

**Notice of a public  
Decision Session- Executive Member for Economy and Strategic  
Planning**

**To:** Councillor Waller (Executive Member)

**Date:** Thursday, 17 October 2019

**Time:** 2.00 pm

**Venue:** The Thornton Room - Ground Floor, West Offices (G039)

**AGENDA**

**Notice to Members – Post Decision Calling In:**

Members are reminded that, should they wish to call in any item\* on this agenda, notice must be given to Democracy Support Group by:

**4:00 pm on Monday 21 October 2019** if an item is called in *after* a decision has been taken.

\*With the exception of matters that have been subject of a previous call in, require Full Council approval or are urgent which are not subject to the call-in provisions. Any called in items will be considered by the Customer and Corporate Services Scrutiny Management Committee.

Written representations in respect of items on this agenda should be submitted to Democracy Support Group by **5.00pm on Wednesday 16 October 2019**.

## 1. **Declarations of Interest**

At this point in the meeting, Members are asked to declare:

- any personal interests not included on the Register of Interests
- any prejudicial interests or
- any disclosable pecuniary interests

which they may have in respect of business on this agenda.

## 2. **Minutes** (Pages 1 - 4)

To approve and sign the minutes of the meeting held on 9 September 2019.

## 3. **Public Participation**

At this point in the meeting, members of the public who have registered to speak can do so. The deadline for registering is **5.00pm on 16 October 2019**. Members of the public can speak on agenda items or matters within the Executive Member's remit.

To register to speak please contact the Democracy Officer for the meeting, on the details at the foot of the agenda.

### **Filming, Recording or Webcasting Meetings**

Please note that, subject to available resources, this meeting will be filmed and webcast, or recorded, including any registered public speakers who have given their permission. The broadcast can be viewed at <http://www.york.gov.uk/webcasts> or, if recorded, this will be uploaded onto the Council's website following the meeting.

Residents are welcome to photograph, film or record Councillors and Officers at all meetings open to the press and public. This includes the use of social media reporting, i.e. tweeting. Anyone wishing to film, record or take photos at any public meeting should contact the Democracy Officers (contact details are at the foot of this agenda) in advance of the meeting.

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[https://www.york.gov.uk/downloads/file/11406/protocol\\_for\\_webcasting\\_film\\_and\\_recording\\_of\\_council\\_meetings\\_20160809](https://www.york.gov.uk/downloads/file/11406/protocol_for_webcasting_film_and_recording_of_council_meetings_20160809)

**4. Developing the York Economic Partnership and Strategy** (Pages 5 - 22)

This report asks the Executive Member to approve a broad outline of the new Economic Strategy and agree to the establishment of a York Economic Partnership and a York People's Panel consultation.

**5. Supplementary Planning Documents Update** (Pages 23 - 78)

The Executive Member is asked to note the progress of the Supplementary Planning Documents, and endorse both the scope of the Green Infrastructure SPD and the scope of the Carbon Reduction, Renewable Energy and Sustainable Design and Construction SPD.

**6. Permitted Development Rights for Solar Panel** (Pages 79 - 94)

This report provides an update on Permitted Development Rights for Solar and Photovoltaic (PV) Panels.

**7. Urgent Business**

Any other business which the Chair considers urgent under the Local Government Act 1972.

Democracy Officer

Robert Flintoft

Contact details:

- Telephone – (01904) 555704
- Email [robert.flintoft@york.gov.uk](mailto:robert.flintoft@york.gov.uk)

For more information about any of the following please contact the Democracy Officer responsible for servicing this meeting

- Registering to speak
- Written Representations
- Business of the meeting
- Any special arrangements
- Copies of reports

Contact details are set out above

**This information can be provided in your own language.**

我們也用您們的語言提供這個信息 (Cantonese)

এই তথ্য আপনার নিজের ভাষায় দেয়া যেতে পারে। (Bengali)

Ta informacja może być dostarczona w twoim (Polish)  
własnym języku.

Bu bilgiyi kendi dilinizde almanız mümkündür. (Turkish)

یہ معلومات آپ کی اپنی زبان (بولی) میں بھی مہیا کی جاسکتی ہیں۔ (Urdu)

 (01904) 551550

City of York Council

Committee Minutes

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Meeting	Decision Session - Executive Member for Economy and Strategic Planning [previously Executive Member for Economic Development and Community Engagement (Deputy Leader)]
Date	9 September 2019
Present	Councillor Waller (Executive Member)

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## 10. **Declarations Of Interest**

The Executive Member was asked to declare any personal interests not included on the Register of Interests, or any prejudicial or disclosable pecuniary interests that he might have in respect of the business on the agenda. None were declared.

## 11. **Public Participation**

It was reported that there had been five registrations to speak under the Council's Public Participation Scheme. All of the speakers had registered to speak on Agenda Item 4 [Making York Central Work for the Local Economy].

Sean Bullick (Make it York – MiY) noted that it was difficult to overstate the importance of York Central. He highlighted that York Central was an opportunity to improve prosperity for people in York and there was a risk in getting it wrong. He advised that MiY were supportive of the principles set out for York Central and would work with partners on this.

Dave Merrett (York Environment Forum Transport Group) requested that the new administration commit to a further report on York Central at a future Decision Session to address the motion that had been made at Full Council. He welcomed the dialogue with elected Members and he noted that the York Environment Forum, along with York Civic Trust and York Bus Forum felt that there were aspects of York Central that still needed to be addressed.

Richard Clark spoke as a member of York Central Action and as a resident of Micklegate Ward. He noted that the council was

the only body with responsibility for the health and economy of York Central. He advised that he had expressed concerns 18 months ago, which had still not been addressed. He asked a number of questions in relation to the economic strategy for York Central and he asked that the report on it be deferred.

Cllr Kilbane (Micklegate Ward Councillor) welcomed the report, in particular the reference to permitted development rights. He expressed that he would have liked to have seen more information on the economic impact of York Central on the current city centre. He expressed disappointment on the lack of detail on sustainability in the report and asked for more information on green jobs, connectivity, the displacement of jobs and the need for there to be more business space at York Central.

Cllr K Taylor (Holgate Ward Councillor), welcomed the report. No evidence of scenario testing to back up to the brief to the developers of York Central. He supported recommendation B and suggested that recommendation A be put on hold until an economic appraisal had been undertaken. He further suggested that it would be good to see how the site would be marketed and added that there was a lack of information on community provision for which there would a shortage of in the Holgate Ward.

**12. Minutes**

Resolved: That the minutes of the last Decision Session held on 14 August 2019 be approved as a correct record and signed by the Executive Member.

**13. Making York Central work for the Local Economy - Brief to the York Central Master Developer**

The Executive Member considered a report that set a brief to the master developers of the York Central site on the aspirations of the Council as a key York Central partner. The brief identified some basic principles on what the council hoped would be achieved in terms of the mix of business space, the range of occupiers who will bring their businesses to York and the environmental characteristics that the city needs.

The Head of Economic Growth was in attendance to present the report and he gave an overview of the report. The Assistant

Director for Planning and Public Protection noted that the Reserved Matters planning applications would bring forward the details of York Central and this would include more detail on sustainability.

In response to questions from the Executive Member, the Planning and Public Protection confirmed that:

- Although there no Reserved Matters applications had been made, work had begun on Reserved Matters applications in relation to infrastructure.
- There was scope in the Local Plan for office accommodation.
- There had been a report to government about the removal of permitted development rights.
- There had been 6500 affordable housing completions.

The Executive Member welcomed the report and acknowledged the concerns raised by speakers. He noted that community use would be considered as part of the Reserved Matters applications. He reinforced that York Central needed to be for the benefit of all residents and noted he would continue to press for the demonstration of this suggesting that there needed to be a review on the impact of York Central on other parts of the city. He noted that the Local Enterprise Partnerships (LEPs) were developing local industrial strategies and there would be consultation on the York LEP strategy. The Head of Economic Growth confirmed that a report on the LEP strategy would be brought to a future Decision Session.

Resolved: That;

- a) The Brief to the Master Developers be endorsed and that officers and Members seek to influence the Council's partners to seek the realisation of this vision through the careful choice of investors, developers and occupiers for the York Central site and the demonstration of benefit to all residents with a wide range of employment including social enterprises and small businesses.
- b) The Leader of the Council be requested to write to the Government to seek exemption for York from permitted development rights for the conversion of offices to housing and hotel uses.

- c) Reports on the future Industrial Strategy, Reserved Matters process and Sustainability be provided to the Executive Member.

Reason: To support inclusive and sustainable economic growth in York.

#### **14. Publication of tThe Planning Enforcement Register Online**

The Executive Member considered a report that presented proposals to publish the updated Planning Enforcement Register online to enable easier public access to the information that it contains.

The Head of Development Services was in attendance to present the report. She outlined the proposals publish the updated register. The Executive Member noted that he had received no objections to the proposals. It was explained how the register would be updated and confirmed that the six month update on the working of the online register and outstanding enforcement cases would be reported to the Executive Member.

Resolved: That;

- a) The publication of the Planning Enforcement Register online be approved
- b) A six month update on the working of the online Planning Enforcement Register and outstanding enforcement cases be reported to the Executive Member

Reason: To ensure that the Local Planning complies with its duty under section 188 of the Town and Country Planning Act 1990 and article 43 of the Town and Country Planning (Development Management Procedure (England) order 2015).

Cllr A Waller, Executive Member

[The meeting started at 2.00 pm and finished at 2.45 pm].





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

**17th October 2019**

**Developing the York Economic Partnership and Strategy**

**Summary**

1. York currently focusses its economic strategy on growing high wage sectors, building on our existing sectoral strengths and developing research and innovation-led growth through our universities.
2. The York Economic Strategy 2016-20 adopted this approach, as did the 2011-16 and 2007-2011 strategies. These documents were developed through partnership-working with key stakeholders and businesses, most recently with the York Economic Partnership Board which moved to a networking format in 2016.
3. This focus has led to significant job growth in high wage sectors, with 15,000 jobs created in our knowledge economy over the past 15 years. However, many of the challenges identified in those strategies remain:
  - York's economy has a strong focus on low-paid sectors, including retail, tourism and social care, which keep average wages below the national average
  - The historic character and setting of York means that development land in the city is limited, making business expansion and inward investment whilst attractive difficult to deliver
  - Despite having the highest skills levels of any northern city, too many of our residents lack the knowledge and qualifications to benefit from our growing sectors
4. Developing a more inclusive approach to supporting economic growth, tackling climate change, and ensuring that York's residents have the best possible access to economic opportunities are therefore a key element of the plans of the new Council administration.

5. Our new Economic Strategy will seek to continue the growth we have seen in recent years, but with a renewed effort to enable all of our communities to benefit from that growth and to work with our low-paid sectors to improve productivity and help them provide better jobs. The role of our economy in tackling climate change is also important, and our strategy will also touch on this key policy area.
6. To support the development of our new strategy we will develop two partnerships. York Economic Partnership will draw together key decision makers in businesses, universities, the public sector and the third sector. It will lead on our work to continue high wage sector growth. York Peoples' Panel consultation will guide our work on inclusive growth, drawing together people from all walks of life to ensure that our work responds to their real needs. Both engagement routes will also consider the climate change implications of the economic growth of the city.

## **Recommendations**

7. The Executive Member is asked to:
  - 1) Agree the broad outline of the new Economic Strategy as set out in this paper
  - 2) Agree to the establishment of a York Economic Partnership and a York Peoples' Panel consultation the scope of which is set out in this paper.

Reason: To support inclusive economic growth in York.

## **Background**

8. The York economy is, in general, doing well. There are more people than ever in work, with higher levels of productivity than the rest of the region (see Annex A Fig 1). Our knowledge economy is strong and growing (Fig 2), and we have the highest level of skills of any northern city (Fig 3). A key element of our next Economic Strategy will be seeking to continue this strong performance, supported by a new York Economic Partnership.
9. For economic growth to be inclusive, its benefits must be felt by all those in society, regardless of where they live, how they make a living, and who they are. Inclusive growth cannot have neighbourhoods that are left behind, opportunities that are only selectively available, or a two-tier

economy where some people are doing well at the expense of others who are not.

10. However, there are areas of concern:

- Much of the recent growth in jobs has been in retail and tourism (Fig 4), leading to a reduction in average pay in York
- Part time roles are predominantly in low paid industries (Fig 5) – retail, hospitality and social care – which drives down many household incomes.
- Opportunities for those without high levels of skills are decreasing, leaving older workers without qualifications shut out from many of the emerging better paid roles

11. The biggest impact of the above has been a reduction on median wages in York, seen most starkly in the weekly pay figures (Fig 6). Weekly pay is particularly impacted because the average number of hours worked in York is lower than elsewhere due to the prevalence of part time work. However with over 20,000 students in the city it should be noted that part time work in itself is not a bad economic outcome.

12. While high wage sectors are growing, so too are low wage sectors (Fig 7). While high wage sectors pay an average of around £32,000 per annum, low wage sectors provide incomes closer to £19,000 per annum. Looking at the £2.5bn which is earned in York each year, high wage sectors account for almost one third of that income from less than a quarter of the total jobs (Fig 8).

13. Many of these issues have been at the heart of economic strategy for York for more than 10 years, but have been largely unaffected by policies which have focussed on growing the number of higher paid jobs and delivering significant regeneration schemes such as York Central and the expansion of the University of York. These approaches have benefitted the economy, but have not increased inclusion.

14. A new emphasis on inclusive growth is proposed which will continue to support this growth but work much more closely with communities, existing local employers and our anchor institutions with the aim of opening up opportunities for York residents. This will be more fully developed by the consultative work as part of the York Peoples' Panel initiative as outlined below.

15. The Council has declared a climate emergency and is committed to become a carbon net-zero city by 2030. Our economic strategy will build on these commitments and our two economic engagement approaches will be tasked with considering climate change as an impact of economic growth.

### **Supporting High-wage Growth**

16. The key elements of York's 2016-20 economic strategy – delivering high quality workspace in York Central and the Guildhall, getting approval for our Local Plan and bringing forward the opportunities it includes, working with our Universities to build on their research and teaching strengths, ensuring York remains a well-connected city – remain important.
17. The emphasis of the strategy was building more employment in high wage sectors. However, the strategy did not identify these sectors. For the avoidance of doubt, our high wage sectors (defined by average earnings, and expressed as SIC sections) are:
  - Professional, scientific and technical activities
  - Public administration and defence
  - Financial and insurance activities
  - Information and communication
  - Construction
  - Electricity, gas, steam and air conditioning supply
18. We have also identified key growth sectors in our work on a York Central occupier strategy. In this context we have highlighted business sectors which do not map easily onto government statistics but which are well-understood. These sectors are
  - Rail engineering and technology
  - Digital and ICT
  - Financial and professional services
  - University-led innovation and training
  - Bio-tech (particularly at start-up phase)
19. These two approaches to identifying sectors enable us to both target our work and to review progress through nationally-published statistics.
20. There is also scope for our work as a city in response to climate change to be drive further jobs growth across all sectors.

21. For our high wage sectors, Make It York will be the focus for support and development work, including inward investment and our work with international markets. This will be clarified in a revised Service Level Agreement which is currently under discussion.
22. The work will be overseen by a new York Economic Partnership. Members of the Partnership will be virtual and vary over time, drawn from businesses of all sizes, key stakeholders such as our Universities and Colleges, and public sector bodies including the Council. The Partnership framework will be launched in November and will be jointly developed with Make It York using multiple formats for engagement to ensure the widest possible contribution to the development of the economic strategy.

### **A new focus on Inclusive Growth**

23. As discussed above, we will also develop a new and refreshed focus on inclusive growth, supported by a York Peoples' Panel. The consultation will draw from a range of people with real lived experience of economic inclusion challenges, with the following as an initial scope for inclusion:
  - Independently owned shops - There are over 130 independent businesses in York and these are a vital component to the City's economy and brand. 'Indie York' has acted as a driving force behind the success of these businesses and as an association offers a collective representation of owners' opinions.
  - Micro-businesses from York – almost 90% of businesses in York are micro-businesses with a number of them employing just one person who operates the company from their home. It is important that we not only listen to the collective businesses voice, but to the individuals who operate them.
  - Hospitality workers - Hospitality is the city's third largest employment sector with 11,500 employees (11% of York's total workforce). With an ever-growing tourism sector, those working in hospitality experience, first-hand, the effects of tourism, both positive and negative. As a traditionally low-paid sector, interacting with those who work in hospitality will provide details on how the sector can be supported which, can then be represented in the Strategy.
  - BME Groups - York's BME population has grown by 9% since 2001 and was at 9.8% during the 2011 census. This group which includes all none 'White British' groups represents residents who may present

unique experiences. The highest non-white group within the BME community is Chinese which counts for 1.2% of the population. Many from this group attend York's universities. Having representatives from the BME community will allow for the Economic Strategy to work in unison with members of a growing community who are disproportionately disadvantaged.

- Jobcentre Plus and Citizens Advice - Some of York's most vulnerable people are advised by Jobcentre Plus and/or Citizens Advice. Having workers from these agencies present on the Panel would bring a useful perspective of the real problems affecting York's most vulnerable people whether that be from unemployment or money worries. In particular, the Jobcentre Plus supports those who have recently been made unemployed or redundant and works with the Council to provide an action plan for when local companies go into administration. These agencies can highlight the immediate responses that need to be in place in the Economic Strategy not just long-term goals.
- Health and social care workers - Health and social workers make up one of the largest employment sectors in York. It is also a sector characterised by low wage levels and often unclear career pathways. Workers in the health and social care sector are also in regular contact with the city's resident base and as such have a unique viewpoint. Their views will be valuable when developing the city's Economic Strategy.
- Formal and informal emergency services - They enable the safe operation of the city and are aware of the main obstacles that both residents and businesses face in the city. Their opinion of how the Council's Economic Strategy can benefit the city's residents and workers will be valuable. An example of this group is the Street Rangers who experience first-hand socio-economic problems in the City.
- Female networking groups – The economic contribution made by women both in terms of the labour market but also through caring responsibilities should be recognised. It is important that female workers and residents in York are given a voice. Female networking groups provide a place where women can come together to discuss business affairs. By enabling representatives from these groups to be part of a panel, we can ensure that the voice of the female professional/business owner is heard.
- Working parents and parenting groups - This group includes a wide range of people from single parents to stay at home mothers to working parents. Their opinion will be unrivalled as it is likely to include multi-

dimensional opinions which cover a range of topics from children, housing to everyday life. The emphasis on this group will be around how parents support their families and balance caring responsibilities and working especially those in traditionally low-paid jobs.

- Teachers and educational staff - A key focus of any Economic Strategy should be on skills and young people – the future workforce of an area. Teachers and educational staff play a pivotal role in developing the skills that future workers will need and that our industry demands. By interacting with this group of people, informed suggestions for future skills for young people can be shared.
- Students and young people - Similarly to teachers and educational staff, students and young people will be able to give an unprecedented insight into what is important to them from a career, share their aspirations and outline what they want from York. There are over 20,000 higher educational students in the city and the retention of this skilled population is essential for the economy to thrive.
- Community groups and charities - They represent marginalised groups in the city. They help people with tasks such as paying bills and filling in job applications as well as providing an informal food bank service for those most vulnerable in the community. Groups such as these provide a valuable voice for those who do not have one in society. York has a large third sector made up of groups such as Age UK and the Salvation Army who provide support to some of the most vulnerable members of the community. With such a vast charitable sector, the wide range of opinions from these groups will represent a large number of local residents.

24. The consultation will also consider existing work on inclusive growth and their impact at community level in York. This will include the new Inclusive Growth projects which were set out in September 2019 by the Executive Leader as follows:

- Establishing a York Poverty Commission – bringing together individuals who have direct experience of living in poverty with key decision makers to build a shared understanding of how we might take practical steps in York;
- Community hubs as drivers of growth – building on the community hubs model to give a sharper focus on local economic development and financial inclusion;

- Community jobs fairs – funding to continue the community-based jobs fairs delivered in Acomb and Burnholme alongside the central jobs fair at the Railway Institute;
- Independent retail growth fund – establishing a fund for trader-led projects through local traders associations;
- Mental health, wellbeing and employment – supporting the Good Help Programme in York which focuses on mental health and wellbeing and community engagement;
- York Economic Partnership – develop an inclusive, strategic economic partnership and work with that partnership to draft a new economic strategy for York.

## Consultation

25. The principal objective of the Economic Partnership and the York Peoples' Panel is to create a process and forum for business, communities and specific sector and individual experiences to engage in the development of the Council's economic strategy.

## Council Plan

26. The new Council plan under consultation will have outcomes which reflect a good quality of life in York. The projects proposed under the Inclusive Growth Initiatives Fund will address the following outcomes:
- Good health and wellbeing;
  - Well-paid and an inclusive economy;
  - A better start for children and young people;
  - A greener and cleaner city; and,
  - Safe communities and culture for all.

## Implications

- **Financial** – no new financial commitments. Previous commitments within the body of the report;
- **Human Resources (HR)** – no implications;
- **One Planet Council / Equalities** – the proposed project to green the Council's retail estate will address the Council's climate change challenge. A number of the proposed projects will positively support the Council's equalities objectives;
- **Legal** – no implications;
- **Crime and Disorder** – no implications;
- **Information Technology (IT)** – no implications;



- **Property** – depending on the findings of the survey, the proposed project to green the Council’s retail estate will have property implications. Any measures taken to improve the energy efficiency of the Council’s commercial stock will need to balance commercial viability with environmental benefits.

## Risk Management

There are no specific risks identified in respect of the recommendations.

## Contact Details

### Author:

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Head of Economic Growth  
Economy & Place  
x2814

### Chief Officer Responsible for the report:

**Neil Ferris**  
**Corporate Director - Economy & Place**

Report  Date 04.10.19  
Approved

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

All

**For further information please contact the author of the report**

## Background Papers

None

## Annexes

**Annex A – York economy evidence base**

## List of Abbreviations Used in this Report

SIC – Standard Industrial Classification

BME – Black and Minority Ethnic

ICT – Information and Communication Technology

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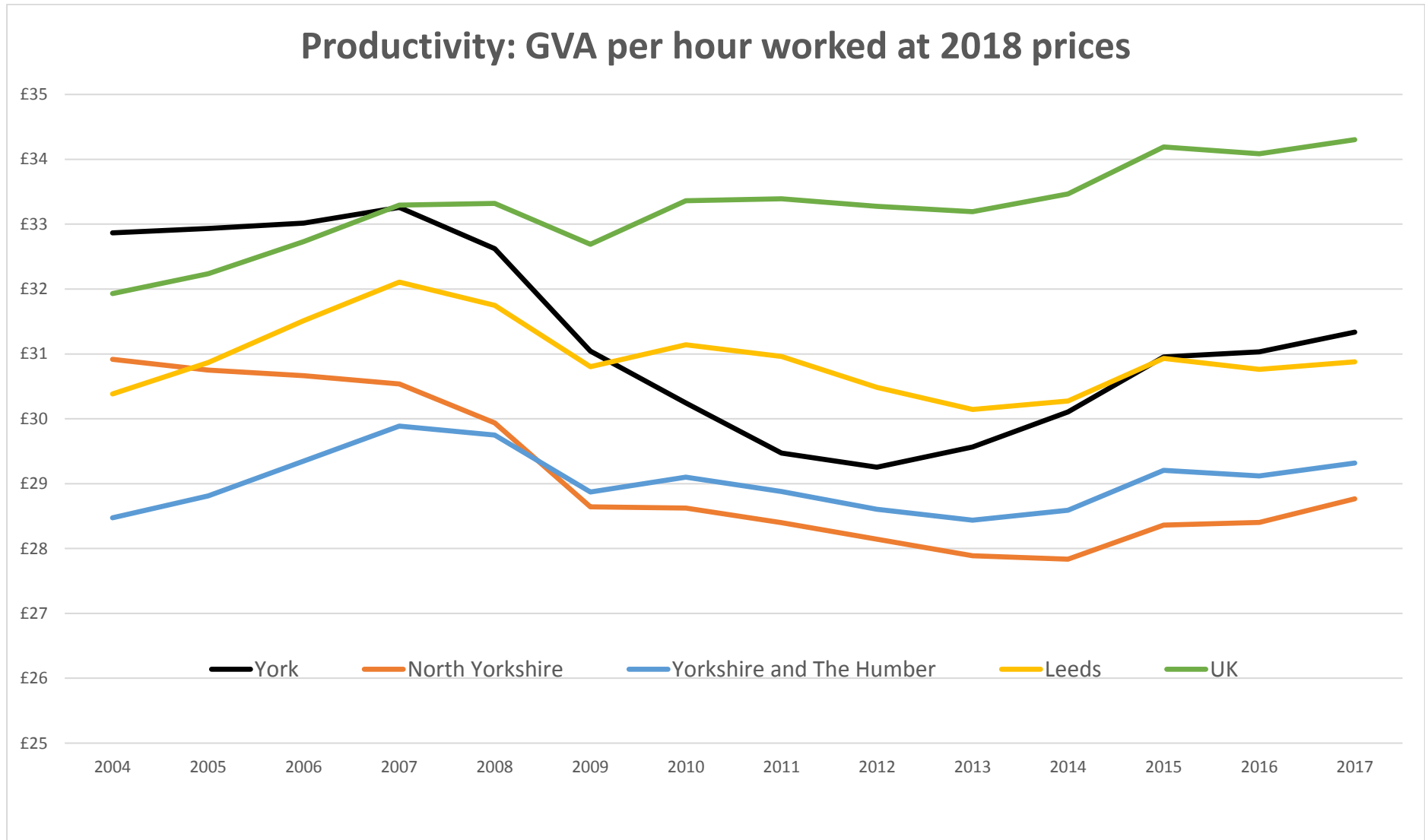


Figure 1: York has strong and growing productivity

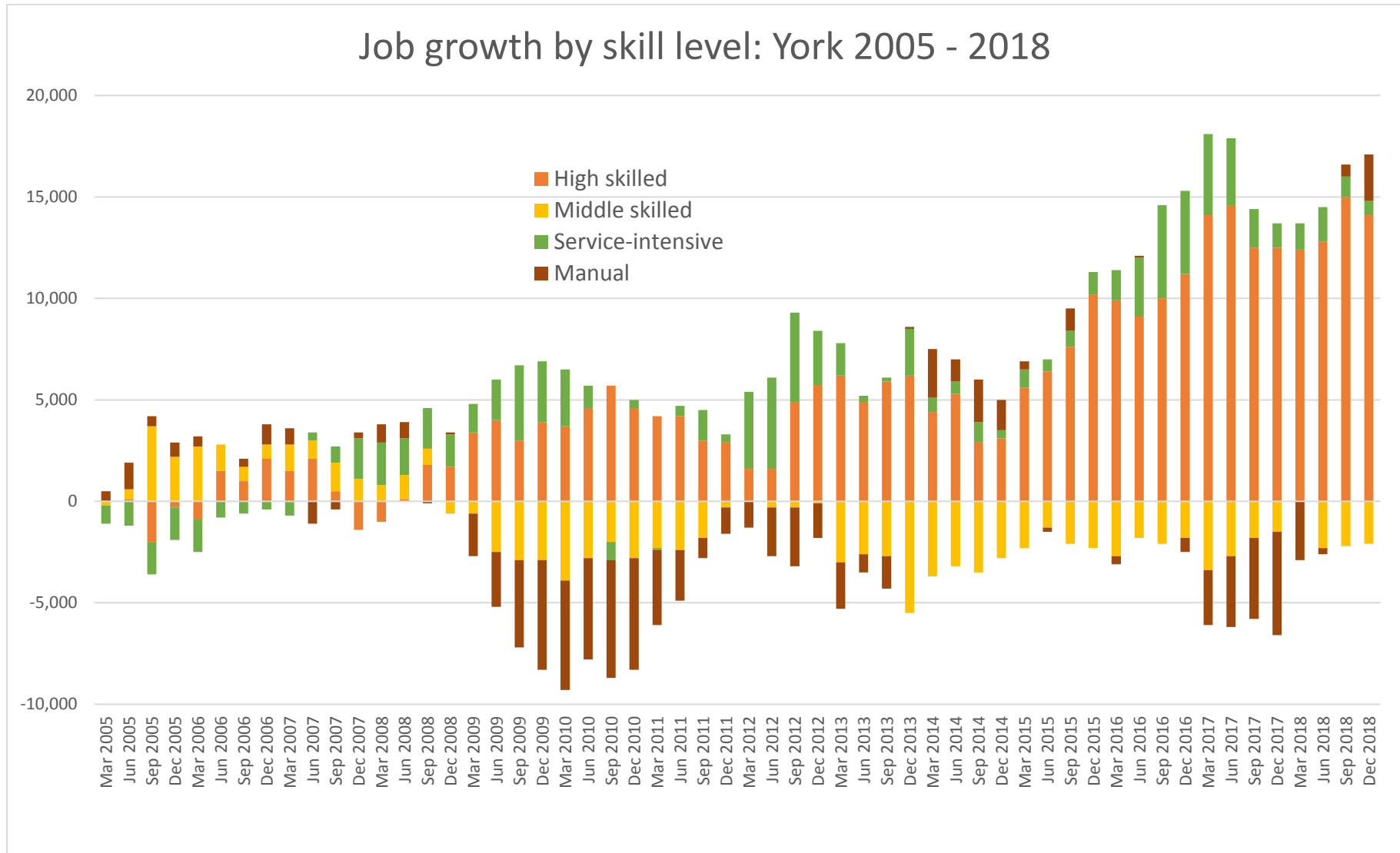


Figure 2: Since March 2005, 14,000 high skilled jobs have been created in York

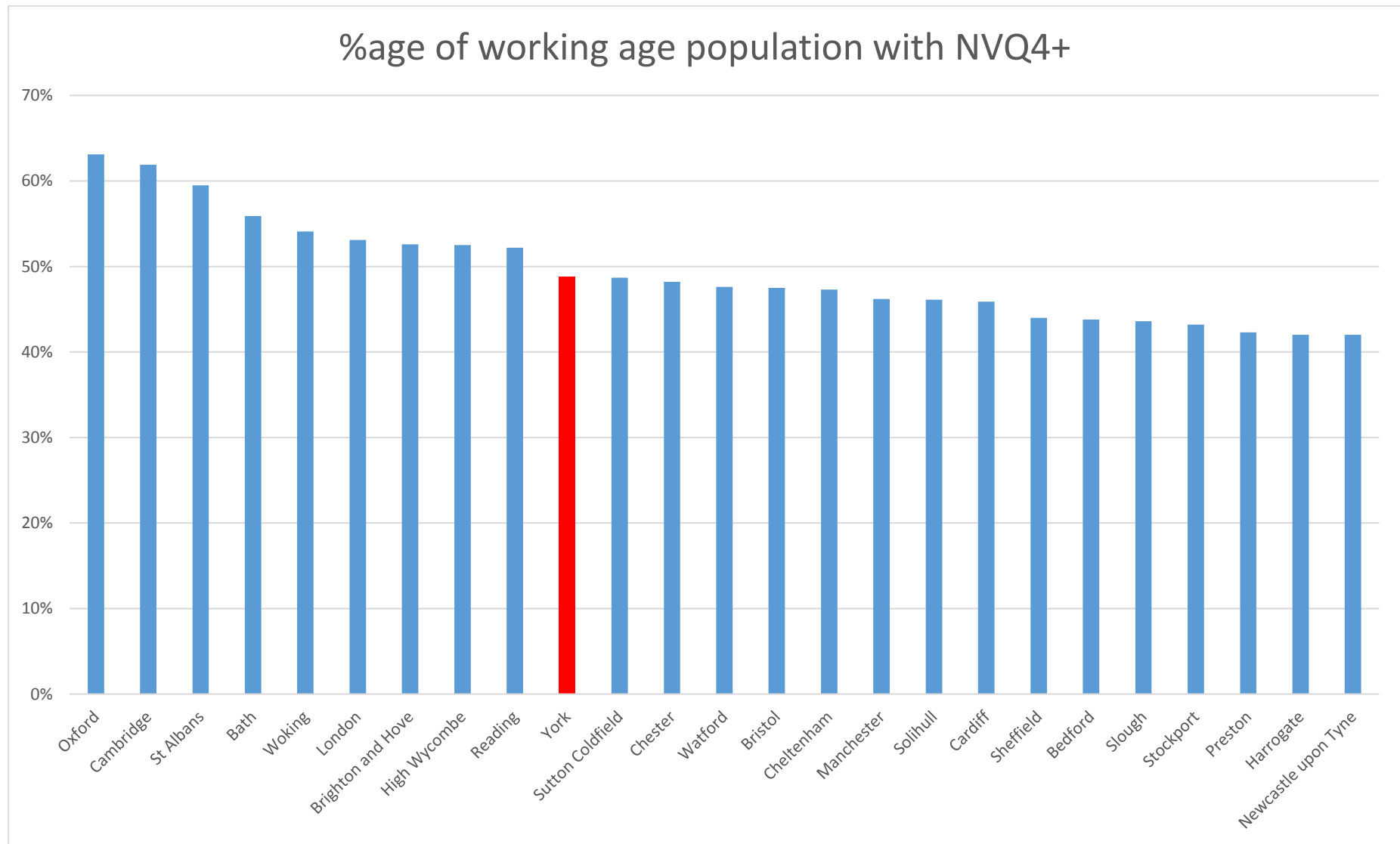


Figure 3: York has the highest level of skills of all northern cities

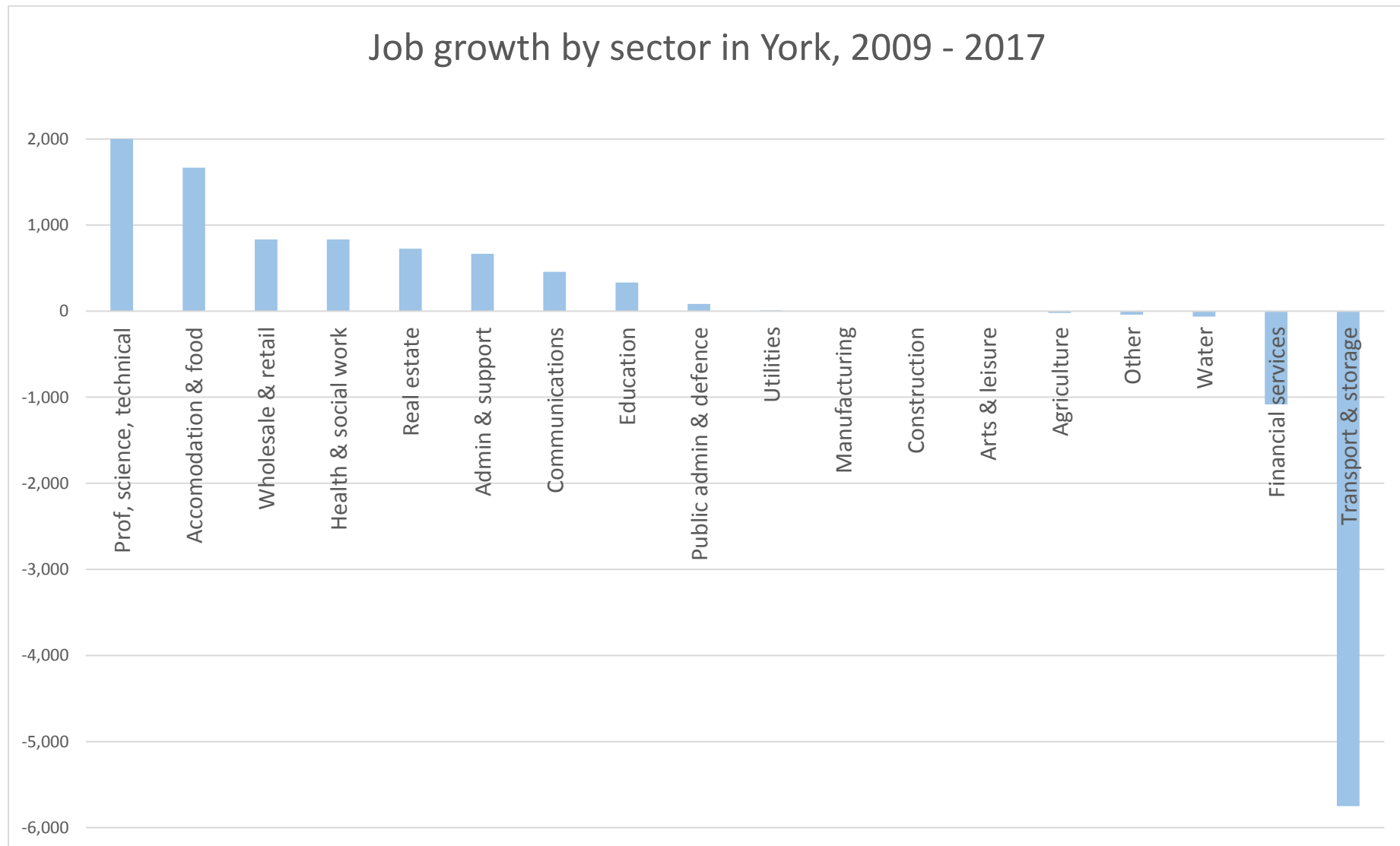


Figure 4: Since 2009, much of our job growth has been in lower paid sectors

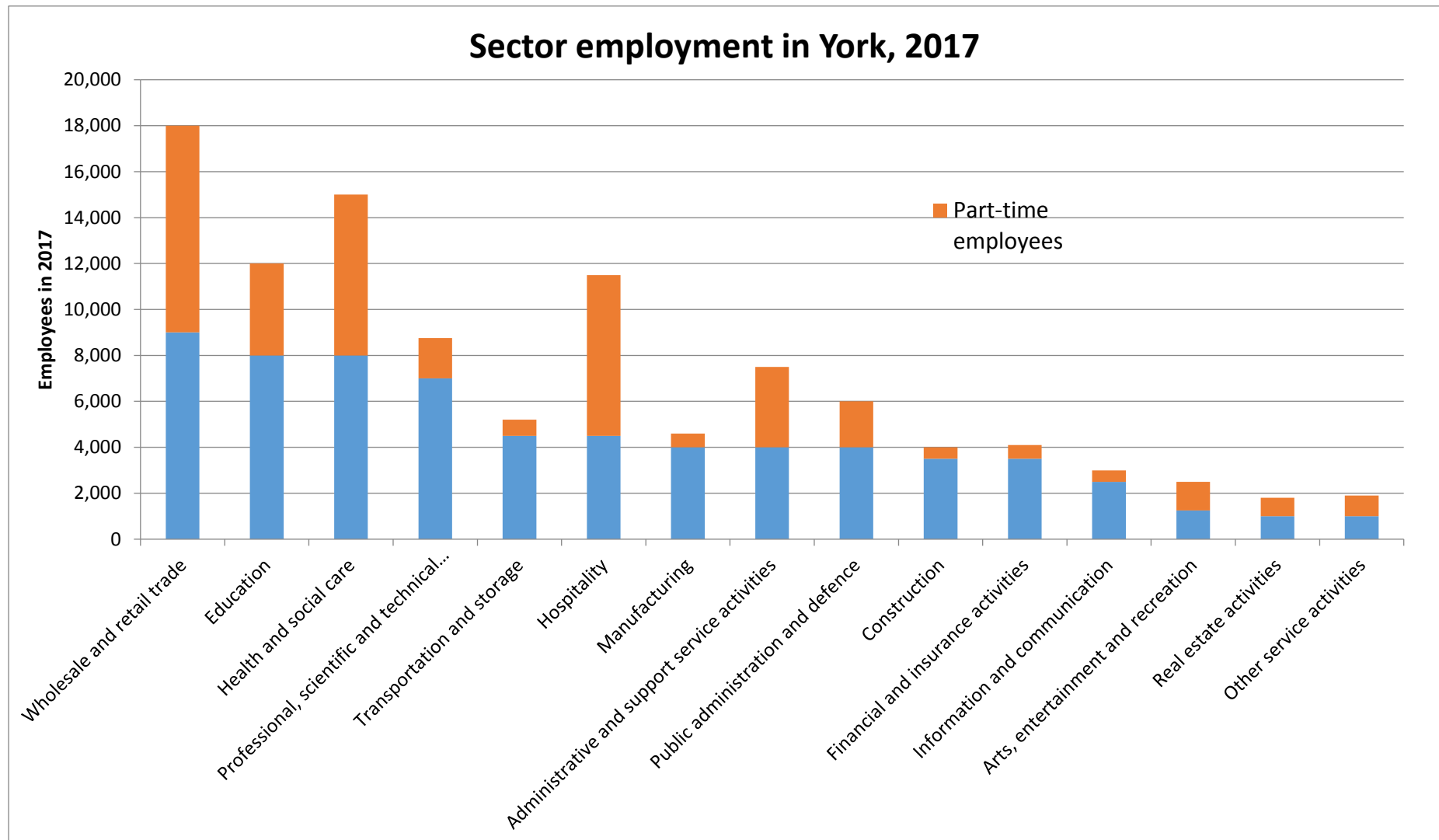


Figure 5: Part time work in York is predominantly in lower paid industries

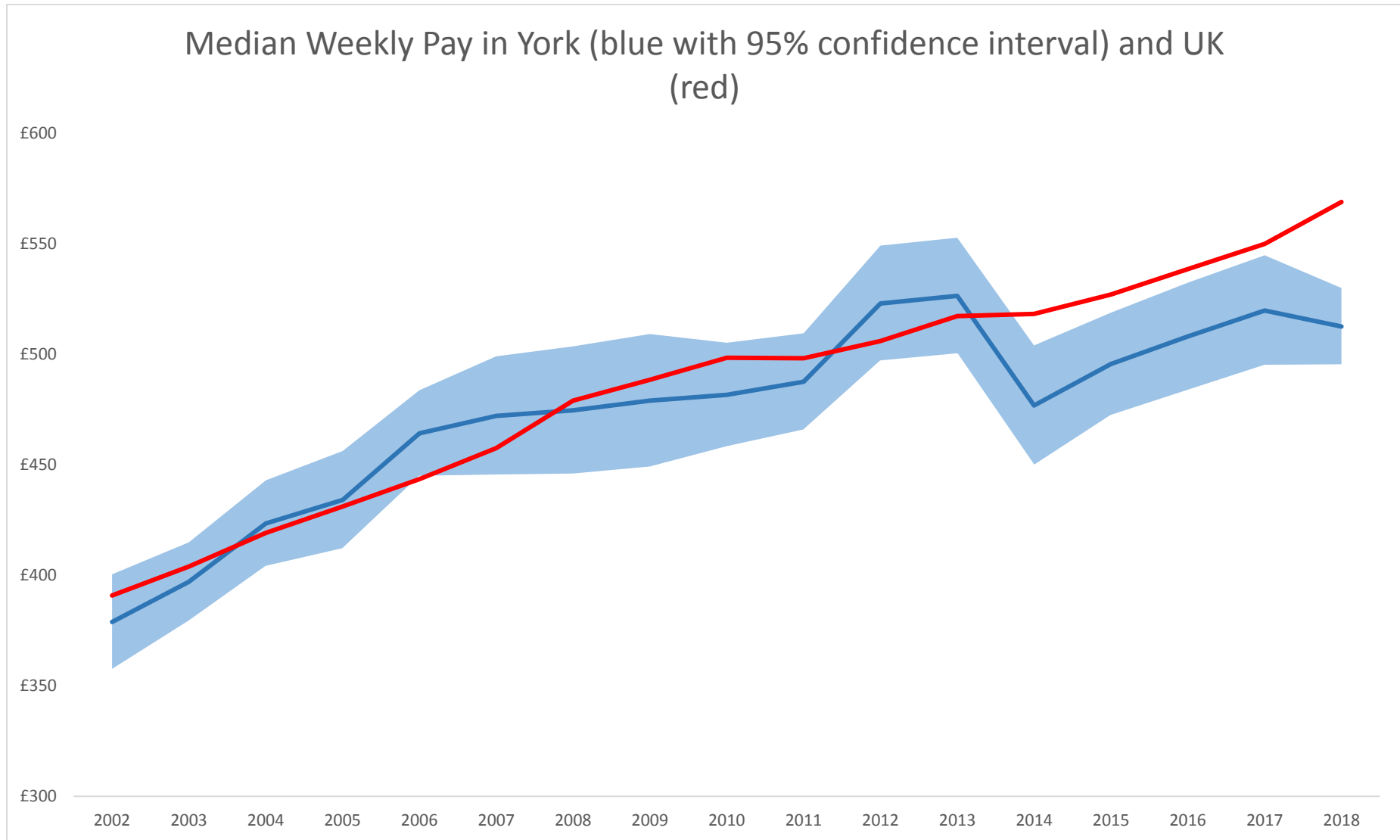


Figure 6: Average pay in York has fallen and is lagging behind the national figures



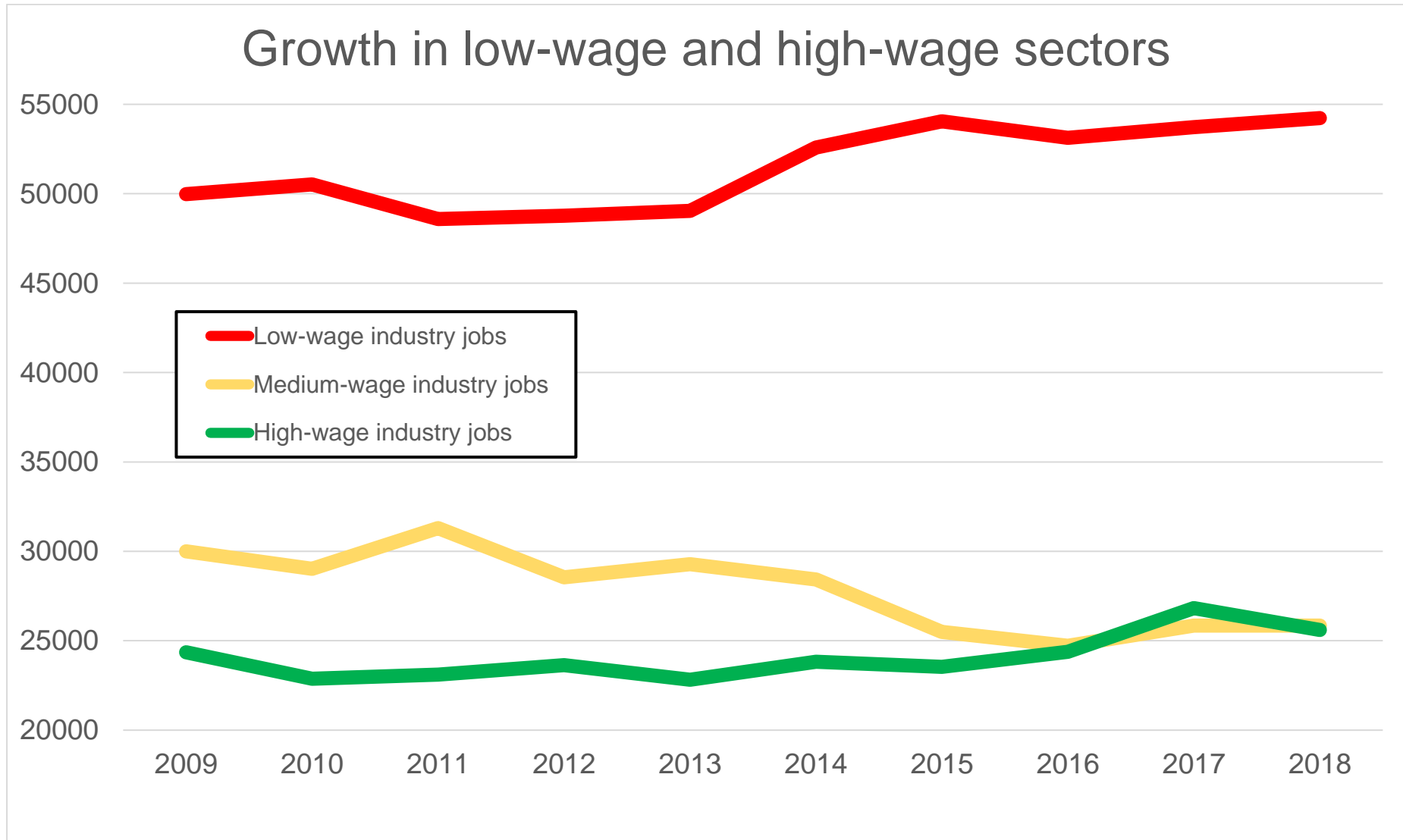


Figure 7: High-wage sectors are growing, but so are low-wage sectors

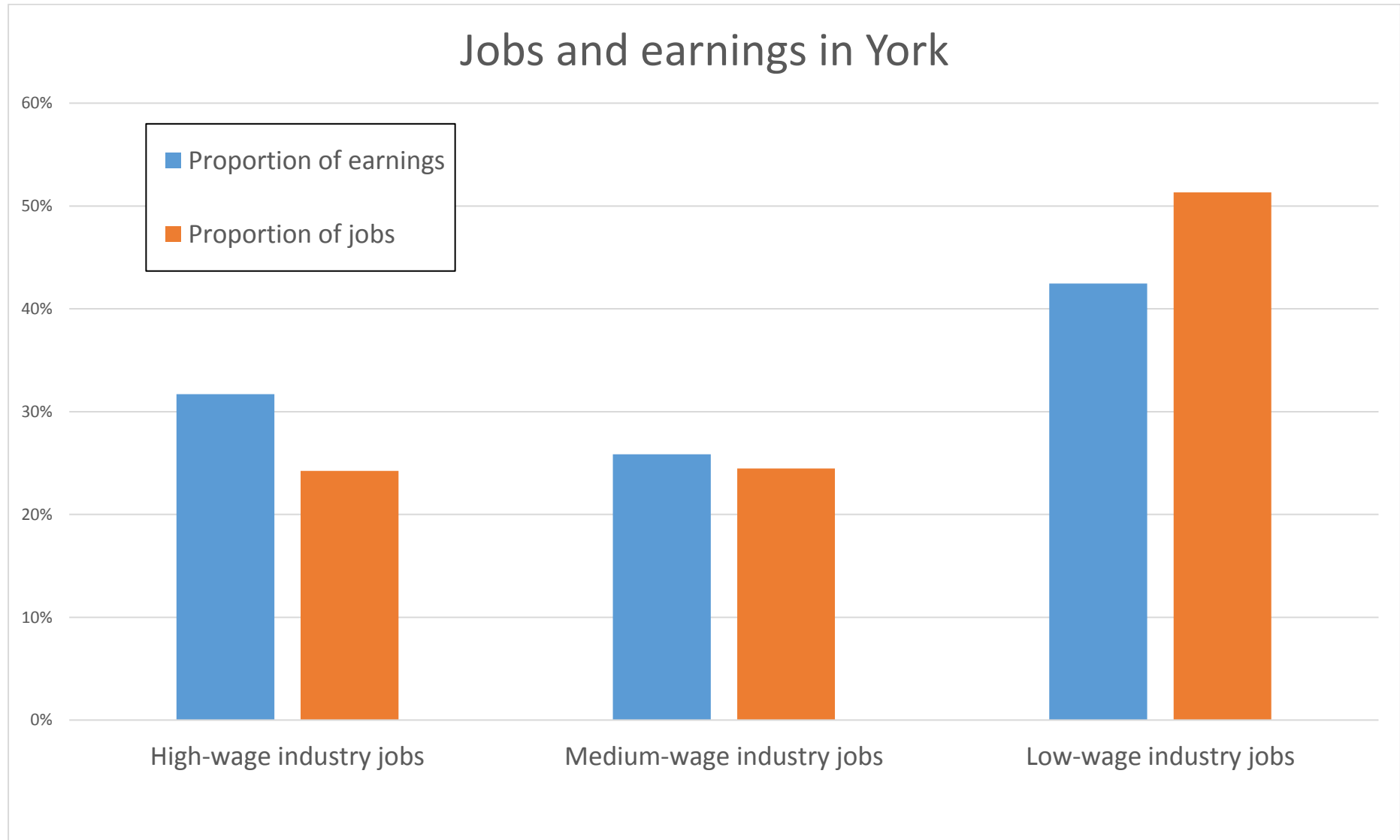


Figure 8: £2.5BN is earned by York residents every year



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

**17<sup>th</sup> 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 25<sup>th</sup> 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 26<sup>th</sup> April 2007 for Development Control purposes, update 1 June 2014);
  - Interim Planning Statement on Sustainable Design and Construction (approved by Planning Committee on 22<sup>nd</sup> 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
<b>Total</b>	<b>217</b>	<b>878</b>	<b>1,095</b>
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:

<b>Policy H10 Development size thresholds</b>	<b>Policy H10 Contributions required</b>	<b>Policy H10 compliance with NPPF 2019</b>	<b>Local Plan Policy Weight applicable following NPPF 2019</b>
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)<sup>1</sup> 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 Act<sup>2</sup> 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)<sup>3</sup> and the Energy efficiency directive<sup>3</sup>. 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.

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

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

<sup>3</sup> 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 2<sup>nd</sup> 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 consultation<sup>4</sup>, 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

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<sup>4</sup> 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
<b>Total</b>	<b>£723</b>	<b>£142</b>	<b>£102</b>	<b>£351</b>	<b>£3,284</b>	<b>£3,396</b>	<b>£3,734</b>

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 22<sup>nd</sup> 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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Neil Ferris  
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**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

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## **Annex 1 – Detailed scope of Green-Blue Infrastructure SPD**

Taking into consideration the policy and best practice context, the scope of the SPD will have individual theme based topics setting out the individual checklist applicants should refer to, requirements for submissions and our advice to designing the requirements.

The theme based approach suggested is as follows:

<b>Importance of Green- Blue Infrastructure</b>	
Context	Narrative exploring the importance of GBI to York.
<b>Mechanisms for Securing delivery</b>	
S106	Guidance on when S106 is applicable and potential outline of the process
Planning conditions	Guidance on types of conditions that may be imposed on development
<b>Biodiversity</b>	
Background and evidence base	Setting the baseline and context of York's Green Infrastructure
<b>Stage 1: Understanding the importance of biodiversity</b>	
Checklist	Development of a Biodiversity specific checklist to accompany planning applications. Likely that this is split between different types of applications, e.g householder, major, commercial. Notes accompanying may set out locations likely to impact on biodiversity.
Survey requirements	Details when a survey should be carried out, by whom and when.
Habitat surveys	Requirements for Habitat Phase 1 survey
Species surveys	General requirements for species surveys and detailed requirements for known common species in York, e.g. Great Crested Newts and Bats.
Green Corridors and networks	Setting out how to consider the wider context of the development and its potential contribution.

<b>Stage 2: Evaluating the survey information</b>	
Habitats	Setting out the designated sites, key habitat types / species and their key considerations in York
Species	
Invasive species	Requirements regarding the removal of invasive species such a Himalayan Balsam.
<b>Stage 3: Designing for biodiversity</b>	
Identifying potential harm	Setting out the potential impacts from development during key phases
Mitigation hierarchy	Identifying mitigation strategies using the mitigation hierarchy wherein harm should be avoided, mitigated and lastly compensated for.  Buffer zones technical detail to set out how to deal with development impacting on existing or the potential for newly created areas.
Biodiversity net gain	Setting out the approach to biodiversity net gain. Potentially setting out a biodiversity metric (dealing with habitats) and consideration for individual species.
Construction	Detailed considerations during the construction phase.
Long –term	Detailed considerations for maintenance and monitoring.
<b>Trees</b>	
Background and evidence base	Setting the baseline and context of trees in York. Can include information regarding Canopy cover and TPOs.
<b>Stage 1: Understanding the importance of Trees</b>	
Checklist	Setting out the process for and key submission requirements for trees in planning applications. Likely to be applicable at all scales of development.
Survey requirements	Details when a survey should be carried out, by whom and when.

Stage 2: Considering existing trees and woodland in development	
Selecting trees for retention	Rationale and guidance on selecting trees for retention and understanding of how this influences canopy change within the authority.
Protection of trees	Guidance regarding the protection of trees through the construction lifecycle.
Woodland, Ancient woodland and veteran Trees	Advice and guidance for applications which may affect established woodland and trees.
Stage 3: Incorporating new trees into development	
Tree Planting	Setting the space requirements for trees in schemes and ensuring they are given due consideration to enable their long-term viability.  Establishing guidance on the types of trees suitable.
Post- development management	Guidance linked to ensuring ongoing management plans for trees in publicly accessible places.
<b>Openspace</b>	
Background and evidence base	Setting the baseline and context of York's Green Infrastructure
Stage 1: Approach to Open space Provision	
Demonstrating Openspace Requirements in development	Guidance setting out how to understand and demonstrate the requirements of openspace in a scheme.
On-site or off-site provision	Guidance as to the appropriateness of where provision should be delivered.
Stage 2: Designing in Open Space	
Openspace in new development	Detailed policy setting out the quantum of openspace required.  Also detailed guidance on the types of applicable openspace required through development.

	Guidance is likely to be split between residential and commercial uses to ensure residents and workers have accessible openspace.
Standards for recreational openspace	Detailed guidance on the standards of openspace to be demonstrated and achieved, e.g for children's playspaces and sports pitches where facilities may be required.
Historic Parks and Gardens	How to consider proposals and impacts on designated historic parks and gardens.
Site layout and design considerations	Guidance regarding the design and placement of openspace in new development.
<b>Stage 3: Delivering Open Space</b>	
Openspace Contributions	Setting out the approach to S106 contributions. This is likely to link to the scale and type of development to be provided and the information required to demonstrate the approach.
Delivery models and post-development management	Setting of timetable expectations for delivery on-site.  Guidance on alternative delivery models for open space.  Guidance to demonstrate long-term maintenance.
<b>Multi-functional solutions for Green Infrastructure</b>	
Design guidance	Approach to considering multi-functional solutions and how to demonstrate this in applications.
<b>Monitoring</b>	
Approach to how the council will seek to monitor the information provided through applications.	

## **Appendix 2: Policy H10 in the submitted Publication draft Local Plan (2018)**

### **Policy H10: Affordable Housing**

To help maximise affordability across the housing market, the Council will support residential schemes for 2 or more dwellings which:

- i. reflect the relative viability of development land types in York by providing affordable housing percentage levels for site thresholds as set out in Table 5.4:

**Table 5.4: Affordable Housing Site Thresholds**

<b>Threshold</b>	<b>Target</b>
Brownfield sites = > 15 dwellings	20%
Greenfield sites = > 15 dwellings	30%
Urban, Suburban and Rural sites 11-14 dwellings	20% <sup>1</sup>
Urban brownfield sites 5-10 dwellings <sup>2</sup>	15% <sup>1</sup>
Urban greenfield sites 5-10 dwellings <sup>2</sup>	19% <sup>1</sup>
Urban brownfield sites 2-4 dwellings <sup>2</sup>	6% <sup>1</sup>
Urban greenfield sites 2-4 dwellings <sup>2</sup>	10% <sup>1</sup>
Sub-urban brownfield sites 5-10 dwellings <sup>2</sup>	10% <sup>1</sup>
Sub-urban greenfield sites 5-10 dwellings <sup>2</sup>	15% <sup>1</sup>
Sub-urban brownfield sites 2-4 dwellings <sup>2</sup>	2% <sup>1</sup>
Sub-urban greenfield sites 2-4 dwellings <sup>2</sup>	7% <sup>1</sup>
Rural brownfield sites 5-10 dwellings <sup>2</sup>	11% <sup>1</sup>
Rural brownfield sites 2-4 dwellings <sup>2</sup> that	3% <sup>1</sup>
Rural greenfield sites 5-10 dwellings <sup>2</sup>	17% <sup>1</sup>
Rural greenfield sites 2-4 dwellings <sup>2</sup>	8% <sup>1</sup>

#### **Notes to Table**

- 1 This is the target percentage to be used in the off-site financial contribution calculation following sub-clause (iii) below
- 2 For sites that have a maximum combined gross floorspace of more than 1,000sqm

- ii on sites of 15 homes and above on-site provision will be expected, unless off-site provision or a financial contribution of equivalent value can be robustly justified.
- iii. on sites of 2–15 homes an off site financial contribution (OSFC) is required in accordance with the approved formula set out below:

$$\text{Average York Property price} - \text{Average York Fixed RP Price} \times \% \text{ Target} = \text{OSFC per dwelling}$$

- iv. make provision which reflects tenure split in terms of social renting and intermediate housing, as set out in the most up to date SHMA.
- v. fully integrate the affordable housing by pepper potting throughout the development with no more than two affordable dwellings placed next to each other. The size and type of homes should be a pro rata mix of the total homes provided on site, taking into account current assessments of local need where on-site provision is required. The affordable housing should be visually indistinguishable from the open market dwellings.

A vacant building credit (VBC) will be applied to appropriate development where a vacant building is either converted or demolished and is necessary to incentivise the scheme. This credit will be equivalent to the gross floor space of the building to be demolished or brought back into use. This credit does not apply when a building has been 'abandoned'.

The affordable housing should remain affordable in perpetuity, through use of a planning condition or obligation or if these restrictions are lifted, for subsidy to be recycled for alternative affordable housing. On completion, the affordable housing must be transferred to a Registered Provider approved by the Council.

Where a developer believes the criteria set out in this policy cannot be fully met, they have the opportunity through open book appraisal to demonstrate through open book appraisal to demonstrate to the Council's satisfaction that the development would not be viable

### **Annex 3 – Detailed scope of Carbon Reduction, Renewable Energy and Sustainable Design and Construction SPD**

Taking into consideration the policy context and best practice examples, the scope of the SPD will incorporate individual topics, setting out the individual checklist applicants should refer to, including requirements for submissions and our advice to designing the requirements.

It is anticipated that this SPD can be split into two parts; Firstly dealing with guidance in relation to the energy efficiency, renewable energy and sustainable design and construction and secondly presenting a checklist for applicants to demonstrate compliance with the policy approach.

The approach suggested for the SPD is as follows:

<b>Part 1: Guidance</b>	
<b>1. Importance of Urban design to Climate change, carbon reduction and renewable energy</b>	
Context	Narrative exploring the important interrelationship between design and sustainable design and construction. This will provide background detail to following requirements.
<b>2. Mechanisms for Securing delivery</b>	
S106	Guidance on when S106 is applicable and potential outline of the process
Planning conditions	Guidance on types of conditions that may be imposed on development
<b>3. Energy Efficiency and Renewable Energy</b>	
Policy Context	Applicable planning policy
Energy Efficiency	Setting out guidance and level of detail proportionate to the scale and type of development relating to topics of: <ul style="list-style-type: none"> <li>• Energy efficiency measures</li> <li>• Construction standards including Passive House/ BREEAM / CEEQUAL</li> <li>• Modern construction methods</li> </ul>

Renewable Energy	Set out guidance and level of detail proportionate to the scale and type of development relating to topics of: <ul style="list-style-type: none"> <li>• Renewable energy</li> <li>• District heating</li> </ul>
Energy Statement Requirements	Provides guidance regarding how to demonstrate and quantify how development will comply with policy energy requirements – 28% reduction overall and 19% from building fabric. Split into application lifecycle stages to ensure stages are clear. Information to include demonstration of Existing evidence Evidence for all criteria Unambiguous assessment Robustness
<b>4. Sustainable Design and Construction</b>	
Policy context	Sets out requirements and level of detail proportionate to the scale of development. Also sets importance for consideration of these elements in design process.
Climate change adaptation	Wider design consideration interrelated with adapting to climate change, including <ul style="list-style-type: none"> <li>• Green Infrastructure</li> <li>• Overheating</li> <li>• materials</li> </ul>
Water efficiency	Wider consideration for reducing consumption and SuDs
Construction waste	Guidance regarding managing construction waste through the process and sign posting to JMWP.
Sustainability Statement Requirements	Guidance setting out expectations and information to include in a sustainability statement.
<b>Part 2: Checklist</b>	
General	Questions and a proposed format for applicants to consider in preparing applications split into types of development. Definitions required for scale of development and when applicable.
<b>Checklist Criteria &amp; Guidance – Residential and Non-residential Development</b>	



Energy/CO2	To conserve energy, in particular carbon dioxide emissions and maximise the use of energy efficient techniques.
Water	To improve efficiency in the use of water, conserve water resources and minimise vulnerability to flooding.
Materials	To retain local character and promote the use of materials with a low environmental impact.
Surface Water Run-off	To reduce flooding, pollution and other environmental damage.
Waste	To minimise the production of waste and maximise re-use and recycling.
Pollution	To minimise damage to the environment through air, ground surface water, land, noise or light pollution.
Heath & Well-being	To improve the quality of life in homes through good daylighting, improved sound insulation, provision of outdoor space with good accessibility. Also to ensure a good quality amenity level is afforded to occupants of non-residential buildings.
Management	To manage the site in an environmentally and socially considerate manner.
Land use and Ecology	To retain, protect and enhance wildlife habitats and natural features.
Innovation	To recognise innovation in the field of sustainability.
<b>Monitoring</b>	
Approach to how the council will seek to monitor the information provided through applications.	

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

Report of the Head of Development Services

### **Permitted Development Rights for Solar and Photovoltaic (PV) Panels**

#### **Summary**

1. Permitted Development Legislation exists to grant certain rights for varying types of development to be undertaken without the requirement to obtain formal Planning Permission from the Local Planning Authority (LPA). This includes the installation of Solar and Photovoltaic (PV) Panels on both domestic buildings (dwellinghouse or block of flats) and buildings other than a dwellinghouse or block of flats.
2. In most cases, given the provision of permitted development rights, residents and businesses in York would be able to install Solar and Photovoltaic Panels without requiring formal planning permission. Utilisation of Permitted Development rights to install PV panels is something the Council is keen to encourage the usage of. This report sets out the criteria for PV to be classed as permitted development in order to assist with the installation of PV's in appropriate locations throughout the city.
3. The background section of this report highlights the relevant elements of national legislation which apply in York and the limitations which they then place upon development of this nature.

4. The exact nature and extent of permitted development rights can vary and they cover a very wide range of development types. They can allow a householder to erect a garden shed within their own garden through to granting rights to statutory undertakers such as BT to install the street cabinets which provide Broadband infrastructure.
5. Those parties afforded permitted development rights can in most cases exercise them at their own free will. However in some cases a developer must notify the LPA prior to them undertaking the works via the Prior Notification process.
6. In all cases the development permitted is subject to strict conditions and limitations which must be adhered to by those seeking to exercise permitted development rights. Failure to adhere the relevant conditions and limitations would mean that the works undertaken would not constitute permitted development and would therefore require the benefit of formal planning permission from the LPA. These conditions act as thresholds on the overall scale of a development.
7. In instances where these thresholds are exceeded it does not mean that the development would be unacceptable in planning terms; it simply means the development requires the benefit of planning permission. In such circumstances any formal planning application would be assessed in accordance with the provisions of prevailing National and Local Planning Policies; such as those contained within the NPPF and Draft Local Plan and any relevant material considerations which may exist.
8. In 2018 the Council received 18.no applications which included Solar or Solar PV equipment either as a standalone proposal or which were incorporated into a larger proposal and planning permission was granted in all these cases.
9. Where permission is required for the installation of PV's as outlined above this could be due to a number of factors of which York Historic Character is one of these. Each planning application for PV's will be considered on its own merits and its impact on both

the property and surrounding area which will vary on a case by case basis.

10. PV's are one of a number of technologies available to reduce the carbon impact of buildings and the Planning Department will work with applicants to wherever possible find an acceptable solution to reducing a buildings carbon footprint.
11. The prevalence of Solar and Solar PV panels across the city relative to the number of applications considered by the Council highlights the scope of permitted development rights in respect of such equipment.
12. In addition to this Policy CC1 of the Draft Local Plan promotes the provision of Renewable and Low Carbon Energy Generation and Storage. Policy CC2 promotes Sustainable Design and Construction of New Development. These policies in addition to the provisions of the NPPF which promotes sustainable development at its core are material to the assessment of all planning applications submitted to the LPA. It is these policies which are utilised to promote and secure features such as renewable energy in new development.

13. Example of PV installation within York (installed under permitted development rights)



### **Recommendation**

14. The Executive Member is asked to:
- a. Note the contents of this report for information purposes only.

### **Background**

15. Permitted Development Rights are national legislation and apply in the same manner across England for all LPAs; similar legislation exists for Scotland and Wales.
16. Permitted Development rights permit the use of Solar Thermal and Solar PV equipment. The difference between the two is based around how the subsequent electricity is generated from the panel. Solar Thermal utilises radiation from the sun to heat a fluid within

the panels which in turn is then utilised to generate a current. Solar PV relies on the Photovoltaic effect.

17. Permitted Development Rights are set out within The Town and Country Planning (General Permitted Development) (England) Order 2015. (GPDO).

18. Permitted Development Rights relating to the provision of Solar Panels, is contained within Part 14 (Renewable Energy) of the GPDO. Specifically, in respect of Solar Panels, the following Classes of Part 14 are relevant:

Class A – installation or alteration etc of solar equipment on domestic premises;

Class B – The installation, alteration or replacement of stand-alone solar for microgeneration within the curtilage of a dwellinghouse or a block of flats;

Class J – The installation, alteration or replacement of-  
Microgeneration solar thermal equipment on a building;  
Microgeneration solar PV equipment on a building; or  
Other solar PV equipment on the roof of a building,  
Other than a dwellinghouse or a block of flats.

Class K – The installation, alteration or replacement of stand-alone solar for microgeneration within the curtilage of a building other than a dwellinghouse or a block of flats.

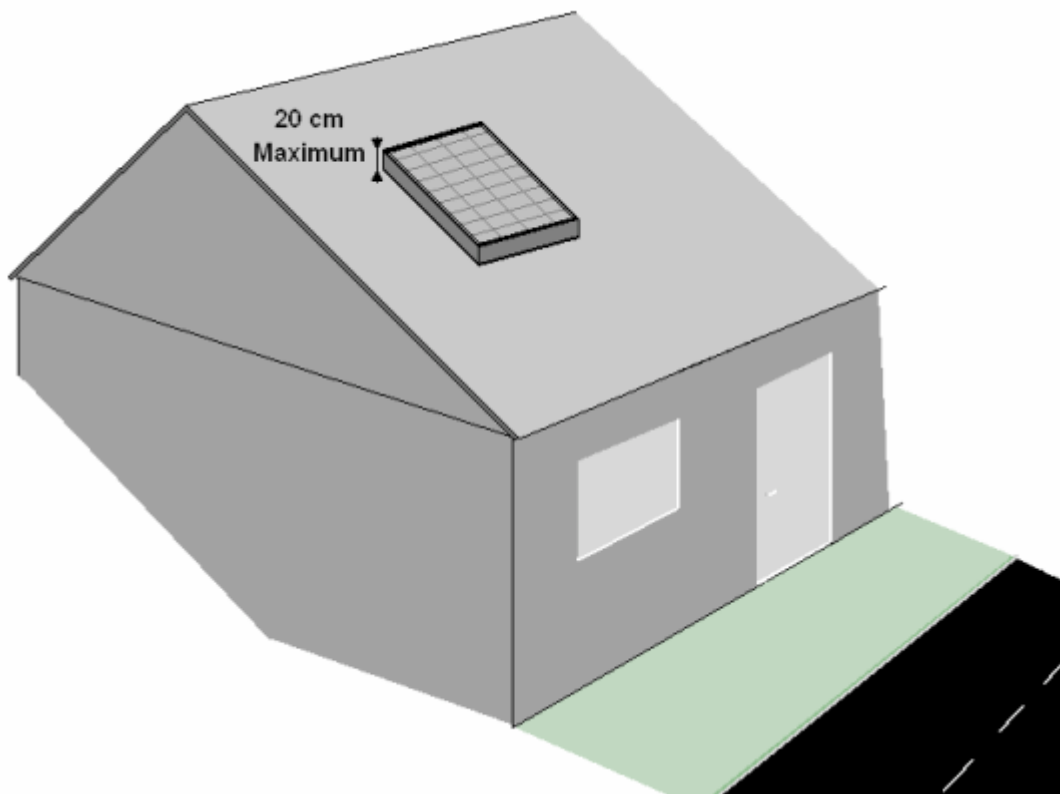
### **Development on a Dwellinghouse or Block of flats**

19. Class A of Part permits the installation, alteration or replacement of microgeneration solar PV or solar thermal equipment on-

- a. A dwellinghouse or a block of flats; or
- b. A building situated within the curtilage of a dwellinghouse or a block of flats.

20. However the undertaking of these works is subject to the following limitations being adhered to:

- a. The panel cannot protrude more than 20cm beyond the plane of the wall or roof slope when measured perpendicular with the external surface of the wall or roof.
- b. The highest part of the equipment cannot be higher than the highest part of the roof (excluding any chimney).
- c. In the case of any land within a designated Conservation Area or a World Heritage Site the equipment cannot be installed on a wall which fronts a highway.
- d. The equipment cannot be installed on a site designated as a scheduled monument.
- e. The equipment cannot be installed on a building within the curtilage of a dwellinghouse or block of flats if the dwellinghouse or block of flats is a listed building.



21. In addition to the specified limitations the following conditions would also need to be complied with in all cases:



- a. The equipment is, so far as practicable, sited so as to minimise its effect on the external appearance of the building.
- b. The equipment is, so far as practicable, sited so as to minimise its effect on the amenity of the area; and
- c. The equipment is removed as soon as reasonably practicable when no longer needed.

22. It should be noted that the above relates to single dwellings and blocks of flats and not mixed used building, flats associated with use other uses or flats that form part of buildings with multiple uses.

23. Class B of Part 14 permits the installation, alteration or replacement of stand-alone solar for microgeneration within the curtilage of a dwellinghouse or block of flats. This is subject to the following limitations:

- a. In the case of stand alone solar, there can only be 1.no stand alone installation within the curtilage.
- b. The stand alone solar cannot:
  - i. Exceed 4m in height;
  - ii. In the case of land within a Conservation Area or which is a World Heritage site, the stand alone solar cannot be installed so that it is nearer to any highway which bounds the curtilage than the part of the dwellinghouse or block of flats which is nearest to that highway.
  - iii. Be installed within 5m of the boundary of the curtilage.
  - iv. Be installed within the curtilage of a Listed Building.
  - v. Be installed on site designated as a scheduled monument.
- c. The surface area of the panels forming part of the stand alone solar would exceed 9m<sup>2</sup> or any dimension of its array (including the housing) would exceed 3m.

24. As was the case with earlier classes, Class B also requires that the stand alone solar is, so far as practicable, sited so as to minimise its effect of the amenity of the area and that it is removed as soon as reasonably practicable when no longer needed.

## **Development on buildings other than a dwellinghouse or block of flats**

25. Classes J and K of Part 14 provide permitted development rights for the installation of solar equipment on buildings and land that are not dwellinghouses or flats.
26. Class J permits the installation of solar thermal and solar PV equipment on a building or solar PV equipment on a roof of a building that is not a dwellinghouse or block of flats.
27. Development under Class J requires that:
  - a. The equipment cannot be installed on a pitched roof where it would protrude more than 20cm beyond the plane of the roof slope when measured from the external perpendicular surface of the roof slope.
  - b. When installed on a flat roof the equipment cannot stand higher than 1m above the highest part of the roof (excluding any chimney).
  - c. The equipment cannot be installed within 1m of the external edge of the roof.
  - d. In the case of a building situated on article 2(3) land (National Parks, Areas of Outstanding Natural Beauty and Conservation Areas) the equipment cannot be installed on a roof slope which fronts a highway.
  - e. The equipment cannot be installed on a site designated as a scheduled monument.
  - f. The equipment cannot be installed on a listed building or within the curtilage of a listed building
28. However in respect of the provision of Solar Equipment on a building (excluding a roof) the following conditions must be adhered to:
  - a. The equipment when installed on a wall cannot protrude more than 20cm beyond the plane of the wall.
  - b. The equipment cannot be installed on a wall within 1m of a junction of that wall within another wall or with the roof of the building.

- c. In the case of a building situated on article 2(3) land (National Parks, Areas of Outstanding Natural Beauty and Conservation Areas) the equipment cannot be installed on a roof slope which fronts a highway.
29. There is also a restriction on the amount of electricity that can be generated from an installation. This restriction on relates to Solar PV equipment; however the installation of any Solar PV equipment either on a building or a roof cannot exceed 1 Megawatt.
30. Development under Class J is also subject to conditions which requires the equipment to be sited, so far as practicable, so as to minimise its effect on the external appearance of the building and amenity of the area. It is also necessary to remove the equipment when it is no longer needed.
31. In the case of the solar equipment being installed on the roof of building that is not a dwellinghouse or flat the developer is obliged to apply to the LPA for a determination as to the whether the prior approval of the authority is required as to the design or external appearance of the development, in particular the impact of glare on occupiers of neighbouring land. The prior approval requirements are discussed later in this report.
32. Class K permits the installation, alteration or replacement of standalone solar for microgeneration within the curtilage of a building other than a dwellinghouse or a block of flats. Subject to the following limitations:
  - a. The installation cannot result in more than 1.no installation of standalone solar within the curtilage of a building.
  - b. Any part of the installation cannot:
    - i. Exceed 4m in height;
    - ii. Cannot be installed on any Article 2(3) land, be installed so that is it nearer to any highway which bounds the curtilage than the part of the building which is nearest to the highway

- iii. Cannot be installed within 5m of the boundary of the curtilage
- iv. Cannot be installed within the curtilage of a Listed Building
- v. Cannot be installed on a site designated as scheduled monument.
- vi. Cannot have a surface area which would exceed 9m<sup>2</sup> or have any dimension (including any housing) which would exceed 3m.

33. As with previous Classes conditions also require that the equipment, so far as practicable, be sited so as to minimise its effect on the amenity of the area and that the equipment be removed when it is no longer needed.

### **Prior Approval Process**

34. In cases where Solar PV Equipment is to be installed on the roof of a building that is not a dwellinghouse or flat the developer is first required to apply to the LPA for a determination as to whether Prior Approval is needed.

35. The prior approval process is utilised in a number of other circumstances such as the Larger House Extensions, Agricultural Buildings the change of use from Offices to residential. The process is perhaps best characterised as being a 'light touch' planning application. Developers and the LPAs have a very prescriptive and defined process to follow in terms what information must be submitted and what factors the LPA can consider. As minimum the developer must provide:

- a. A written description of the proposed development;
- b. A plan indicating the site of the proposed development;
- c. The developers contact address; and
- d. The developers email address if the developer is content to receive communications electronically.

36. The process also involves a public consultation process allowing third parties to comment on the proposals before they commence. The extent of this consultation is also clearly defined. The LPA is obliged to advertise the application either via letter only to adjoining owner or occupier or by site notice posted in at least one place on or near the land to which the application relates. Site notices and letters provide a 21 day period in which third parties can make comments.
37. The LPA has the ability to refuse any such prior approval application in instances where:
- a. The proposed development does not comply with the conditions, limitations or restrictions contained within Class J; or
  - b. The developer has provided insufficient information to enable the LPA to establish whether the proposals would comply with the conditions, limitations or restrictions contained within Class J.
38. In assessing and determining an application of this nature the LPA can require an applicant to submit information as the LPA may reasonably require in order to determine the application. Whilst this provides the LPA with a very broad spectrum of information they could request, over and above that of the basic requirements set out within Part 14, in practice information would only be sought when there is a material reason for doing so. For example if an array was to be installed on the roof of a building it would be justified to request elevation plans which show the proposed development within the context of the whole building.
39. The LPA must also, in assessing such applications, take account of any representations made to them as a result of the site notice or neighbour notices being served and have regard to the NPPF so far as relevant to the subject matter of the prior approval, as if the application were a planning application.

40. Therefore, for example, were the site located within the Green Belt the LPA would have to have regard to Green Belt policies within the NPPF.
41. The GDPO has traditionally been a very binary set of rules. A development would either be permitted development or wouldn't be and require the benefit of formal planning permission. However the use of the Prior approval process and the requirement to have regard to the NPPF does introduce a degree of subjective assessment to proposals. This could be seen as advantageous as it allows for the particular constraints or limitations of the actual application site to be considered along with other relevant material matters. However it can also raise risks simply by the fact it requires a subjective element of assessment.
42. Any development proposed under a Prior Approval submission cannot commence until one of the following has occurred:
  - a. The applicant has received written notice from the LPA of their determination as to whether Prior Approval is required.
  - b. The applicant has received written notice from the LPA giving Prior Approval.
  - c. The expiry of 56 days following the date on which the application was received by the LPA with the LPA notifying the applicant as whether prior approval is given or refused.
43. In the event of a Prior Approval application being refused by the LPA the development does retain a right of appeal over any such decision in the same manner they do with other planning applications.
44. Since 2015 the LPA has received 2.no Solar Prior Notification applications. Applications of this nature do attract a statutory application fee; currently £96 at the time of preparing this report.

### **So far as practicable**

45. The term 'so far as practicable' is used at numerous points within the legislation. This introduces an element of subjective assessment in the process of determining whether a particular scheme would either be permitted development or require the benefit of planning permission.
46. There is no explicit definition of what is and is not 'practicable'. Indeed documented appeal decisions on the subject do vary.
47. In practice this could mean that if a householder were to install panels on the roof of their house and those panels covered all available roof space the LPA could be justified in taking the view that no efforts have been made to seek to minimise the visual impact of the installation on the amenity of the area; and as a result the installation would not be permitted development.
48. In all cases it would be necessary for the decision maker to make a judgement based on the information available and factors pertinent to a particular case.

### **Consultation**

49. This report is for the Executive Member therefore no consultation has taken place regarding the contents of the report.

### **Options**

50. The Executive Member is asked to:
  - a. Note the contents of this report.

### **Council Plan**

51. The Council priorities for Building strong Communities and Protecting the Environment are relevant to Development Management function.

## Implications

- **Financial** There are no financial implications
- **Human Resources (HR)** There are no HR implications
- **Equalities** There are no equalities implications
- **Legal** There are no legal implications
- **Crime and Disorder** There are no crime and disorder implications
- **Information Technology (IT)** There are no IT implications
- **Property** There are no property implications
- **Other** There are no other implications

## Risk Management

52. There are no known risks

## Contact Details

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**Author's name**

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**Report**  **Date** 08/10/19

**Approved**

Mark Baldry

Development Management

Officer

Tel: 01904 552877

**Wards Affected:**

**All**

**For further information please contact the author of the report**

## Background Papers

None



**Annexes**

None

**List of Abbreviations Used in this Report**

LPA – Local Planning Authority

GPDO – General Permitted Development Order

Article 2(3) – Land located within a designated National Park, Area of Outstanding Natural Beauty or Conservation Area.

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