Act 1989 (unless in this requirement is disapplied by the Council in accordance with section 17(1) Local Government and Housing Act 1989) and all decisions in respect of the Harbour must be taken by the Executive or in accordance with the other arrangements permitted in section 9E of the Local Government Act 2000.
7. In the event that a Harbour Board Member other than a Council Member does not attend any meetings of the Harbour Board for a period of six months from the date of his or her last attendance, that Member ceases to be a Harbour Board Member, unless within the period of absence the Council gives approval for this absence. This shall not apply to Council Members whose attendance is regulated by Statute.

8. (i) All Harbour Board Members will attend relevant training to be determined by the Chairperson on the basis of appropriate advice, which shall be founded on best practice.

(ii) All Harbour Board Members will be required to attend Code of Conduct Training.

C Appointments Process

As an advisory committee, members of the Harbour Board shall be appointed in accordance with section 104(2) of the Local Government Act 1972.

The Harbour Board shall consist of 10 members, 6 Members of the Council, and 4 Co-opted members. Each Co-opted Member, as far as it is achievable, will be appointed on a 'fit for purpose basis' through assessment of each nominee's skills, knowledge, experience and commitment on matters but not limited to the following:

- management of harbours;
- shipping and other forms of transport;
- local industrial, commercial, financial or legal matters;
- management of marine leisure activities;
- safety or personnel management;
- community issues;
- environmental matters;
- knowledge of port/maritime or other nautical experience;
- any other skills and abilities considered from time to time by the Appointments Panel to be relevant to the discharge by the Harbour Board of its functions as an advisory body;

1. Council Members shall be appointed to the Harbour Board by the Council and a Council Member's term shall expire on the fourth day after the date of the next regular election or from the date of their resignation. Council Members' appointments will be governed by the Council's Constitution.

2. The Council shall secure, so far as reasonably practicable, that the Council Committee Members appointed by them will, between them, have special knowledge, experience and ability in a broad and complementary range of matters relevant to the efficient, effective and economic discharge by the Harbour Board of its function as an advisory body.

3. A Co-opted Member's term of appointment shall be three years from the date of appointment unless the Member shall die, resign or be disqualified;

4. Co-opted Harbour Board Members shall be appointed by the Council for up to 2 full terms, and exceptionally 3 full terms.

5. A Co-opted Member may be appointed to a second three-year term without recourse to open competition, subject to the agreement of both the Chairperson and the Member, and the Harbour Board's assessment that the Member has performed satisfactorily during the first term (all Membership of the Harbour Board is subject to ratification by the Council);

7. Re-appointment of a Co-opted Member for a third term shall involve competition with other candidates;

8. Appointments will usually be made by an Appointments Panel consisting of the Chairperson of the Harbour Board, a Co-opted Member of the Harbour Board, [and an independent external technical advisor with a thorough understanding of harbour/port governance issues].

9. The Appointments Panel shall secure, so far as reasonably practicable, that the Co-opted Members appointed by them will, between them, have special knowledge, experience and ability in a broad and complementary range of matters relevant to the efficient, effective and economic discharge by the Harbour Board of its functions. The decisions of the Appointments Panel are subject to ratification by the Council.

D Resignation of Members

1. A Harbour Board member, including the Chairperson, may resign his or her office at any time by Notice in writing given to the Council's Monitoring Officer.

E Meetings

1. The Harbour Board shall meet at least [6] times a year and be governed by the Procedure Rules as set out in the Council's Constitution;

2. The quorum for meetings of the Harbour Board shall be [5] save that at no time shall there be less than [2] Council Members present at the Meeting.

3. The Harbour Board shall consider the following business:

- i. Approval of the Minutes of the previous meeting;
- ii. Declarations of Interest, if any;
- iii. Report and feedback from Stakeholder Forums;
- iv. The business otherwise set out on the Agenda for the meeting;

4. Agendas

(i) a copy of the agenda including the item, or a copy of the item, shall be open to inspection by members of the public at least [5] clear working days before the meeting or, where the meeting is convened at shorter notice, from the time the meeting is convened; unless

(ii) by reason of special circumstance, which shall be specified in the Minutes, the Chairperson of the meeting is of the opinion that the item should be considered as a matter of urgency.

5. Annual Meeting

An Annual Meeting of the Harbour Board will take place during the year. This will be an informal meeting and include invitation to all members of Stakeholder Forums.

F Declaration of Interests

1. A Co-opted Member shall be under the same obligations as Members of the Council that appoint that person and that person must observe the Council's Standing Orders and comply with the statutory rules relating to the disclosure of interests.

2. All Harbour Board members will be governed by the South Hams District Council Code of Conduct which details interests which need to be declared.

3. The Council maintains and regularly updates a register of interests declared by Members, and shall make the register available for inspection by members of the public at all times during usual office hours.

G Payments to Members

1. The Chairperson of the Harbour Board shall receive a Special Responsibility Allowance in accordance with the Local Authorities (Members' Allowances) (England) Regulations 2003 (as amended).

2. The Harbour Board may pay to Co-opted Members such expenses for travelling allowances on the same basis as Members of the Council.

H Stakeholder Forums

1. To ensure that the Harbour Board has strong and direct links with both harbour users, local communities and other external organisations with an interest in the Harbour Board area, a formal consultation mechanism will be established by the Executive. This will enable Stakeholder Forums to formally make representations to the Harbour Board;

2. No Member of the Harbour Board will have a position on the Stakeholder Forums. The Harbour Master (or authorised deputy) and an Harbour Board Member may attend as observers.

3. The Harbour Board may recommend to the Executive to appoint other Stakeholder Forums.

Schedule 1 : Declaration of Acceptance of Office – Co-opted Members of the Committee

I.....being a Co-opted Member of the Salcombe Harbour Board of South Hams District Council ('the Council'), declare that I will duly and faithfully fulfil the requirements of this role according to the best of my judgement and ability.

I undertake to observe the South Hams District Council Code of Conduct as to the conduct which is expected of Members and Co-opted Members of a Committee of the Council.

If I have an interest, direct or indirect:

- (a) in any contract or proposed contract to which the Council as statutory harbour authority is or would be a party or I am a director of a company or body with which the contract or proposed contract is made or proposed to be made; or
- (b) in any other matter with which the Council as statutory harbour authority or Salcombe Harbour Board are concerned,

I will declare that interest.

I have disclosed details of every financial and other interest as is mentioned in (a) and (b) above, and I will in future notify as soon as reasonably practicable any alteration to those interests, or any new interest such as is mentioned in (a) and (b) above, which I may acquire.

Signed Date

Signed Date
[Monitoring/Deputy Monitoring Officer]

Annex 4 – Organisational Structure

To be inserted

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