

**Decision Session - Executive Member
for Economy and Strategic Planning**

17th October 2019

Report of the Assistant Director for Planning and Public Protection

**Supplementary Planning Documents to support the emerging York
Local Plan**

Summary

The purpose of this report is to provide a progress update and scoping details of the prioritised Supplementary Planning Documents for Green-Blue Infrastructure and Affordable Housing. It also considers Members recent commitment to the production of a Carbon Reduction, Renewable Energy and Sustainable Design and Construction SPD.

SPDs will provide guidance and advice to expand on high level 'strategic' policies contained in the emerging York Local Plan in order to guide development management officers, developers and development site landowners and their professional consultants. An SPD does not set policy itself but provides a framework for the implementation of policy.

The report presents a detailed scope for both the Green-Blue Infrastructure and Carbon Reduction, Renewable Energy and Sustainable Design and Construction SPDs. The scope presented draws upon existing planning policy in the submitted Local Plan (2018), current evidence base and best practice examples. Both SPDs are seeking to provide detailed guidance and a checklist for applicants to ensure that each topic area is appropriately considered, designed and demonstrated in new development. This report seeks endorsement of the scope to enable the draft SPDs to be progressed prior to being considered by Local Plan Working Group and Executive for city-wide consultation. It also outlines the timescale of production and additional resource requirements to progress the SPDs.

A progress update on the Affordable Housing SPD is also provided in context of revised national policy requirements in the updated National

Planning Policy Framework (NPPF) (released February 2019) and the submitted Local Plan policy H10 'Affordable Housing'. The NPPF changes have implications for decision-making now in advance of adoption of the Local Plan and may affect how Policy H10 is considered by the Inspectors in the forthcoming examination of the Local Plan. Officers' recommendation is that a further report on this matter should be taken to Local Plan Working Group and Executive to consider the implications for decision-making in advance of plan adoption, the potential implications for the Local Plan examination and how these factors may influence the production of an SPD.

The report also presents the opportunity and resource requirements to progress a new Green-Blue Infrastructure Strategy and Action for the Council. This would take into consideration Members resolution for a pollinator strategy and support for the Northern Forest initiative.

Recommendation

1. The Executive Member is asked to:
 - (i) Note the progress of the Supplementary Planning Documents;
 - (ii) Endorse the scope of the Green Infrastructure SPD to allow the draft document to progress;
 - (iii) Endorse the scope of the Carbon Reduction, Renewable Energy and Sustainable Design and Construction SPD to allow the document to progress as the next priority SPD;

Reason: So that work on interim draft Supplementary Planning Documents can be progressed prior to adoption of the York Local Plan

- (iv) Recommend that a report is taken to Local Plan Working Group and Executive regarding the production of an Affordable Housing SPD and the implications of national policy changes.

Reason: So that the Members are aware of potential implications of the NPPF (2019) on Affordable Housing policy and consequential implications for the production of an SPD.

- (v) Recommend that a future report on the Green-Blue Infrastructure Strategy is taken to Executive to endorse the scope, timetable and

resources required for a GBI strategy and action plan.

Reason: *So that work on a draft GBI Strategy and Action Plan can commence*

- (vi) Recommend that a response to the Government's consultation on whether to implement changes to Part L of the Building Regulations is taken to the Executive Member Decision Session for Environment and Climate Change.

Reason: *So that the Council can submit a formal response to the Government led consultation on Building Regulations.*

Background

2. The Local Plan was submitted in May 2018 and is currently at examination. The key aim of the Local Plan is to ensure that the principles of sustainable development are embedded and delivered spatially through the planning process by development across the city. Central to this is development that promotes the well-being of residents and protection and enhancement of York's urban form and natural assets, which will be established through the implementation of the policies within the plan.
3. The submitted Local Plan sets out that a number of SPDs will be produced in order to support and add detail to the Local Plan policies themselves. The following list indicates those SPDs that are currently referenced in the Local Plan:
 - Strategic Site SPDs (for each of the strategic development sites);
 - Sustainable Transport for Development;
 - Health and Well-being;
 - Cultural Well-being;
 - Green Infrastructure;
 - Affordable Housing;
 - Gypsy and Travellers and Travelling Showpeople;
 - Lower Derwent Valley;
 - Low Emission;
 - Sustainable Design and Construction;
 - Managing Environmental Quality;
 - Local Heritage List;

- Self-Build and Custom Build Housing; and
 - The review of existing draft SPDs including HMOs, Sub-division of dwellings and house extensions.
4. Members of Executive in September 2018 endorsed the production of supplementary planning documents as outlined in the Submitted Local Plan, prioritising the production of an Affordable Housing SPD and Green Infrastructure SPD since Members had previously highlighted these SPDs as key priorities to support the Local Plan policy position and they were based on evidence that provided a robust rationale for their implementation. The prioritisation of two SPDs was also considered a pragmatic approach to enable development of SPDs to occur alongside the Local Plan examination and within current resources.
 5. Since this decision, City of York Council declared a 'Climate Emergency' in March 2019 and agreed to set a target to become net carbon neutral by 2030.
 6. At the first Council meeting of the new administration on 17th July 2019, Members resolved to request that the Executive "*expedites the amendment of our Supplementary Planning Documents and any other such legislative tools as are available to us in order that they reflect our stated ambition to be carbon neutral by 2030, in line with the Coalition's Partnership Agreement*". As part of this, an additional £25k has been attributed to "*Additional capacity to speed up production of Supplementary Planning Documents to support the Local Plan... To support zero carbon through the planning system, prioritising Supplementary Guidance on Zero Carbon Building and Renewable Power, alongside existing work on Green and Blue Infrastructure.*"
 7. This resolution for Executive endorses the production of a third SPD is and this paper sets out the proposed scope of the Carbon Reduction, Renewable Energy and Sustainable Design and Construction SPD, the proposed resource and consultation requirements.
 8. In addition Members at Council in July 2019 specifically recognised a need for a Pollinator Action Plan noting:
 - that whilst the Government introduced a national Pollinator Strategy in 2014, a great deal more needs to be done.
 - bees and other pollinators are vital to our crops, wildlife, countryside and gardens; around 80% of our crops and garden produce relies on insect pollination.

- there is a serious decline in our native pollinators due to a combination of climate change, farming practices, pesticide use and patterns of urban development.
 - Half of our bumblebee species are in decline with 3 already extinct; 7 bumblebee species have declined by more than 50% in the last 25 years and 71% of our butterflies are in long term decline.
 - Many UK councils are now introducing Pollinator Action Plans. Cornwall, Devon, Dorset, Newcastle and Oxford already have plans in place.
 - Budget savings may be made on grass cutting costs by managing grass verges and other areas for wildflowers, biodiversity and pollinators. Dorset Council has saved £93,000/year.
 - Wildflower verges and other areas can enhance the appearance and prestige of the city and support residents' health and quality of life.
9. Council resolved *“to request a paper to Executive setting out the options for a comprehensive Pollinator Action Plan to include consideration of the management of appropriate verges, parks and other open spaces for wildflowers and biodiversity; other possible measures to support pollinators and the options for working collaboratively to develop and implement the plan with other local organisations.”*

Supplementary Planning Documents

10. Supplementary Planning Documents ('SPDs') are intended to add further details to policies within a Development Plan Document such as a Local Plan. They can be used to provide further guidance for development on specific sites or on particular issues. SPDs are capable of being a material consideration in planning decisions but are not part of the Development Plan itself.
11. SPDs are intended to expand on high level 'strategic' policies contained within DPDs such as the emerging York Local Plan in order to guide development management officers, developers and development site landowners and their professional consultants. An SPD does not set policy itself but provides a framework for the implementation of policy.

12. An SPD must be produced under the provisions of the Planning and Compulsory Purchase Act 2004 and the Town and country Planning (Local Planning) England, Regulations 2012, and in accordance with the National Planning Policy Framework (NPPF). These regulations set out the process that the production of a SPD must follow which includes a requirement for the SPD to not be in conflict with an adopted Development Plan Document, to contain a reasoned justification of the policies contained within it and that before a SPD can be adopted it must prepare a statement setting out how the Local Planning Authority has consulted on the SPD, a summary of the main issues raised and how those issues have been addressed.
13. The Local Plan was submitted for examination on 25th May 2018 but until such time as there is an adopted development plan in York, any draft SPD (even if consulted upon and approved by the Council to inform development management decisions) would only have the status of interim planning guidance and not have the same legal status an adopted SPD in that decision making process. A draft SPD would be capable of being a material planning consideration, but the weight that could be attached to it would be more limited than that an adopted SPD.
14. A new National Planning Policy Framework (NPPF) was published in July 2018 and updated in February 2019. In line with the revised NPPF, the Local Plan is being examined under 'transitional arrangements'. This means the Plan is being examined pursuant to NPPF 2012 and the associated applicable planning practice guidance. This approach was confirmed to through a letter from the appointed Planning Inspectors examining the plan in November 2018.
15. The revised NPPF (2019) is clear however, that it applies immediately to decision-making and should be a material consideration for planning decisions. Therefore, the preparation of any SPDs must be compliant with the submitted Local Plan and take consideration of the NPPF (2019) to ensure that it is compliant for decision-making.

Progress on prioritised SPDs

Green and Blue Infrastructure Supplementary Planning Document

Policy Context

National Policy and Legislation

16. The NPPF requires that the planning system contributes to the achievement of sustainable development. As part of this there is a need to ensure the delivery of interdependent objectives for the economy, society and environment in a positive way. Green-Blue Infrastructure forms a key topic that cuts across these themes positively contributing these mutually important objectives.
17. Within the NPPF (2012 and 2019), there is consideration for different aspects of green and blue infrastructure across a number of policy areas. In developing local policy and guidance, there is therefore considerable scope to achieve different elements of national policy. The key aspects of the NPPF, which apply and can be drawn on for the production of a GBI SPD focus on:
 - promoting health and well-being,
 - achieving well-design places
 - meeting the challenge of climate change and flood risk
 - Conserving and enhancing the natural environment; and
 - Conserving and enhancing the historic environment.
18. In addition, the forthcoming Environment Bill seeks to ensure that all new development produces an overall increase in UK plant and animal life. It envisages developers delivering "net gain" according to a strict hierarchy – first attempting to provide it on site, then, if not feasible, in the local area, and then, if no local sites are available, via the use of a government-approved list of UK sites.

19. Furthermore, the Planning Practice Guidance (PPG) has been updated to detailing how net gain should be delivered. The guidance suggests that measures to achieve net gain may involve creating new habitats, enhancing existing habitats, providing green roofs, green walls, street trees or sustainable drainage systems. But it makes clear that the policy does not override existing protection for designated habitats. There is now a defined requirement in the PPG for authorities to:
- Deliver biodiversity net gain of at least 10% per development; and
 - Produce 'Local Nature Recovery Strategies' identifying where compensatory provision of biodiversity can be delivered.
20. There is also an intention from the government to introduce a scheme in the future whereby developers can invest in nationally strategic habitats with the purchase of biodiversity units and legislate to ensure that net gain is maintained for a minimum of 30 years through the use of conservation covenants. It is anticipated that this should feed into local policy to enable its delivery across the planning system. Work to identify the nationally specific schemes is to be undertaken by the government.

Regional Policy

21. The Leeds City Region Green and Blue Infrastructure Delivery Plan seeks to implement a cohesive strategy across the region. The Strategy is based on seven interconnected priorities and 27 key strands of action. The City Region's approach combines far sighted ambition with the determination to deliver in practice and make a real difference to businesses, people and communities. The delivery plan will take forward and drive implementation of the Strategy and fully supports the emerging Leeds City Region Local Inclusive Industrial Strategy (LIIS) and policy framework.
22. The seven interconnected delivery plan priorities identified reflect the broad nature of how GBI interconnects economic, social and environmental objectives, as set out in the NPPF, at a local level. The key priorities identified are:
- Priority 1: Effective water management and flood risk reduction
 - Priority 2: Build green and blue infrastructure into physical development and housing

- Priority 3: Enhance green and blue infrastructure corridors and networks
- Priority 4: Heighten community access to and enjoyment of green and blue infrastructure
- Priority 5: Plant and manage more trees and woodland
- Priority 6: Restore the uplands and manage land sustainably
- Priority 7: Business growth, jobs, skills and education

Local Policy

Local Plan

23. The remit to produce a Green Infrastructure SPD is set out in Section 9 of the Local Plan regarding Green Infrastructure, wherein this term is used to relate to the overarching framework of York's green assets, including: openspace, formal parks and gardens, woodlands, green corridors, street trees and designated nature conservation assets. It is considered that these assets considered together are greater than the sum of their individual parts. The plan therefore has responsibility to ensure that future development appropriately considers these key assets alone and in-combination across the authority as well as maintaining and enhancing their overall provision.
24. All of the policies within the Green Infrastructure (GI) section of the plan are relevant to the development of an SPD as together these policies seek to plan positively to ensure that GI is appropriately considered, preserved, enhanced and created in new development. The policies include:
- Policy GI1 Green Infrastructure
 - Policy GI2 Biodiversity and Access to Nature
 - Policy GI3 Green Infrastructure Network
 - Policy GI4 Trees and Hedgerows
 - Policy GI5 Protection of Open Space and Playing Fields
 - Policy GI6 New Open Space Provision
 - Policy GI7 Burial and Memorial Grounds
25. Blue infrastructure relates to water infrastructure and associated network. It is intrinsically linked to green infrastructure in York as it is associated with designated green corridors across the city focussing on the city's river corridors. Similarly to the Leeds City Region work, it is considered important that the relevant aspects of the plan dealing with

water are therefore considered in conjunction with the city's green infrastructure.

26. Within the Local Plan there are two policies specifically addressing York's blue infrastructure which should be considered within the SPD. These are:

- Policy ENV4 Flood Risk
- Policy ENV5 Sustainable Drainage

27. Given the linkages between green-blue infrastructure to health, design, climate change and flood risk, it is appropriate that the scope of the SPD should ensure that these key themes are addressed, as applicable. This approach would also fit with that taken by Leeds City Region and in national policy. On this basis, it is therefore considered that the SPD should also consider and contribute to the following local plan policies:

- Policy HW7 Healthy Places
- Policy D1 Placemaking
- Policy D2 Landscape and Setting
- Policy D8 Historic Parks and Gardens
- Policy D10 York City Walls and St. Mary's Abbey Walls ('York Walls')

28. Monitoring of the Local Plan policies is required following adoption of the Plan to ensure that it is achieving its objectives and to enable necessary modifications to the plan through formal review stages should monitoring reveal that changes are required. NPPF (2019) states that policies in Local Plans should be reviewed to assess whether they need updating at least every five years and should then be updated as necessary. The review must follow plan making preparation procedures including preparation, publication and examination. The Council is required to produce an authority monitoring report at least annually to publish any information collected relating to indicators in the Plan.

29. A number of indicators are outlined in section 15 of the Local Plan split by policy to enable this feedback. There is an opportunity for this process to be expanded and further monitoring indicators added to enable the implementation of the s to be collated and monitored through the Authority Monitoring Report and to feed into this review process.

Existing Guidance

30. The Council has existing published guidance, produced to support planning applicants in relation to green-blue infrastructure, including:
- Commuted Sum Payments for Openspace in New Developments (approved by Planning Committee on 26th April 2007 for Development Control purposes, update 1 June 2014);
 - Interim Planning Statement on Sustainable Design and Construction (approved by Planning Committee on 22nd November 2007 for Development Control purposes);
 - Sustainable Drainage Systems Guidance for Developers (2018).
31. The existing guidance for openspace and sustainable design & construction relates to policies set out in the Local Plan Fourth Set of Changes approved for Development Control purposes in April 2005. Policies in the 2005 Local Plan have limited weight as the plan was produced prior to NPPF and is superseded by the submitted Publication draft Local Plan (2018). This guidance therefore needs updating to align with both the NPPF and policies in the emerging Local Plan (2018); It is the intention that the green-blue infrastructure SPD provides this updated detail.

York's Health and Wellbeing Strategy

32. York's Health and Wellbeing Strategy states that health, wellbeing and happiness in York is above the national average and that this should continue. However, it also acknowledges that there are communities for whom health and wellbeing outcomes fall short of those enjoyed by the majority. The ambition therefore is for every single resident to enjoy the best possible health and well-being and in doing so recognises that we need to build friendly and strong communities.
33. The SPD will help to ensure that appropriate and commensurate Green-blue infrastructure is included within developments contributing to the strategy's intention to support health and wellbeing of residents. This in turn will also contribute to wider initiatives supported by the Council pertaining to accessibility and being an 'age friendly city'.

Proposed Scope of the Green and Blue Infrastructure SPD

34. The aim of this SPD is to provide more detailed guidance for applicants and development management officers in relation to the GBI requirements in York, adding detail onto the policies identified as relevant in the emerging Local Plan regarding water, green infrastructure, nature conservation, design and health and well-being. As part of this, the SPD will first draw together the evidence base and relevant policy to set the context and baseline in York. This baseline will include an understanding of the York's current green-blue infrastructure and its location across the city before setting detailed guidance on provision in new development across the city.
35. We have looked for best practice SPDs focussing on this topic and their approach to guidance and implementation. Although the approach to the Green-Blue Infrastructure SPDs is different across authorities, they all concur that it is relevant at all scales of development and will be a useful tool to ensure the expectations of officers, developers and planning applicants are consistent.
36. All SPDs researched include a checklist approach for applicants to ensure the requirements and documents they should be submitting with a planning application is clear. The majority then focus on the detailed requirements of either the authority, setting out the priorities for different areas, or a focus on specific topics of Green-Blue Infrastructure, providing detail on the expectations and considerations for scales of development.
37. For York, it is considered that the latter approach combining a checklist together with topic based detail is most appropriate. This would draw upon the Council's existing approach to development management and the established evidence base for biodiversity, openspace and flood risk and drainage.
38. Appendix 1 to this report sets out the detailed scope of the SPD. In summary, the scope of the SPD will include detail on:
 - Baseline and Context – setting the scene for York's existing GBI and relevant policy
 - Mechanisms for securing delivery – relating to planning obligations and conditions
 - Biodiversity – understanding its importance, evaluating survey information and designing for biodiversity

- Trees – understanding their importance, consideration for existing trees and woodland and designing trees into new development
- Openspace – the Council’s approach to provision, designing in openspace and its delivery
- Multi-functional solutions for Green Infrastructure – considering appropriate solutions and how to embed these in development
- Monitoring requirements – indicators drawing on the above to inform authority monitoring reports.

Resources and Timescales

39. The SPD development and production will be led by the Forward Planning team. However, there is a requirement for input from Technical specialists from across the Council to support its development. This will ensure the SPD provides a pragmatic and suitable approach to policy advice and the application process.
40. Development of the Green-Blue Infrastructure SPD is likely to require involvement from the following:
- Design, Conservation and Sustainable Development
 - Countryside and Ecology Officer
 - Landscape Architect
 - Architect / Team Manager
 - Development Management
 - Development Manager
 - Development Management Officer
 - Public Health
 - Public Health Specialist (re: Openspace)
 - Arboriculture Manager
 - Strategic Flood Risk Team
 - Strategic Flood Risk Manager
 - Strategic Flood Risk Engineer
41. The projected timetable for completing the draft SPD is as follows:
- October 2019 - February 2020 – SPD Development
 - March 2020 – Local Plan Working Group/ Executive
 - April - May 2020 – Citywide consultation
 - June - August 2020 – Consultation analysis and SPD Update
 - September 2020 – Local Plan Working Group/ Executive sign off.

Green-Blue Infrastructure Strategy

42. Members committed to a Green Infrastructure Strategy through its inclusion within policy GI1 'Green Infrastructure' in the Local Plan, which effectively would act as a delivery mechanism for the strategy. Since the submission of the plan, Members have strengthened their commitment to this topic area by prioritising the production of a GBI SPD as well as through other initiatives across the city to strengthen York's biodiversity.
43. Policy GI1 (Green Infrastructure) sets out that through a Green Infrastructure Strategy and policies in the plan York's landscapes, geodiversity, biodiversity and natural environment will be conserved and enhanced recognising the multifunctional role of green infrastructure in supporting healthy community, cultural value, a buoyant economy and aiding resilience to climate change.
44. Alongside the scoping of an SPD, officers have undertaken initial research and development of a Green-Blue Infrastructure Strategy for York, including consideration of the draft GBI Leeds City Region report. As a result of this, the Forward Planning team has identified that a two-step approach providing an overarching strategy and a delivery focussed Action Plan would be most effective. In summary, this would include:
 - GBI Strategy – The strategy would provide the vision, objectives and headline actions for GBI in York, at citywide and Neighbourhood level. Five interconnected aims have been initially identified:
 - Aim 1: Quality places (for people and investment)
 - Aim 2: Health and wellbeing
 - Aim 3: Flood risk reduction
 - Aim 4: Wildlife and habitats
 - Aim 5: Climate change, air and water quality.
 - GBI Action Plan – This would be a 'living' document incorporating the key delivery mechanisms and schemes to deliver the strategy. The delivery mechanisms would cover the following delivery routes:
 - Planning/ Regulatory Services – including the GBI SPD
 - Direct Services / CYC Assets – including a Pollinator Strategy, additional habitat creation (inc. the

- Northern Forest agenda), priorities for planting schemes to ensure climate resilience
- Advocacy/ Facilitator – CYC role as facilitator and in partnership working with local/grass root projects, e.g. St Nicks Centre for Nature and Green Living.

45. Whilst initial steps have been taken to research and scope the strategy, Officers are currently prioritising the development of the SPD to meet the Executive resolution in September 2018. There is currently limited capacity to produce a GBI Strategy and Action Plan concurrent to the development of SPDs within the current Forward Planning team resources. Further investment in resources/capacity will be required to undertake this.
46. A future report on the GBI Strategy could be taken to Executive regarding the scope, timetable and resources required for GBI strategy and action plan. This would enable progress on the strategy and action plan to progress, subject to the agreement of additional resources.

Affordable Housing

Policy Context

National Policy *NPPF (2012)*

47. The NPPF 2012 at paragraph 50 states that LPAs should, where they have identified that affordable housing is needed, set policies for meeting this need on site, unless off site provision or a financial contribution of broadly equivalent value can be robustly justified and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time to plan for a mix of housing based on current and future demographic and market trends, and needs of different groups and cater for housing demand and the scale of housing supply to meet this demand.

Written Ministerial Statement 2014

48. The government set out in their Written Ministerial Statement (WMS) measures to support small scale developers by reducing burdens on developer contributions. In relation to affordable housing it sets out that

for sites of 10-units or less, and which have a maximum combined gross floor space of 1,000 square metres, affordable housing and tariff style contributions should not be sought. This will also apply to all residential annexes and extensions.

49. For designated rural areas under Section 157 of the Housing Act 1985, authorities may choose to implement a lower threshold of 5-units or less, beneath which affordable housing and tariff style contributions should not be sought. This will also apply to all residential annexes and extensions. Within these designated areas, if the 5-unit threshold is implemented then payment of affordable housing and tariff style contributions on developments of between 6 to 10 units should also be sought as a cash payment only and be commuted until after completion of units within the development.
50. These changes in national planning policy will not apply to Rural Exception Sites which, subject to the local area demonstrating sufficient need, remain available to support the delivery of affordable homes for local people. However, affordable housing and tariff style contributions should not be sought in relation to residential annexes and extensions.
51. The WMS also introduced vacant building credit - a financial credit, equivalent to the existing gross floorspace of any vacant buildings brought back into any lawful use or demolished for re-development, should be deducted from the calculation of any affordable housing contributions sought from relevant development schemes. This will not however apply to vacant buildings which have been abandoned.
52. The WMS was challenged in the courts by two local planning authorities: West Berkshire District Council and Reading Borough Council. They had argued that relaxing affordable housing requirements for small sites would drastically reduce the amount of new social housing built by private developers, particularly in areas where land was at a premium and housing projects tended to be smaller. Their challenge was originally upheld by the High Court in August 2015, in a decision which was overturned by the Court of Appeal in May 2016. The small sites exemption was subsequently reintroduced to the National Planning Policy Guidance (NPPG).

NPPF (2019)

53. The NPPF 2019 at paragraphs 63 and 64 aligns with the WMS (2014) stating that provision of affordable housing should not be sought for

residential developments that are not major developments, other than in designated rural areas (where polices may set out a lower threshold of 5 units or fewer). Major developments for housing, are defined in Annex 2 to the NPPF as development where 10 or more homes will be provided or the site has an area of 0.5ha or more.

54. The NPPF goes on to state that at least 10% of the homes should be expected to be available for affordable home ownership as part of the overall contribution for the site, unless this would exceed the level of affordable housing required in the area or significantly prejudice the ability to meet the affordable housing needs of specific groups. Exemptions to this 10% apply, relating to build to rent homes, specialist accommodation such as purpose built accommodation for the elderly or students, those wishing to build or commission their own homes, and sites exclusively for affordable housing, an entry level exception site or a rural exception site. Where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount; Proportionate being equivalent to the existing gross floor space of the existing buildings. This does not apply to vacant buildings which have been abandoned.
55. For information, the definition of “affordable housing” in Annex 2 is widened to include starter homes, discounted market sales housing (at 20% below the local market value) and “*other affordable routes to home ownership*”. Social Rent or Affordable Rent are referenced in the definition of “affordable housing for rent” however, these are not defined in the new NPPF as they were in the 2012 NPPF.

Planning Practice Guidance

56. The planning practice guidance no longer refers to the thresholds for affordable housing provision. It instead focuses on providing guidance on what types of households are considered to be in affordable housing need and how affordable housing need can be calculated.

Local Evidence Base

Strategic Housing Market Assessment (2016) [SD051]

57. Evidence base prepared as part of the plan has material weight in decision-making. The Strategic Housing Market Assessment (2016) underpins the housing policies set out in the Local Plan in relation to affordable housing need, including the appropriate tenure and property

type needs.

58. The SHMA considers what types and sizes of homes – both market and affordable – will be needed and identifies that there is a need for a mix of house sizes across the City.
59. As well as considering the sizes of homes required the SHMA analysis makes an estimate of the proportion of affordable housing need that should be met through provision of different housing products. The income information used in the affordable needs analysis is used to estimate the proportion of households who are likely to be able to afford intermediate housing and the number for whom only social or affordable rented housing will be affordable. There are three main types of affordable housing that can be studied in this analysis:
 - Intermediate
 - Affordable rent
 - Social rent
60. Defining the applicable households to each product is complex and the SHMA accepts that there is a degree of overlap between the different affordable housing tenures. It goes on to define the products into two categories as follows, grouping affordable and social rent together:
 - Households who can afford 80% or more of market rent levels (termed intermediate housing) – this will include equity-based intermediate products such as shared ownership and shared equity homes;
 - Households who would not afford 80% of market rent levels (or would require housing benefit, or an increased level of housing benefit to do so) – this has been termed social/affordable rented although in reality our analysis shows that a rent at 80% of a lower quartile market rent would potentially be lower than for a social rented home.
61. The SHMA estimates that around 1/5 of households would be able to afford a product priced at 80% of the market cost meaning that 4/5

households cannot. This is demonstrated by the following table:

Table 58: Gross need for Intermediate affordable housing

Component of need (all per annum)	Afford 80% of market rents	Cannot afford 80% of market rents	Total
Current need (with housing)	14	56	71
Current need (without housing)	2	11	13
Newly forming households	163	569	732
Existing households falling into need	38	242	279
Total	217	878	1,095
Percentage of total	20%	80%	100%

62. However, the table is only broadly reflective of the intermediate housing need as two factors - savings / access to a deposit and the supply of intermediate housing – need to also be considered.
63. Given the range of figures outlined in the table, it is concluded that a reasonable tenure mix for affordable housing across the city is 20% intermediate housing and 80% social and affordable rented housing. The types of intermediate housing could include products such as shared ownership or shared equity, although the cost of such products should be carefully considered to ensure they are genuinely affordable – this will need to include consideration of any deposit requirements which may be a barrier to access for a number of households as well as the current supply of such housing. It also recommends that strategic policy should retain a degree of flexibility both to take account of local level variations identified, as well as any site specific issues.
64. Policies for what proportion of homes in new development schemes should be affordable need to take account of evidence both of housing need and of the viability of residential development. This is considered under the Viability Study evidence base below.

Local Plan Viability Study [CD018]

65. As set out in the NPPF and highlighted in the SHMA, the determination of how much affordable housing to provide on particular sites needs to take into account the viability of a scheme. The Viability Study (2018) submitted alongside the Local Plan for examination considers this in detail in conjunction with other policies to determine whether they undermine the overall deliverability of the plan.
66. Policy H10 was identified as having a cost implication in the Viability Study and consequently, a broad assessment of the nature of that cost was undertaken. In doing so, the provisions of Policy H10 informed the

site appraisals (brownfield sites over 15 dwellings at 20% and Greenfield sites over 15 dwellings at 30%). For sites with 2 to 15 units, a range of offsite financial contributions (OSFC) were tested. This is equal to the affordable percentages set out in policy H10 based on the formula that is also prescribed in policy H10. See Appendix 2 for the detailed policy wording.

67. The OSFC have been informed by a separate exercise undertaken by Porter for the Council, which is shown in Appendix 5 of the viability study. The appraisal assumes that affordable housing will command a transfer value to a Registered Provider at lower than market rates. The values had been confirmed by the Council Housing team but updated to reflect national changes in affordable housing provision, such as the rent review.
68. Each residential typology site was tested through a detailed development appraisal with cash flow analysis. The impacts of policy costs impacts were considered by adding further policy 'layers' to judge the cumulative impact of policies. The viability report concluded that there is viability across nearly all residential site typologies with the imposition of key policies, including at cumulative policy layers including affordable housing. The exceptions were for the smaller site typologies (with 10, 8 or 7 units) outside of the City Centre, where the full cumulative burden gives marginal viability. However, this was marginal and therefore unlikely to put at serious risk the bulk of smaller sites coming forward since a minor change in market conditions or, for example, the tested average S106 policy requirements, would bring these sites forward with a positive headroom.

Local Plan

69. Given the Local Plan was prepared under NPPF 2012 and the WMS (2014), Policy H10 seeks affordable housing provision (on and off site) in relation to developments of 2 or more dwellings is in accordance with this national policy position and the prepared evidence base (the Strategic Housing Market Assessment (2016) and the Local Plan Viability Report (2018)). However, there are some parts of the policy which now do not align with changes made in the revised NPPF (2019). The following paragraphs set out the policy as proposed with consideration for the NPPF 2019. Consideration regarding the implications of this to decision-making and the emerging Local Plan are set out from paragraph 77 of this report.

70. Policy H10 (see Appendix 2) requires an incremental percentage of affordable housing to be provided on development schemes based upon the total dwellings and location of the development. For sites of 15 or more dwellings provision is expected to be on site. On sites of 2-15 dwellings (that have a maximum combined gross floorspace of more than 1,000sqm) an off-site financial contribution is required.
71. Criterion ii of Policy H10 regarding sites of over 15 dwellings providing on-site affordable housing is in conformity with the revised NPPF (2019). However, Criterion iii relating to off-site contributions to be made on developments between 2-14 dwellings partly represents a departure from the revised national guidance. Whilst this policy approach is supported by the Council's Viability Assessment, only contributions sought for 11-14 dwellings (over 1000 sqm) would be in conformity with the revised national policy; Contributions from housing schemes of 2-10 dwellings (over 1000sqm) would represent a departure from the NPPF (2019).
72. Policy H10 also seeks to differentiate between greenfield and brownfield development requiring 30% affordable housing on sites of 15 dwellings or more for greenfield sites and 20% on sites of 15 dwellings or more for brownfield sites, as supported by the Viability Study (2018). The current affordable housing tenure split, as recommended as appropriate in the SHMA, is for 80/20 (social & affordable rent/low cost home ownership). In practice, an example for a greenfield and brownfield site would be:
- For a greenfield site of 100 dwellings the current requirement would mean 30 affordable homes of which 24 would be for affordable rent and 6 for low cost home ownership. This would mean that low cost ownership across the whole site (100 dwellings) would only be 6%.
 - For a brownfield site of 100 dwellings the requirement would be for 20 affordable homes of which 16 would be for affordable rent and 4 for ownership – only achieving 4% affordable ownership.
73. The revised NPPF (2019, para 64) requires that for major development (over 10 dwellings or 0.5ha) the tenure split should be 10% home ownership as part of the overall affordable contribution on site. Given the examples above using the split as proposed in Policy H10, it is unlikely in some cases that the 10% home ownership can be met on major development. The examples above show that across sites of 100 dwellings only 6% (Greenfield) and 4% (brownfield) would be low cost

ownership, which is lower than the new 10% affordable home ownership requirement.

74. The NPPF (para 64) does allow exceptions to this where:
- this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups; and
 - the site or proposed development:
 - a) provides solely for Build to Rent homes;
 - b) provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students);
 - c) is proposed to be developed by people who wish to build or commission their own homes; or
 - d) is exclusively for affordable housing, an entry-level exception site or a rural exception site
75. In determining how this part of the NPPF policy (10% provision of home ownership) and exceptions apply to decision-making, it is considered that there is an allowance for the consideration of local evidence base as a material consideration in this process. For York therefore, the SHMA, as set out above, demonstrates the appropriate market-affordable housing tenure split required to meet affordable product type needs and should justify a departure from the NPPF2019 approach.
76. Para 63 of the revised NPPF reflects the WMS (2014) and implements a vacant building credit. This credit is to support the reuse of brownfield land and applies where vacant buildings are being reused or redeveloped. The NPPF is clear that *“any affordable housing contribution due should be reduced by a proportionate amount... Equivalent to the existing gross floor space of the existing buildings. This does not apply to vacant buildings which have been abandoned.”* Policy H10 reflects this wording and is therefore considered to be compliant with the revised NPPF policy requirements.

Implications of national policy changes for Development Management decision-making in York

77. Each application that is considered through the Development Management process is assessed for its individual merits against applicable policy. As previously set out, the revised NPPF (2019) is applicable to decision-making immediately and therefore must be

considered as a material consideration to determining applications. It also remains that the evidence base underpinning policy H10 in the emerging Local Plan can be attributed weight in the Development Management process. In addition, policies included in the submitted Local Plan can be afforded weight in line with para 48 of the NPPF according to:

- a) the stage of preparation of the emerging plan (the more advanced its preparation, the greater the weight that may be given);*
- b) the extent to which there are unresolved objections to relevant policies (the less significant the unresolved objections, the greater the weight that may be given); and*
- c) the degree of consistency of the relevant policies in the emerging plan to this Framework (the closer the policies in the emerging plan to the policies in the Framework, the greater the weight that may be given).*

78. The NPPF also clarifies that plans under transitional arrangements must consider also conformity in relation to the NPPF 2012, against which it has been prepared.
79. Whilst it is considered that the Policy H10 is consistent and evidenced against the NPPF 2012, the changes included in NPPF 2019 mean that the weight applied to some aspects of the policy has changed. For non-major development applications (of 2-9 dwellings or are under 0.5ha in size), Officers consider that Policy H10 could only be afforded limited weight given that this aspect of the policy is no longer consistent to national policy. However, applications for major development (sites of 10+ dwellings or sites that are over 0.5 ha in size) would be consistent and can therefore be afforded moderate weight in decision-making, this includes for sites over 0.5ha where they deliver less than 10 dwellings. The Vacant building credit aspect of the policy is also consistent and can therefore be afforded moderate weight.

80. The application of the above to the delivery of affordable housing as set out H10 is therefore as follows:

Policy H10 Development size thresholds	Policy H10 Contributions required	Policy H10 compliance with NPPF 2019	Local Plan Policy Weight applicable following NPPF 2019
15 dwellings and over	On-site	Compliant	Moderate
11-14 dwellings	Off-site financial contribution	Compliant	Moderate
10 dwellings (more than 1000sqm gross floorspace)	Off-site financial contribution	Compliant	Moderate
10 dwellings (less than 1000sqm gross floorspace)	Off-site financial contribution	Not compliant	Limited
2-9 dwellings (over 1000sqm gross floorspace)	Off-site financial contribution	Not compliant unless over 0.5ha	Limited
2-9 dwellings (under 1000sqm gross floorspace)	No contribution	Not compliant	Limited

81. This change in approach is likely to have minimal effect in respect of S106 contributions. Our monitoring records show that out of nearly 120 applications of between 2-10 dwellings, none have met the size requirements (1000sqm) since the introduction of this threshold in 2014 through the WMS and subsequently, its application in York.

Implications of national policy changes for the emerging Local Plan Policy

82. It has been recognised that the change in approach taken to affordable housing at a national level is having an impact on local plan policy being examined under transitional arrangements, applying NPPF 2012, at examination. Guildford Borough Council, who submitted their Local Plan in December 2017, held their examination sessions through 2018/19 and adopted their plan in May 2019 following modifications to

their affordable housing policy, is a recent example of how modifications may be proposed to affordable housing policy.

Guildford Borough Council Case Study

83. In the Guildford submission draft Local Plan, Policy H2 sought affordable homes on sites providing 5 or more homes, or sites of 0.17 ha or more regardless of the number of homes. The policy is supported by their SHMA and viability report, similarly to York's Local Plan.
84. Whilst the plan was being examined under transitional arrangements the Inspector in his initial questions raised affordable housing as a consideration. Affordable housing was considered as part of questions and comments, many of which required the Council to produce main modifications to the plan's policies and text.
85. The Inspector commented that the thresholds for affordable housing in Policy H2 (5 or more homes) were not in accordance with the WMS or the consultation draft of the NPPF. He continued that they may also act to make it more difficult to bring forward small housing sites including the more challenging brownfield sites. The plan proposes to deliver most of its affordable housing through large strategic allocations. Unless the Council could clearly demonstrate exceptional circumstances relating to Guildford (and the Inspector noted that such circumstances did not apply in Waverley's case), the Inspector indicated that the policy would need to be changed to accord with the WMS through a modification to the plan.
86. The Council provided justification through initial questions drawing upon the positive benefits of affordable housing delivery and drawing upon their viability evidence base. They also supplied supplementary justification (to the Council's response to the Inspector's initial questions) in the 'Matters, Issues and Questions' issued by the Inspector in support of retaining contribution to affordable housing from residential schemes of between 5 and 10 units. The Council was of the view that the policies of the Submission Local Plan in relation to the provision of affordable homes were sound and effective. It was their view that the amount and tenure split of affordable housing sought in the Local Plan responds to the high levels of related housing need and affordability concerns in the borough as reflected by the evidence base. The Council contended that its Local Plan affordable housing policies would be effective and support delivery. There were no undue viability

concerns with the policies, and sufficient flexibility is considered to have been allowed for to ensure that schemes may come forward, where viability is a demonstrable issue. Provisions relating to off-site contributions / payment in lieu were further mechanisms the Council has included within Policy H2 to ensure schemes come forward and can deliver on affordable housing requirements in a timely manner.

87. The Council did not consider that additional viability testing was necessary either at the initial questions stage or in responding to the MIQs, given that existing viability work supported the original thresholds in Policy H2.

Inspector's comments regarding the Council's suggested modifications

88. Having read the Council's response to the questions and whilst recognising the pressing need to provide affordable housing, the Inspector did not consider that there is sufficient justification for endorsing a policy that would seek affordable housing on non-major sites (otherwise than in a designated rural area) as this would be contrary to government policy. The plan achieves the delivery of significant amounts of affordable housing through its major site allocations and the Council said that they are seeking to bring forward some additional sites by means of main modifications to improve the delivery of homes in the first 5 years following adoption. Whilst this would assist in improving the supply of affordable housing in the early years, the Inspector stated that Policy H2 and any relevant supporting text should be modified to reflect Government policy.
89. The Council conceded its argument to retain a lower threshold and agreed to modifying Policy H2 to fall in line with government guidance.

Guildford's Inspectors report

90. The Inspector in his report concluded on affordable housing that Policy H2: in the submitted plan requires 40% of the homes on sites providing 5 or more homes, or on sites of 0.17 ha or more, to be affordable. However, this did not reflect the Written Ministerial Statement of 28 November 2014 or Planning Practice Guidance 23b-031 which stated that local authorities should not request affordable housing contributions on sites of 10 units or less (in other words the threshold is 11 dwellings). Main Modification 6 alters the policy to conform with the

WMS and Planning Practice Guidance and also removes floor space thresholds which do not have a basis in national policy or guidance.

91. The version of the modification which was included in Guildford's main modifications consultation set the threshold at 10 dwellings which reflects the 2018 NPPF, but the Council have drawn attention to the inconsistency with the WMS and the Planning Practice Guidance and MM6 was amended to set the trigger at more than 10 dwellings and to remove the floor space thresholds in relation to H2(2a) and H2(4) to accord with the policy context for transitional plans being taken forward under the 2012 NPPF. The threshold in Designated Rural Areas is more than 5 dwellings which is acceptable.

Implications for York's Local Plan Affordable Housing Policy

92. The Guildford Local Plan examination is a useful benchmark for York given that it has a similar high lower quartile affordability ratio and a similar affordable housing need. The plan has also been examined under transitional arrangements. Guildford did not commission additional evidence base to support their lower affordable housing thresholds and ultimately conceded that the policy should be brought in line with the revised NPPF after the Inspector did not support the Council's arguments put forward to justify the lower threshold.
93. At this stage in York's examination, modifications to the plan will be discussed through the hearing sessions. We are being examined under transitional arrangements applying NPPF 2012 and are required to take a lead from the Inspector on any modifications that they recommend are required in order to make the policy 'sound'. This is in line with the recommendation agreed by Council on submission of the Local Plan which under Section 20 (7) C of the Planning and Compulsory Purchase Act 2004 requests that the Inspectors appointed to carry out the examination recommend any modifications to the document that would ensure the plan satisfies the requirements of the Act and is 'sound'.
94. We are awaiting the York Local Plan Inspector's 'Matters, Issues and Questions' for the first phase of hearing sessions, which will guide the examination and how they wish to proceed in dealing with matters including the provision of affordable homes. The Council will have the opportunity to respond to MIQs and to produce any further supporting information if requested by the Inspector. It is considered that we should wait to be asked for any specific additional information/evidence

by the Inspector prior to commissioning further viability work.

Resources and timescale for the Affordable Housing SPD

95. The development and production of the SPD is being undertaken jointly between the Forward Planning and Housing Teams.
96. Work continues to progress on the SPD regarding matters other than for the incremental thresholds for delivery. However, given the change in national policy, it is considered that clarity from the Inspectors through the examination in relation to affordable housing policy is required to understand whether any modifications will need to be proposed to policy to H10.
97. On this basis, it is proposed that work regarding size thresholds applicable in policy on the SPD is not progressed until clarity is provided from the Planning Inspectors during the Local Plan examination. Development of this aspect of the SPD and consultation on a draft document progressed ahead of this clarification may be abortive should modifications to the policy be required.
98. Work will continue to progress on ensuring a comprehensive and evidenced position is presented to the Local Plan Inspectors on Policy H10 to demonstrate that the policy approach is justified and effective.

New Supplementary Planning Documents

Carbon Reduction, Renewable Energy and Sustainable Design and Construction SPD

National Policy and Legislation

Climate Change Act

99. The Climate Change Act 2008 is the basis for the UK's approach to tackling and responding to climate change. It requires that emissions of carbon dioxide and other greenhouse gases are reduced and that climate change risks are prepared for. The Act also establishes the framework to deliver on these requirements. This set the UK's long-term emissions target to at least an 80% reduction in greenhouse gas emissions from 1990 to 2050. It covers all sectors, including

international aviation and shipping and is measured on a 'territorial' basis (i.e. based on emissions arising in the UK). On a comparable basis, emissions in 2017 were estimated to be 38% below 1990 levels.

100. A progress report was produced by the Committee on Climate Change (CCC)¹ in May 2019 to provide advice on the UK and Devolved Administrations' long-term targets for greenhouse gas emissions and the UK's transition to a net zero-carbon economy. Specifically: when the UK should reach net zero emissions of carbon dioxide and/or greenhouse gases as a contribution to global ambition under the Paris Agreement; if that target should be set now; the implications for emissions in 2050; how such reductions can be achieved; and the costs and benefits involved in comparison to existing targets.
101. As a result of the CCC report published in May 2019, an amendment to the Climate Change Act² has been made (June 2019) committing the UK government by law to reducing greenhouse gas emissions by at least 100% of 1990 levels (net zero) by 2050. This includes reducing emissions from the devolved administrations (Scotland, Wales and Northern Ireland), which currently account for about 20% of the UK's emissions.

Energy Performance and Efficiency

102. To boost energy performance of buildings the EU has established and recently updated a legislative framework that includes the Energy performance of buildings directive (EPBD)³ and the Energy efficiency directive³. Together, the directives promote policies that will help achieve a highly energy efficient and decarbonised building stock by 2050, create a stable environment for investment decisions to be taken and that will enable consumers and businesses to make more informed choices for saving energy and money. The Energy performance of buildings directive includes specific provisions and measures to support national governments and take stock of their progress.

¹ Committee for Climate Change (2019) Report on: 'Net Zero – The UK's contribution to stopping global warming'.

²The Climate Change Act 2008 (2050 Target Amendment) Order 2019
<https://www.legislation.gov.uk/uksi/2019/1056/article/1/made>

³ DIRECTIVE (EU) 2018/844 of 30 May 2018 amending Directive 2010/31/EU on the energy performance of buildings and Directive 2012/27/EU on energy efficiency

103. In response to the EU Directive, the Ministry of Housing, Communities & Local Government (MHCLG) informed local authorities on 14 January 2019 that, effective from 1 January 2019, the requirement for nearly zero energy buildings would be mandatory for new buildings owned and occupied by public authorities and that from 31 December 2020 the nearly zero energy requirement would be mandatory for all other new buildings.
104. There is uncertainty surrounding the implementation of European legislation in light of the UK's vote to leave the EU. If the UK retains membership in the European Union, the EU directive will have significant effect upon the current carbon emission requirements of the Building Regulations in addition to implementation of local policy, including supplementary planning documents regarding carbon reduction. If the UK leaves the European Union, the requirements of the Climate Change Act 2008, as amended, and the heightened requirement for reduction in carbon emissions as outlined by the Committee on Climate Change remains as an imperative.
105. The Ministry of Housing, Communities and Local Government (MHCLG) on the 2nd October 2019 published a consultation creating its new Future Homes Standard via changes to building regulations. It says the standard will ensure that, by 2025, new homes are "*future-proofed with low carbon heating and world-leading levels of energy efficiency*". The MHCLG consultation document says the move would mean the average home built to the new standard will have 75- 80 per cent less carbon emissions than one built to current energy efficiency requirements.
106. As part of the consultation, the government is seeking views on whether or not to commence an amendment to the Planning and Energy Act 2008, which would restrict local planning authorities from setting higher energy efficiency standards for new homes. The consultation says that the current situation "*is not only confusing but the application of disparate energy efficiency standards across local authority boundary lines often means that homes need to be built to different technical specifications in different parts of England*". To tackle this, the consultation says that, "*as we move to the higher energy standards required by Part L 2020 and the Future Homes Standard, there may be no need for local authorities to seek higher standards and the power in the Planning and Energy Act 2008 may become redundant*".

107. Local Authorities are invited to make representations to this government led consultation⁴, which runs until 10 January 2020.

National Policy

108. National planning policy is giving increasing emphasis and weight to addressing sustainability, carbon reductions, climate change and waste reduction. National Policy reflects the Climate Change Act 2008, which sets legally binding reduction targets for greenhouse gas emissions. The National Planning Policy Framework (NPPF) (2019) states that the planning system plays an important environmental role by helping to use natural resources prudently, minimising waste and pollution and mitigating and adapting to climate change through moving to a low carbon economy.

109. Paragraphs 148 to 165 of the NPPF 2019 detail measures that local planning authorities should take to support a move to a low carbon future. These include planning for new development in locations and ways which reduce greenhouse gas emissions and actively supporting energy efficiency improvements to existing buildings. In determining planning applications, local planning authorities should expect new development to:

- comply with adopted Local Plan policies on local requirements for decentralised energy supply unless it can be demonstrated by the applicant, having regard to the type of development involved and its design, that this is not feasible or viable; and
- take account of landform, layout, building orientation, massing and landscaping to minimise energy consumption.

110. To help increase the use and supply of renewable and low carbon energy, local planning authorities should have a positive strategy to promote energy from renewable and low carbon sources. Policies should be designed to maximise renewable and low carbon energy development, while ensuring that adverse impacts (including visual impacts) are addressed satisfactorily.

111. When determining planning applications, local planning authorities should not require applicants for energy development to demonstrate the overall need for renewable or low carbon energy. Local planning

⁴ MHCLG Consultation: The Future Homes Standard 2019: Consultation on changes to Part L (conservation of fuel and power) and Part F (ventilation) of the Building Regulations for new dwellings

authorities should approve applications where impacts are or can be made acceptable.

Planning Practice Guidance

112. The Government's planning guidance on renewable and low carbon energy identifies specific planning considerations:

- Local planning authorities are responsible for renewable or low carbon energy development of 50 megawatts or less installed capacity.
- Microgeneration is often permitted development and therefore may not require planning permission.
- Although the NPPF explains that communities must increase the use and supply of low carbon energy, this does not mean that the need for this development overrides environmental protections and the planning concerns of local residents.
- Local planning authorities should consider
 - A range of technologies and the policies needed to encourage their development in the right places;
 - The falling costs of these technologies, increasing their attractiveness;
 - The impacts of different technologies on the places in which they would be located; and
 - There is no specific quota of renewable and low carbon energy that must be delivered by the Local Plan.
- Local planning authorities may wish to establish policies which give positive weight to those projects led by the local community.
- Particular renewable energy technologies have different site considerations. For example:
 - For biomass, appropriate transport links;
 - For hydro-electric power, sources of water;
 - For wind turbines, predicted wind resource.
- Cumulative impacts of development require particular attention, for example that of wind turbines or solar farms on landscape and local amenity. Protecting local amenity should be given proper weight in planning decisions.

113. The suitability of particular sites should be considered in terms of their ability to provide local clean energy. This should consider national grid constraints, transmission losses and other environmental and technical

constraints. Local energy is always preferred over remotely generated energy.

Building Regulations

114. Part L of the Building Regulations set out requirements for specific aspects of building design and construction relating to use of energy. It aims to reduce energy in-use in buildings with the objective of reducing or minimising dependency on fossil fuels. It states that “*provision for conservation of fuel and power shall be made by: limiting heat gain and losses and providing building service which are efficient, have effective controls and are properly commissioned and that information is provided so that the building can be operated efficiently*”. This Regulation effectively controls the insulation values of buildings elements, the allowable area of windows, doors and other opening, the air permeability of the structure, the heating efficiency of boilers, hot water storage and lighting. It also controls mechanical ventilation and air conditioning systems, space heating controls, airtightness testing of larger buildings, solar emission, the certification, testing and commissioning of heating and ventilation systems, and requirements for energy meters.
115. In order to achieve this Regulation, there are assessment methods employed for residential and commercial development, which compare the proposed building design’s emission rate (BER) against a target emission rate (TER). The TER must not be exceeded to be in accordance with the Regulations.
116. For buildings other than dwellings, the TER and BER can be calculated and the Energy Performance Certificate (EPC) produced by following the National Calculation Method (NCM). The NCM provides the underlying method and the standard data sets necessary to calculate the annual energy use of a proposed building and comparing it with the energy use of a ‘notional’ building of a similar type, under similar circumstances.
117. SAP provides a framework for calculating the energy performance of new dwellings, new buildings converted to dwellings and some extensions and refurbishment work required to demonstrate compliance with part L of the building regulations. The Dwelling Emission Rate (DER) is calculated based on the proposed design and specification for the dwelling. This is compared with a Target Emission Rate (TER), also calculated using SAP, but based on a notional

dwelling of similar size and shape to the proposed dwelling. The TER sets the minimum acceptable standard of performance and for compliance, the DER must not exceed the TER.

118. The SAP calculations are based on:

- Construction materials and thermal insulation of the building fabric.
- Air leakage and ventilation equipment.
- Efficiency and control of heating systems.
- Solar gains.
- Choice of fuel for space and water heating, ventilation and lighting.
- Space cooling.
- Renewable energy technologies.

Local Policy

Local Plan

119. One of the main objectives of the new Local Plan is embed sustainability in new development. The plan has an important role in tackling climate change and delivering development goals in line with national policy. It therefore requires development to both adapt to a changing climate and to mitigate the worsening effects of climate change.

120. The policies set out in the Local Plan aim to be ambitious in their requirements for new development to reflect the national commitment to reducing carbon emissions, the Council's ambitions to tackle climate change in York and the evidence base produced to support its delivery at a local level.

121. Section 11 'Climate Change' of the Local Plan specifically seeks to ensure development tackles climate change through ensuring it generates renewable and low carbon energy, uses natural resources prudently and is built to high standards of sustainable design and construction. These applicable policies are:

- CC1: Renewable and Low Carbon Energy Generation and Storage
- CC2: Sustainable Design and Construction of New Development

- CC3: District Heating and Combined Heat and Power Networks

122. Policy CC1 encourages the development of renewable and low carbon energy generation and storage. It requires new buildings to achieve a 28% reduction in carbon emissions through the provision of renewable and low carbon technologies in the locality of development or through energy efficiency measures, unless it can be demonstrated that this is not viable. Applicants must submit an energy statement setting out how this will be achieved, taking into consideration the impact of the scheme on other planning considerations and demonstrate any viability issues with meeting the target.

123. Policy CC2 sets out the sustainable design and construction requirements that all new development (by type) must adhere to and demonstrate in a Sustainability Statement. In summary, the policy requirements are:

- For new residential development – deliver at least a 19% reduction in Dwellings Emission Rate (DER) compared to the Target Emission rate (TER) (calculated using SAP as per the Building Regulations) and a water consumption rate of 110 litres per person per day (calculated as part G of the Building Regulations).
- For Non-residential development over 100sqm internal floor area - meet BREEAM ‘excellent’ standard (or equivalent).

124. Policies in the Local Plan are underpinned by evidence commissioned from the Carbon Trust (2017) [CD122], which sets out the most appropriate strategy for delivering carbon reduction and energy efficiency in new developments in York based upon national policy, building regulations and guidance. For policy CC1 specifically, this work drew on evidence base commissioned for the Local Plan, including the Renewable Energy Study (2014). This study assessed the city’s potential for generating renewable energy and concluded that there is potential to generate power from a variety of sources, including wind, solar and hydro. It recommends appropriate areas across the city but does not preclude schemes in alternative locations subject to these meeting the provisions set out in policy CC1.

125. For policy CC2, the Carbon Trust identified that the Deregulation Act 2015, ministerial statement following the Housing Standards Review and the HM Treasury report Fixing the Foundations: Creating a more prosperous nation (2015), were all relevant. These limit the Councils’ ability to demand energy efficiency improvements beyond the Building

Regulations. However, it is recognised that a 19% reduction in BER vs TER is currently permitted and this has therefore been transposed into the policy.

126. For water efficiency, the consumption levels included are based upon evidence provided by Yorkshire Water and the Environment Agency demonstrating that implementing water efficiency measures is essential to prepare for and adapt to climate change and increased water demand. Limiting the water consumption rate is considered to be an effective measure therefore for water demand management.
127. Non-residential development must meet BREEAM 'excellent' standard. BREEAM is a recognised sustainability assessment method for masterplanning projects, infrastructure and buildings. BREEAM requires assessment and certification of a scheme's environmental, social and economic sustainability performance, using standards developed by BRE. It recognises and reflects the value in higher performing assets across the built environment lifecycle, from new construction to in-use and refurbishment. Whilst the 'excellent' standard relates to non-residential development, a second assessment method operating alongside it – CEEQUAL – provides the evidence-based sustainability assessment, rating and awards scheme for civil engineering, infrastructure, landscaping and public realm projects.
128. The NPPF requires that planning policy and the contributions expected from development does not undermine the deliverability of the plan. The Viability Study (2018) submitted in May 2018 [CD018] tests whether the policies in plan are viable to implement. This draws upon the evidence from the Carbon Trust and adds in the costs of applying policy CC2 for residential and commercial/other development. The Viability Study has therefore added the following to the development build costs:
 - all new non- residential buildings achieving BREEAM Excellent (or equivalent).
 - 0.77% for office development;
 - 0.4% for warehouse development; and
 - 0.24% for supermarket development
 - 0.5% for all other uses.

- All new residential buildings

Table 5.13 Tested costs associated with policies CC1, CC2 & CC3

Policy	Per unit 'process' cost to developer			Per unit build costs			
	Small scheme (5 homes)	Medium scheme (50 homes)	Large scheme (100 homes)	Flats	2-bed	3-bed	4-bed
CC2 Energy efficiency: 19% reduction in carbon energy*	£686	£136	£96	£345	£703	£812	£1,150
CC2: Water policy: 110 litres per person per day	£37	£6	£6	£6	£6	£9	£9
CC3: District Heating and CHP Networks connection	£0	£0	£0	£0	£2,575	£2,575	£2,575
Total	£723	£142	£102	£351	£3,284	£3,396	£3,734

Source: Carbon Trust, Climate Change section of the City of York PDRC 2018

129. The viability study concluded that together with other applicable policies which incur a cost, the implementation of policy CC1/CC2 is not expected to render development unviable. At a strategic level therefore, the policies are viable and their implementation would not undermine the delivery of the plan.

130. Section 11 of the Local Plan set out the requirement for an SPD to set further detail in relation to carbon reduction, renewable and sustainable design and Construction. Whilst setting out detail in relation to policies CC1 and CC2 primarily, the issues of climate change and carbon reduction also relate to delivering the overarching sustainable development agenda in York. It is therefore considered that the following Local Plan policies are either affected by, or have a bearing upon, this SPD and need to be duly considered:

- DP2: Sustainable Development
- SS1: Delivering Sustainable Growth for York
- GB1: Development in the Green Belt
- ENV5: Sustainable Drainage

Existing Guidance

131. Following the approval of the Local Plan Fourth Set of Changes (2005) for Development Control purposes, an Interim Planning Statement on Sustainable Design and Construction was approved by Planning

Committee on 22nd November 2007 for Development Control purposes. This guidance provides details on standards of development expected and that this should be demonstrated. However, this guidance needs updating to align with both the NPPF (2019) and policies in the emerging Local Plan (2018). It is the intention of the new SPD to update this existing guidance.

Climate Change Framework for York (2010)

132. The Climate Change Framework for York set the ambition to reduce greenhouse gas emissions across York and to better prepare and adapt York's communities and businesses for the likely impacts associated with climate change. Whilst this framework covered a broad range of aspects, the Local Plan references this and embeds where possible, the actions for development in policy.

Scoping of the Carbon Reduction, Renewable Energy and Sustainable Design and Construction SPD

133. Following Members resolution at Council in July and their declaration to become carbon neutral by 2030, there is a clear consensus for robust action and policy to be enforced to meet the climate change agenda in York. Policies in the Local Plan work towards this agenda. The opportunity of a SPD that articulates expectations and guidance as to how to achieve or demonstrate the Council's policy ambitions, will provide a consistent framework against which officers and applicants can refer.
134. Through research of recent and emerging SPDs, it is clear that carbon reduction and energy efficiency goals for most local authorities are usually integrated into an authority's Sustainable Design and Construction SPD. All SPDs researched and used as exemplars to inform the scoping work have included a checklist approach for applicants. This helps to ensure that the requirements the applicants must evidence and the documents they should submit with planning applications, are as clear as possible. Many also include guidance for development schemes split into residential / non-residential based advice under themes topics. In most cases energy efficiency and renewable energy considerations are dealt with together and separate consideration is provided for sustainable construction (including water efficiency and materials).

135. For York, it is considered that the approach of combining a checklist together with subject based detail is the most appropriate approach. This would utilise Council's existing approach to development management thereby ensuring fewer issues during the application process. On this basis, a scope of the proposed content on an SPD is set out in detail in Appendix 3.

Resources for SPD preparation

136. The preparation of this SPD will be led by the Forward Planning Team and is likely to draw on the technical expertise of the Council's in-house Architect (in the Design, Conservation and Sustainable Development Team). However, given the technical complexity in relation to achieving and demonstrating the requirements for carbon reduction, energy efficiency and sustainable design and construction, it is likely that external consultancy resources will be required to input into the SPD's development to ensure the requirements are technically accurate.

137. Members recently endorsed the creation of two posts to deal with delivering sustainability measures across the Council's portfolio. There is also an opportunity for a new post(s) to deal with all aspects of planning in relation to the carbon reduction agenda, including input into planning applications and policy advice in relation to carbon reduction, renewable energy and energy efficiency measures. This is essential to inform development Management that the policy requirements through the Local Plan and SPD have been met appropriately.

138. Members at Council in July 2019 have budgeted £25,000 to expedite the production of the Green Infrastructure and a Carbon Reduction, Renewable Energy and Sustainable Design and Construction SPDs. It is anticipated that this budget will need to be used to commission external consultants to deal with the technical aspects of the Carbon Reduction, Renewable Energy and Sustainable Design and Construction draft SPD.

139. Members should be aware that the preparation of SPDs is subject to the Examination of the Local Plan and available resources within the current Forward Planning team. The Carbon Reduction, Renewable Energy and Sustainable Design and Construction SPD will be the third prioritised SPD for production.

140. Previously officers considered that two SPDs could progress with current resources. If three SPDs are now to be progressed

simultaneously, it is likely that further resources will be required in addition to the allotted budget of £25k. As set out above, this funding is anticipated to be used for external consultants to progress technical elements of the Carbon Reduction, Renewable Energy and Sustainable Design and Construction draft SPD. Additional funding would allow additional staffing and consultation costs to be met.

Timetable

141. The projected timetable for completing the draft SPD, subject to having additional resources in place,, is as follows:

- October 2019 - February 2020 – SPD Development including procurement of external consultants.
- March 2020 – Local Plan Working Group/ Executive
- April - May 2020 – Citywide consultation
- June - August 2020 – Consultation analysis and SPD Update
- September 2020 – Local Plan Working Group/ Executive sign off.

Options

- (vii) Recommend that a report is taken to Local Plan Working Group and Executive regarding the production of an Affordable Housing SPD and the implications of national policy changes.

Reason: So that the Members are aware of potential implications of the NPPF (2019) on Affordable Housing policy and consequential implications for the production of an SPD.

- (viii) Endorse the scope of the Green Infrastructure and Carbon Reduction, Renewable Energy and Sustainable Design and Construction SPDs identified in this report to progress their production.

Reason: So that work on interim draft Supplementary Planning Documents can be progressed prior to adoption of the York Local Plan

- (ix) Consider the scoping of the Green Infrastructure and Carbon Reduction, Renewable Energy and Sustainable Design and

Construction SPDs identified in this report and advise alternative approaches to their development.

Reason: So that work on interim draft Supplementary Planning Documents can be progressed prior to adoption of the York Local Plan

- (x) Recommend that a future report on the Green-Blue Infrastructure Strategy is taken to Executive to endorse the scope, timetable and resources required for a GBI strategy and action plan.

Reason: So that work on a draft GBI Strategy and Action Plan can commence

- (xi) Recommend that a response to the Government's consultation on whether to implement changes to Part L of the Building Regulations is taken to the Executive Member Decision Session for Environment and Climate Change.

Reason: So that the Council can submit a formal response to the Government led consultation on Building Regulations.

Options Analysis

142. As set out earlier in this report, it is clear that changing national policy is influencing the content of affordable housing policy for plans being examined under transitional arrangements. Option 1 allows for officers to take a report to Local Plan Working Group and Executive to explain in detail the national policy changes and implications for decision-making as well as for the policy in the Local Plan. This would also allow officers to draw upon the outcomes of the examination to date and an approach to the production of the SPD.

143. With regards to the Green Infrastructure and Carbon reduction SPDs, Officers have scoped their production reflecting on policies in the emerging Local Plan, national policy and guidance and best practice examples. The approach presenting is considered to be comprehensive and pragmatic to meet the Council's ambitions. If the Executive Member agrees with the proposed approach, Option 3 should be chosen to allow officers to proceed with the production of the SPDs.

144. The Executive Member can also identify alternative approaches to the SPDs as per option 4. Both options 3 and 4 will require input from technical specialists from across the Council and will be required to follow due process in relation to consultation and adoption.
145. Option 4 allows a report to be taken to Executive to endorse the scope, process and resources necessary to produce a Green-Blue Infrastructure Strategy and Action Plan.
146. Option 5 allows officers to develop a response to the current Government led consultation on whether to implement change to Part L of the Building Regulations and for the Executive Member to endorse the consultation response. This response could set out the context of the changes and the potential implications for York.

Next Steps

147. Following the Executive Member's decision, the Forward Planning team will continue with the production of the SPDs as agreed.
148. Following the drafting of the SPDs, they will be taken to Local Plan Working Group for consideration who in turn will make recommendations to Executive on how to proceed. Executive will need to agree to proceed to a citywide consultation to gain views on the draft guidance prior to consideration to adopting the SPDs.
149. The requirements to be set out in the forthcoming Carbon Reduction, Renewable Energy and Sustainable Design and Construction SPD will require the submission of Energy and Sustainability Statements as part of planning applications. In order to ensure adequate advice can be given and the evidence received is acceptable, there is a need for a specialist technical officer with the expertise to deal with such matters. There is an opportunity to place this technical specialist within the Forward Planning team to aid overall policy development in relation to climate change and sustainability.

Implications

150. The following implications have been assessed:
- **Financial** – The work on the Local Plan is funded from specific budgets set aside for that purpose. The production of SPDs will

require resources to prepare the SPD, including research, development and consultation thus incurring financial costs, which will need to be funded for the duration of their development. The additional budget (£25k) awarded by Members is earmarked to provide technical advice for the Carbon Reduction SPD.

Further resources will also be required should Members wish to proceed with the production of a citywide Green-Blue Infrastructure Strategy and Action Plan at the same time as the three SPDs above and to help implement and provide policy guidance/Development Management input in relation to the delivery of Carbon Reduction, Renewable Energy and Sustainable Design and Construction through planning applications. This will be considered at the 2020/21 Budget Council.

- **Human Resources (HR)** – The production of an SPD and associated evidence base requires the continued implementation of a comprehensive work programme that will predominantly, although not exclusively, need to be resourced within EAP. Technical advice will be sought from other in-house teams from across the Council, drawing upon their expertise as appropriate.
- **Equalities** – An Equalities Impact Assessment, including the Better decision-making tool, was submitted with the SPD report to Executive in September 2018 setting out the benefits for progressing SPDs. This identified that there was predominantly a neutral impacts on equalities with likely positive effects pertaining to low income groups through the production of an Affordable Housing SPD.
- **Legal** – The procedures which the Council is required to follow when producing a Supplementary Planning Document (SPD) derive from the Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning (Local Development) (England) Regulations 2012. The Council also has other legal duties including compliance with the Duty to Co-operate and their Statement of Community Involvement (SCI) for the purposes of consultation.
- **Crime and Disorder** – N/a
- **Information Technology (IT)** – N/a
- **Property** – N/a
- **Other** – None

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Director of Economy and Place

Executive Members Responsible for the Report:

Cllr A Waller

Report
Approved



Date 07/10/19

Specialist Implications Officer(s):

Glenn Sharpe - Senior Solicitor, Planning
Patrick Looker – Finance Manager, Corporate Finance Team

Wards Affected: *List wards or tick box to indicate all*

 All

Annexes:

Annex 1 – Detailed scope of Green-Blue Infrastructure SPD
Annex 2 – Affordable Housing Policy H10 from the Publication Draft Local Plan
Annex 3 – Detailed scope of Carbon Reduction, Renewable Energy and Sustainable Design and Construction SPD

Abbreviations:

BER	Building Emission Rate
BREEAM	Building Research Establishment Environmental Assessment Method
CCC	Committee on Climate Change
DER	Dwelling Emission rate
EPBD	Energy Performance of Buildings Directive
EU	European Union

GBI	Green-Blue Infrastructure
GI	Green Infrastructure
HMO	Houses in Multiple Occupation
MHCLG	Ministry of Housing, Communities and Local Government
NCM	National Calculation Model
NPPF	National Planning Policy Framework
PPG	Planning Practice Guidance
SAP	Standard Assessment Procedure
SHMA	Strategic Housing Market Assessment
SPD	Supplementary Planning Document
TER	Target Emission Rate
WMS	Written Ministerial Statement