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25 June 2021

To: All Councillors

As a Member or Substitute of the **Community & Environment Committee**, please treat this as your summons to attend a meeting on **Monday, 5 July 2021 at 6.00pm in the Members Room at County Hall, Matlock.**

Please note that the agenda for this meeting includes items from the cancelled meeting scheduled to take place on 23 June.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'James McLaughlin', written over a light blue horizontal line.

James McLaughlin  
Director of Corporate and Customer Services

## AGENDA

### 1. APOLOGIES/SUBSTITUTES

Please advise the Committee Team on 01629 761133 or email [committee@derbyshiredales.gov.uk](mailto:committee@derbyshiredales.gov.uk) of any apologies for absence and substitute arrangements.

### 2. APPROVAL OF MINUTES OF PREVIOUS MEETING

07 April 2021

### 3. PUBLIC PARTICIPATION

To enable members of the public to ask questions, express views or present petitions, **IF NOTICE HAS BEEN GIVEN**, (by telephone, in writing or by email) **BY NO LATER THAN 12 NOON OF THE WORKING DAY PRECEDING THE MEETING.**

### 4. INTERESTS

Members are required to declare the existence and nature of any interests they may have in subsequent agenda items in accordance with the District Council's Code of Conduct. Those interests are matters that relate to money or that which can be valued in money, affecting the Member her/his partner, extended family and close

friends. Interests that become apparent at a later stage in the proceedings may be declared at that time.

## **5. QUESTIONS PURSUANT TO RULE OF PROCEDURE NUMBER 15**

To answer questions from Members who have given the appropriate notice.

**Page No.**

### **6. PUBLIC SPACE PROTECTION ORDERS 2021 - CONSULTATION**

**4 - 21**

To consider a report setting out evidence to support, or otherwise, the Public Space Protection Orders (PSPO), progress so far, options for consultation for the 2021 PSPOs and seeks approval to commence the formal consultation.

### **7. LAND AT BAKEWELL ROAD, MATLOCK: PROPOSED CONVERSION OF MATLOCK MARKET HALL – UPDATE AND APPROACH TO PROGRESSING THE SCHEME**

**22 - 33**

To receive a report updating Members on the proposed conversion of Matlock Market Hall to support the regeneration of the town centre, consider proposals necessary to progress the scheme to the next stage and authorise the preparation of revised Heads of Terms.

### **8. AIR QUALITY MANAGEMENT AREA, ASHBOURNE – UPDATING REPORT**

**34 - 36**

To note a report updating Members on the actions taken following the declaration of an Air Quality Management Area in Ashbourne at the meeting of this Committee on 7 April 2021.

### **9. SUPPLEMENTARY PLANNING DOCUMENT: CLIMATE CHANGE**

**37 - 42**

To receive a report updating Members with the details of the representations received during the six week period of public consultation on the draft Climate Change Supplementary Planning Document held in February/March 2021. The report recommends subject to a number of minor modifications to its contents the adoption of the Climate Change Supplementary Planning Document

### **10. FIRST HOMES**

**43 - 56**

To note a report detailing the Government's new First Homes policy and introduces how the District Council might respond.

### **11. AFFORDABLE HOUSING DEVELOPMENT PROGRAMME**

**57 - 60**

To note a report setting out the details of the current affordable housing programme. It incorporates progress on current schemes, those recently completed and those in the 'pipeline'.

Members of the Committee - Councillors: Sue Bull, Matthew Buckler, Martin Burfoot, Neil Buttle, Helen Froggatt (Vice Chair), Chris Furness (Chair), David Hughes, Tony Morley, Dermot Murphy, Peter O'Brien, Garry Purdy, Mike Ratcliffe, Lewis Rose, Andrew Statham, Alasdair Sutton, Steve Wain and Mark Wakeman.

Substitutes – Councillors: Robert Archer, Jason Atkin, Sue Burfoot, Tom Donnelly, Richard Fitzherbert, Clare Gamble, Susan Hobson and Peter Slack

Community & Environment Committee  
5<sup>th</sup> July 2021

Report of the Director of Community & Environmental Services

## **PUBLIC SPACE PROTECTION ORDERS 2021 - CONSULTATION**

### **PURPOSE OF REPORT**

The Council's Public Space Protection Order (PSPO) is due to expire 31<sup>st</sup> October 2021. Before introducing, extending, varying or discharging a PSPO, there are requirements under the Act with regards to consultation, publicity and notification.

This report sets out evidence to support, or otherwise, the PSPO, progress so far, options for consultation for the 2021 PSPOs and seeks approval to commence the formal consultation.

### **RECOMMENDATION**

1. That a six week period of public consultation on the Draft Public Space Protection Orders be undertaken from 28<sup>th</sup> June – 8<sup>th</sup> August 2021.
2. That the proposals for Dog Control Orders outlined at paragraph 4.6 be approved for inclusion in the Draft Public Space Protection Orders.
3. That the proposals for Alcohol restrictions outlined at paragraph 4.7 be approved for inclusion in the Draft Public Space Protection Orders.
4. That the proposals for No Parking restrictions outlined at paragraph 4.8 be approved for exclusion in the Draft Public Space Protection Orders.
5. That the proposals for BBQ's / Fires outlined at paragraph 4.9 be approved for exclusion in the Draft Public Space Protection Orders OR That the Committee determine the scope of proposals for BBQ's / Fires to be included in the Draft Public Space Protection Order.
6. That a further report be presented to a future meeting of the Community & Environment Committee with the results of the consultation exercise, which will include options on how to proceed with a view to commence the new Public Space Protection Order from the 1<sup>st</sup> November 2021.

### **WARDS AFFECTED**

All

### **STRATEGIC LINK**

To ensure that the Derbyshire Dales remains a clean, green and safe place for residents and visitors.

## 1 BACKGROUND

1.1 In the Anti-Social Behaviour, Crime & Policing Act 2014 (S 59 – 75), Public Space Protection Orders (PSPOs) were introduced nationally for the first time. The Act introduced simpler, more effective powers to tackle **anti-social behaviour** and provide better protection for victims and communities. The Order lasts a maximum of three years so with the current ones expiring on the 31<sup>st</sup> October, the Council needs to review the existing Order and carry out a consultation exercise with affected parties on proposals for the new PSPO due to commence on the 1<sup>st</sup> November 2021.

1.2 A local authority may make a public spaces protection order if satisfied on reasonable grounds that two conditions are met.

The first condition is that—

- (a) activities carried on in a public place within the authority's area have had a detrimental effect on the quality of life of those in the locality, or
- (b) it is likely that activities will be carried on in a public place within that area and that they will have such an effect.

The second condition is that the effect, or likely effect, of the activities—

- (a) is, or is likely to be, of a persistent or continuing nature,
- (b) is, or is likely to be, such as to make the activities unreasonable, and
- (c) justifies the restrictions imposed by the notice.

1.3 The Order must stand up to potential legal challenge, be reasonable and proportionate. There must be an element of evidence with proven detrimental effect to an area. Any introduction should not knowingly cause displacement of behaviour.

1.4 Any breaches of the PSPO by an individual which is included in the Order can be dealt with by a Police Officer, Police Community Support Officer (PCSO) and/or Derbyshire Dales Council Officer (who has the relevant enforcement training) issuing a £100 Fixed Penalty Notice (FPN) to the individual/s at the time of the offence.

1.5 Signage is installed in the areas affected, advising people that they are in a PSPO area and warning of the possible consequences of displaying any anti-social behaviour covered by the Order.

1.6 Before introducing, extending, varying or discharging a PSPO, there are requirements under the Act relating to consultation, publicity and notification. Local authorities are legally obliged to consult with the local chief officer of police; the police and crime commissioner; owners or occupiers of land within the affected area where reasonably practicable, and appropriate community representatives. Any county councils (where the Order is being made by a District), parish or community councils that are in the proposed area covered by the PSPO must also be notified.

## 2 CURRENT PUBLIC SPACES PROTECTION ORDER

2.1 The initial PSPO was introduced in 2015 and replaced the Council's former Dog Control Orders. The current PSPOs were adopted 1<sup>st</sup> November 2018 and run until 31<sup>st</sup> October 2021 and cover dog control, alcohol consumption, fires & BBQs and driving & parking. The current PSPO cover 107 sites, 60% of these sites are under

DDDC ownership, the others sites are Town/Parish's responsibility. A summary of the areas covered by the current PSPO can be found in Appendix A.

- 2.2 The Dog Control Public Space Protection Order 2018 includes:-
- Fouling of land by dogs – this applies to any land within the administrative area of Derbyshire Dales District Council which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission
  - Dogs on lead areas
  - Dogs on lead by direction areas
  - Dog exclusion areas (enclosed play areas)
- 2.3 The relevant accredited Council officer/s would most likely be the authority which would issue FPNs to such breaches, however the Police could also issue if they witness any of the above taking place during their patrols.
- 2.4 The PSPOs in some areas also cover:-
- Alcohol
  - Fires and BBQs
  - Driving and Parking
- 2.5 The Police are most likely to be the authority which would address such breaches, as these would likely be outside of council working hours either by witnessing this during their patrols or by members of the public calling 101.

### **3 REVIEW OF THE PUBLIC SPACES PROTECTION ORDER 2018**

- 3.1 An Engagement Session with representatives from the Derbyshire Constabulary and Derbyshire Fire and Rescue Services and Council officers was held for Members on the 26<sup>th</sup> January 2021.
- 3.1.1 During the meeting, the representative from Derbyshire Fire and Rescue Service (Simon Abbs – Matlock Station Manager) provided statistics that had been recorded, operational knowledge and experience on the ground, in the areas which are covered in the current PSPO. The DFRS advised that there had been six BBQ incidents in open land, such as Stanton Moor in 2020, all happened in May and June and four in the same weekend. After the Engagement Session Council officers received some challenges around the statistics which was provided by the DFRS as some Members had received different information. Therefore, the DFRS have provided all reports of 'outdoor fires' relating to the 2020 calendar year and this is detailed in 3.7.
- 3.1.2 The representative from Derbyshire Constabulary (Inspector Troup) provided information the police had witnessed and what breaches which they would be able to assist with enforcement. A summary is below:
- As a partnership we need to have PSPO's that are relevant and fit for purpose, but also evidenced based and realistically enforceable;
  - A PSPO should not be seen as something that only the police deal with;
  - The control of alcohol is something that helps us to tackle crime and ASB, the ability to remove alcohol from people is a good way of preventing further ASB offences and managing situations before they escalate;

- No evidence has been seen relating to BBQs/Fires to suggest that these are a significant issue in the Derbyshire Dales
- They would not be able to take full responsibility for the enforcement of areas cover by the dog control but would support local authority resources in doing this if witnessed during their patrols;

3.1.3 Council officers also shared information on the elements which the District Council capture, which is outlined in sections 3.2, 3.3 and 3.5.

### **Dog Control Orders**

3.2 The Council's Customer Relationship Management (CRM) system has been recording reports of dog fouling on the public highway and other council areas, since April 2020, Reports previous to April 2020 the council received by email or telephone were not officially recorded in one central location.

3.2.1 1st April 2020 – 31<sup>st</sup> March 2021 shows 232 reports of dog fouling received which peaked in September 2020 with 74 calls in response to a Council campaign to address litter/dog fouling. Of the 232 dog fouling reports, only one was within an area covered by the PSPO, the rest were on public highway or private land.

3.2.2 The September 2020 campaign had mixed results. It generated a lot of publicity and reports. In August there were 2 reports of dog fouling and 1 report of litter however, in September during the campaign we had 74 reports of dog fouling and 1 report of litter. There were an additional 27 reports however, these were on private land. On investigation most of the reports for dog fouling it was found that there were no or very little evidence of dog fouling. It was thought it was probably a historic problem or it was perceived as a bigger problem than it actually was.

3.3 Comments have been observed on social media about dog fouling, for example in areas such as Hall Leys Park and the challenge this presents to users of the park, especially those with young children. *'Took two little grandchildren to play on Hall Leys this morning. Unfortunately someone had let their dog poo right in the middle of the grassy area, and not picked it up. Tricky cleaning little wellies in the rain with nowhere to sit'* (9<sup>th</sup> March 2021).

3.3.1 Other data shows calls for service since 2018, have in most cases related to footpaths and as these are classed as public highway, they are already covered by the PSPO under 'Any land within the administrative area of Derbyshire Dales District Council which the public or any section of the public has access, on payment or otherwise, as of right or by virtue of express or implied permission'. There has only been one request for enforcement by a Parish Council.

3.3.2 There have been occasional reports of owners allowing dogs to roam and foul and in these cases, where the alleged 'offender' is known, a letter is sent advising of the consequences of their actions. The Council sent seven such letters in 2020.

3.4 The police support the dog controls for public safety reasons in certain areas such as parks. The Police would not be able to take responsibility for the enforcement of this but would support local authority resources in doing this.

## Driving and Parking

- 3.5 The council haven't received any reports directly, or through a third party of vehicles driving/parking on areas which are covered by the current PSPO.

## Alcohol and BBQ/Fires

- 3.6 Reports of alcohol and fire breaches would be called through to the Police using 101 at the time of the incident, otherwise the Council may receive this information after the fact. Below is a summary of Inspector Troup's comments relating to these specific areas:

- As a partnership we need to have PSPO's that are relevant and fit for purpose, but also evidenced based and realistically enforceable;
- A PSPO should not be seen as something that only the police deal with;
- The control of alcohol is something that helps us to tackle crime and ASB, the ability to remove alcohol from people is a good way of preventing further ASB offences and managing situations before they escalate;
- No evidence has been seen relating to BBQs/Fires to suggest that these are a significant issue in the Derbyshire Dales

- 3.7 Derbyshire Fire and Rescue Services have provided the following stats that related to 'outdoor fires' for the period 1<sup>st</sup> January 2020 – 31<sup>st</sup> December for reports of fires in the Derbyshire Dales:

Property Type Description	Number of incidents
Cycle path/public footpath/bridleway	2
Grassland, pasture, grazing etc	14
Heathland or moorland	6
Hedge	2
Highway/road surface/pavement	1
Loose refuse (incl in garden)	10
Mines and quarries - excluding buildings above ground	2
Private/Domestic garden/allotment (vegetation not equipment/building)	10
Roadside vegetation	12
Scrub land	4
Stacked/baled crop (incl manure heap)	2
Tree scrub (includes single trees not in garden)	11
Wasteland	3
Woodland/forest - broadleaf/hardwood	4
Total	83

- 3.7.1 Of the 83 reports, 21 mentioned 'camp or BBQ' in the report from the fire officer after attending the incident. Of those 21, three were in Stanton Moor / Stanton in Peak area, the rest were in locations which would not be covered by a PSPO, as the District



Council does not have any responsibility for these areas and they are mainly private land.

3.8 Recently High Peak Borough Council have introduced a PSPO which covers 'Wildfires' and prohibits the following:

- Lighting a fire of any type or size in the restricted
- Using any article or object which causes a naked flame
- Possessing or lighting a BBQ in the restricted area
- Possessing, lighting or releasing a firework in the restricted area
- Possessing, lighting or releasing a Chinese/sky lantern in the restricted area

3.8.1 The restricted areas include those which lie within boundary of the Peak District National Park and/or land owned by High Peak Borough Council.

3.8.2 There are the same challenges with regards to enforcement of this PSPO with both PDNPA and High Peak.

3.9 Although Peak District National Park Authority do not automatically have the relevant powers to introduce a PSPO on their land, they can apply to the Secretary of State for these Powers. In recent conversations they have advised that this isn't something they are willing to investigate as, similar to the council, they do not have the resource to enforce these. The Peak District National Park Authority are willing to get involved with partners on awareness raising and targeted campaigns. The council understands the PDNPA are investigating the possibility of introducing specific areas for BBQ sites, where they could be managed safely as well as being involved in the Fire Stoppers campaign which provides anonymity to those wishing to report fires.

#### **4 PROPOSALS FOR CONSULTATION**

4.1 The current PSPO is managed in an advisory capacity. No enforcement action has been taken by either Council officers or the Police.

4.2 The Council currently has limited capacity for enforcement, with only two Pest Control officers who are trained. Enforcement only forms a very small part of their duties which they are currently are not able to fulfil. The Council is looking to increase the number of trained enforcement officers and we are utilising resources from the Parking Enforcement Contract which is managed by Derbyshire County Council. This will be a relatively small team of people and they would not be able to carry out PSPO enforcement as part of their day to day work, but as targeted enforcement days during the day. The location where targeted enforcement days will take place will be determined by the number of reports of dog fouling incidents.

4.3 It should be noted that, whilst police officers have legal powers to compel someone to provide their name and address, council officers do not have those powers and rely on the offender providing accurate details in order for the penalty to be pursued.

4.4 Taking all this information into consideration, we need to be mindful of the number of areas which we include in the next PSPO order. As Inspector Troup stated, they need to be 'relevant, fit for purpose and realistically enforceable'.

4.5 Based on the information we have managed to capture, officers have put together some recommendations for the consultation. These can be found in Appendix B and outlined below:

4.6 Dog Control

Dog control to be more consistent across all sites.

- Lead by Direction becomes Dogs on Leads across those affected sites
- Cemeteries - Remove dog fouling and control orders removed from all cemeteries both council and parish managed
- Enclosed play areas – Dog exclusion proposed for all enclosed play areas.

4.7 Alcohol

To be retained in the following locations only:

- Ashbourne - Recreation Ground, Memorial Gardens and Fishpond Meadow
- Bakewell - Recreation Ground
- Matlock - Hall Leys Park
- Matlock Bath – Derwent Gardens, Lovers Walk, Pavilion Park
- Wirksworth – Fanny Shaw Playing Field

4.8 Driving & Parking

Remove from all existing sites

4.9 Fires & BBQs

Looking at the evidence received in the last three years this would indicate that within Derbyshire Dales there isn't the same reports of BBQs/Fires as there is in other Districts. Therefore, to remove Fires & BBQs from the consultation process across all sites.

4.9.1 To include Stanton Moor in the consultation for BBQs/Fires on the understanding that if this was to be formally included from 1<sup>st</sup> November 2021, that the District Council would not be responsible for enforcing this. Enforcement of this would fall to the Police and / or other agencies.

## **5 ENGAGEMENT / CONSULTATION ON THE PROPOSALS**

5.1 The proposals need to be subject to a comprehensive consultation process and will invite people to feedback for a period of six weeks, we are proposing to start this on the 28<sup>th</sup> June and this will finish on the 8<sup>th</sup> August.

5.2 Consultees will include:-

a) Statutory consultees – police, fire etc

b) Public via

- Dales Matters – Spring 2021 edition
- Social Media
- Website
- On line panel and ENewsletter
- Signage will be erected in all the areas affected which will have a QR code on so that it will link directly to the consultation on the website to make it easier for people to be able to comment on the proposals.

c) Town / Parish Councils - affected Town / Parish Councils have already been contacted in November 2020 to make them aware of the PSPO renewal and invite

initial comments. Further close liaison on the proposals and specific site comments where land is parish managed will take place.

d) Specific groups – where appropriate consultation will take place with affected groups such as disability groups and regular user groups eg sports teams

5.3 An Equalities Impact Assessment has been started and can be made available for anyone who wishes to see it. This will be completed with any mitigating actions when the consultation ends.

## **6 DECISION PROCESS AND THE NEXT STEPS**

6.1 The results of the consultation exercise will be collated and reported to a future meeting of the Community & Environment Committee. The report will provide options for the way forward based on the comments received during the consultation. Once the Committee has made their decision the Orders, will need to be passed to Legal, so that they may be drawn up and also necessary arrangements made (advertising, signage) ahead of introduction 1<sup>st</sup> November 2021.

6.2 Ahead of their introduction (1st November 2021), details of the PSPOs, highlighting any significant changes, will be advertised through press releases, social media and the website to include more information on specific sites plus signposting to ‘friendly’ sites.

6.3 Details will also be conveyed to Councillors, Town/Parish Councils and Parish Meetings, partners and any specifically affected groups and affected landowners.

6.4 Signage will be reviewed with Legal & Communications to coincide with the PSPO introduction. The aim is to rationalise signage where possible, make it easy to understand. The plan is to introduce QR codes to enable reporting by members of the public easier.

## **7 EDUCATION AND AWARENESS**

7.1 Education should be our priority, with enforcement and the issuance of Fixed Penalty Notices (FPNs), following as a last resort.

7.2 The September 2020 litter and dog fouling campaign was positively received. It also highlighted that the problem was not as bad as it had been perceived. The council would look to have more similar campaigns during 2021/22.

7.3 The Council’s Environmental Health team, along with external parties are currently working on a publicity campaign around fires and BBQs in anticipation of increased summer staycations this year. Under the Health & Safety at Work umbrella, the campaign will focus on caravan and camping sites as well as having a broader reach.

7.4 Together with ‘Keep Britain Tidy’ and other ‘clean up campaigns’ the Council plan to carry out targeted enforcement days with our partners such as the police, parking enforcement contractor, dog wardens as well as council employees.

## **8 MONITORING AND REVIEW**

- 8.1 The PSPO will be closely monitored, as this evidence will inform any possible future PSPO and influence any necessary reviews. The CRM system will be adapted to allow all PSPO issues to be reported by members of the public via various channels, most notably the CRM system and QR codes on signage will enable sites to be easily identified.
- 8.2 Through the CRM system it is hoped to capture even more robust data through a map layering system which will distinguish between issues on PSPO covered sites versus non covered sites.

## **9 RISK ASSESSMENT**

### **9.1 Legal**

The power and requirements for making a PSPO are Part 4 of Chapter 2 of the Anti-social Behaviour Crime and Policing Act 2014, and is supplemented by the Anti-social Behaviour Crime and Policing Act 2014 (Publication of Public Spaces Protection Orders) Regulations 2014 and statutory guidance issued by the Secretary of State.

Under Section 66 of the Act any challenge to the validity of a PSPO must be made in the High Court by an interested person within six weeks of it being made. An interested person is an individual who lives in, or regularly works in, or visits the restricted area.

This means that only those who are directly affected by the restrictions have the power to challenge. The validity of a PSPO can be challenged on two grounds only:

- (a) that the Council did not have power to make the order, or to include particular prohibitions or requirements imposed, or
- (b) (b) that the procedural requirements for making the PSPO (for instance, consultation) were not complied with.

On any application to the High Court challenging the validity of an Order the Court may suspend its operation or any of the prohibitions or requirements imposed by it until the final determination of the proceedings. If the Court is satisfied the Council did not have the power to make the PSPO, or it did but the Council failed to comply with the procedural requirements and, the applicant has been substantially prejudiced by that failure, it may quash the Order or any of the prohibitions or requirements imposed by it.

In deciding whether to make a PSPO and, if so, what restrictions should be included, by Section 72 of the Act the Council must have particular regard to the rights of freedom of expression and freedom of assembly set out in Articles 10 and 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms 1950 (“the Convention”).

A PSPO may also be challenged by way of an application for judicial review which must be brought promptly and in any event not later than 3 months after the grounds to make the claim first arose. At this preliminary stage the above is provided for information since the Council is not, at this point, deciding whether to actually make a PSPO, however the consultation recommended in this report is required to limit the avenues for a successful legal challenge to any PSPO that is finally approved.

## 9.2 Financial

The costs of the consultation exercise, the making of the Public Space Protection Orders and the provision of increased enforcement can be accommodated from within existing budgets and external funding in 2021/22.

For future years, external funding may not be available and it is expected that increased revenue budget provision will be required to fund enforcement at the levels required for these proposals. The level of spending will depend on the number of enforcement days that will be required, which is uncertain at this time but forecast to be around £2,000 per annum. That additional spending would need to be taken into account when setting budgets for future years and in the medium term financial plan.

The financial risk is therefore assessed as medium.

## 10 OTHER CONSIDERATIONS

10.1 If the Committee decide to include BBQs/Fires in the PSPO or including adding Stanton Moor from 1<sup>st</sup> November, this would only be as an advisory capacity. The Council would not have any enforcement responsibility, any breaches would have to be enforced by the Police.

10.2 In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

## 11 CONTACT INFORMATION

11.1 Ashley Watts - Director of Community & Environmental Services

Email: [ashley.watts@derbyshiredales.gov.uk](mailto:ashley.watts@derbyshiredales.gov.uk)

Tel: 01629 761367

11.2 Vikki Hatfield - Neighbourhoods Manager

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11.3 Ros Hession - Neighbourhood Liaison Officer

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## 12 ATTACHMENTS

12.1 Appendix 1 – Public Space Protection Orders 2018

12.2 Appendix 2 – Public Space Protection Orders – Proposal for 2021 renewal

Item	Public Space Protection Orders 2018					APPENDIX A		
1	Parish/Town Council Land							
2	DDDC Land							
3								
4	Site	Exclusion	Dogs on Leads	Dog Fouling	Lead by Direction	Alcohol Control	No Parking	No BBQs
5								
6	<b>Ashbourne</b>							
7	Cavendish Drive Play Area	✓ (Play Area Only)	✓	✓		✓	✓	✓
8	Ashbourne Cemetery		✓	✓				
9	Ashbourne Recreation Ground	✓ (Enclosed Play Area, Bowling Green, Tennis Courts Only)	✓ 11am - 4pm	✓	✓ 4pm - 11am	✓	✓	✓
10	Brickyard Play Area	✓ (Play Area Only)	✓	✓		✓	✓	✓
11	Fishpond Meadow			✓	✓	✓	✓	✓
12	Highfield Road Play Area	✓ (MUGA & Play Area Only)	✓	✓		✓	✓	✓
13	Memorial Gardens, Cokayne Avenue		✓	✓		✓	✓	✓
14	Thorpe View Play Area	✓ (Enclosed Play Area Only)	✓	✓		✓	✓	✓
15	Bankcroft Picnic Area		✓	✓		✓	✓	✓
16								
17	<b>Ashford in the Water</b>							
18	Hall Orchard Playing Field	✓		✓				
19								
20	<b>Bakewell</b>							
21	Bakewell Cemetery & Memorial Garden		✓	✓				
22	Bakewell Recreation Ground	✓ (Enclosed Play Area Only)	✓ 11am - 4pm	✓	✓ 4pm - 11am	✓	✓	✓
23	Tennis Courts	✓		✓				
24	Bath Gardens		✓	✓		✓	✓	✓
25	Riverside Walk		✓	✓		✓	✓	✓
26								
27	<b>Bonsall</b>							
28	Bonsall Recreation Ground, Clatterway	✓ (Enclosed Play Area Only)		✓	✓	✓	✓	✓
29	Memorial Gardens, Yeoman Street		✓	✓				
30	Bandstand at the Cross, Yeoman Street		✓	✓				
31	Old School Yard, The Dale		✓	✓				
32	Nether Green, Clatterway		✓	✓				
33								
34	<b>Bradwell</b>							
35	Recreation Ground, Gore Lane	✓		✓				
36	Recreation Ground, Brookside	✓		✓				
37	Peace Gardens, Church Street	✓		✓				
38								
39	<b>Brailsford</b>							
40	The Plain, POS/ Recreation Ground	✓ (Play Area Only)	✓	✓				
41	Brailsford Cemetery		✓	✓				
42								
43	<b>Brassington</b>							
44	Brassington Cemetery, Church Lane		✓	✓				
45	Brassington Play Area, Meadow Rise	✓		✓				
46	Brassington Recreation Field, South of Green View		✓	✓				
47	Brassington Picnic Area, Wirksworth Dale		✓	✓				
48	Brassington Village Green, Meadow Rise		✓	✓				
49	Brassington Village Pond, Middle Lane		✓	✓				
50								
51	<b>Chelmorton</b>							
52	Chelmorton Play Area, Main Street	✓		✓				
53								
54	<b>Cromford</b>							
55	Cromford Memorial Gardens		✓	✓		✓	✓	✓
56	St Marks Churchyard, St Mark's Close		✓	✓				
57	Scarthin War Memorial		✓	✓				

## OFFICIAL-[SENSITIVE]

58	Steeple Arch Cemetery, Steeple Grange		✓	✓				
59	Cromford School Playing Fields, North Street	✓		✓		✓	✓	✓
60	Cromford Play Area, North Street	✓		✓		✓	✓	✓
61								
62	<b>Darley Dale</b>							
63	Broadwalk Recreation Ground	✓ (Play Area Only)		✓	✓	✓	✓	✓
64	The Parkway Recreation Ground	✓ (Play Area Only)		✓	✓	✓	✓	✓
65	Darley Dale Cemetery		✓	✓				
66	Northwood Recreation Ground	✓ (Play Area Only)		✓	✓	✓	✓	✓
67	Willow Way Play Area	✓ (Enclosed Play Area Only)		✓	✓	✓	✓	✓
68	Whitworth Park	✓ (Enclosed Play Area Only)		✓	✓			
69								
70	<b>Doveridge</b>							
71	Playing Fields, Sand Lane		✓	✓				
72	Doveridge Burial Ground		✓	✓				
73	Meadow View Pathway		✓	✓				
74								
75	<b>Foolow</b>							
76	Foolow Village Green		✓	✓				
77								
78	<b>Hathersage</b>							
79	King George Playing Fields	✓		✓				
80								
81	<b>Hognaston</b>							
82	Play Area, Bakery Close	✓		✓				
83								
84	<b>Hulland Ward</b>							
85	Area of Land at Moss Lane		✓	✓				
86	Play Area, Ashes Avenue	✓		✓				
87								
88	<b>Kniveton</b>							
89	Village Recreation Ground	✓ (Enclosed Play Areas Only)	✓	✓				
90								
91	<b>Litton</b>							
92	Litton Play Area			✓		✓		
93								
94	<b>Matlock</b>							
95	Cavendish Rd Play Area & Paths	✓ (Play Area Only)	✓	✓		✓	✓	✓
96	Orchard Play Area, Hazel Grove	✓ (Play Area Only)		✓	✓	✓	✓	✓
97	Allen Hill Park		✓	✓		✓	✓	✓
98	Dimple Recreation Ground	✓ (Play Area Only)		✓	✓	✓	✓	✓
99	Hall Leys Park	✓ (Encl. Play Area, Tennis Courts & Bowls Area Only)	✓ 11am - 4pm	✓	✓ 4pm - 11am	✓	✓	✓
100	Sensory Garden		✓	✓		✓	✓	✓
101	Smedley Street Park / Sparrow Park	✓		✓		✓	✓	✓
102	Starkholmes Memorial		✓	✓				
103	Starkholmes Playing Field	✓ (Enclosed Play Area Only)		✓	✓	✓	✓	✓
104	Victoria Gardens			✓	✓	✓	✓	
105	War Memorial Pic Tor		✓	✓				
106	Morledge Recreation Area			✓	✓	✓	✓	✓
107	Swan House POS (Pig Meadow)		✓	✓		✓	✓	✓
108	Diana Memorial Gardens		✓	✓				
109	Denefields			✓	✓	✓	✓	✓
110	Wellfield Allotments		✓	✓				
111	Megdale Community Garden		✓	✓				
112	Hurst Rise Playing Field	✓ (Encl. Play Area & Multi Sport Area Only)		✓	✓	✓	✓	✓
113								

OFFICIAL-[SENSITIVE]

114	<b>Matlock Bath</b>							
115	Derwent Gardens	✓ (Enclosed Play Area Only)	✓	✓		✓	✓	✓
116	Lovers Walk Park Area	✓ (Enclosed Play Area Only)	✓	✓		✓	✓	✓
117	Pavilion Park Area		✓	✓		✓	✓	✓
118	Matlock Bath Memorial Gardens		✓	✓				
119	Riverside Picnic Area		✓	✓		✓	✓	✓
120	Artist Corner Picnic Area		✓	✓			✓	✓
121								
122	<b>Middleton by Wirksworth</b>							
123	Middleton Cemetery		✓	✓				
124	Middleton Playing Field, Chapel Lane	✓ (Enclosed Play Area Only)		✓	✓	✓	✓	✓
125	Middleton Village Green, Main Street		✓	✓				
126	Millennium Gardens, Stile Croft	✓		✓				
127								
128	<b>Middleton by Youlgreave</b>							
129	Play Area, Weadow Lane	✓		✓				
130								
131	<b>Rowsley</b>							
132	Play Area, Chatsworth Road	✓		✓		✓	✓	✓
133	Rowsley Recreation Play Area, Woodhouse Lane	✓		✓				
134								
135	<b>South Darley</b>							
136	The Plantation, Cross Green		✓	✓				
137								
138	<b>Stanton in the Peak</b>							
139	The Green	✓		✓				
140								
141	<b>Stoney Middleton</b>							
142	Playing Fields, The Avenue	✓ (Enclosed Play Area Only)	✓	✓				
143								
144	<b>Sudbury</b>							
145	Sudbury Sports Field, Main Street	✓		✓				
146								
147	<b>Tansley</b>							
148	Tansley Village Green, Chuch Street	✓ (Enclosed Play Area Only)	✓	✓		✓	✓	✓
149	Tansley Church & Burial Ground		✓	✓				
150	Footpath - Goldhill to Spout Lane		✓	✓				
151								
152	<b>Winster</b>							
153	Winster Churchyard, Elton Road		✓	✓				
154	Winster Cemetery, Elton Road		✓	✓				
155	Woodhouse Lane Play Area	✓		✓				
156								
157	<b>Wirksworth</b>							
158	Bolehill Playing Field, Old Lane	✓ (Play Area Only)		✓	✓	✓	✓	✓
159	Fanny Shaw Cemetery, Cromford Road		✓	✓				
160	Fanny Shaw Playing Field	✓ (Play Area Only)		✓	✓	✓	✓	✓
161	The Dale Play Area	✓		✓		✓	✓	✓
162	Gorsey Bank Play Area	✓ (Encl. Play Area, Play Area & Multi Games Area)		✓	✓	✓	✓	✓
163	Yokecliffe Park	✓ (Play Area Only)		✓		✓	✓	✓
164	Memorial Gardens, St John Street		✓	✓				
165	St Mary's Churchyard		✓	✓				
166	Kingsfield Play Area, Millers Green	✓		✓				
167	Wash Green Play Area	✓		✓				
168								
169	<b>Youlgreave</b>							
170	Coldwell End Play Area	✓		✓				
171	Coldwell End Allotments	✓		✓				
172	QE11 Playing Fields	✓		✓				
173								





Item	Site	Exclusion	Dogs on Leads	Dog Fouling	Lead by Direction (included in this appendix for completeness)	Alcohol Control	Fires & BBQs	No Parking & Driving (included in this appendix for completeness)	Comments
1	<b>Public Space Protection Orders - Proposals for 2021 renewal</b>								
2	DDDC Land								
3	Parish/Town Council Land								
4	Other land								
5	To be removed								
6	Proposed revised								
7	Remove or determine scope								
8	<b>Ashbourne</b>								
9	Cavendish Drive Play Area	✓ (Play Area Only)	✓	✓		✓	✓	✓	
10	Ashbourne Cemetery		✓	✓					
11	Ashbourne Recreation Ground	✓ (Enclosed Play Area, Bowling Green, Tennis Courts Only)	✓	✓	✓ 4pm - 11am	✓	✓	✓	
12	Brickyard Play Area	✓ (Play Area Only)	✓	✓		✓	✓	✓	
13	Fishpond Meadow		✓	✓	✓	✓	✓	✓	
14	Highfield Road Play Area	✓ (MUGA & Play Area Only)	✓	✓		✓	✓	✓	
15	Memorial Gardens		✓	✓		✓	✓	✓	
16	Thorpe View Play Area	✓ (Enclosed Play Area Only)	✓	✓		✓	✓	✓	
17	Bankcroft Picnic Area		✓	✓		✓	✓	✓	
18									
19	<b>Ashford in the Water</b>								
20	Hall Orchard Playing Field	✓		✓					
21									
22	<b>Bakewell</b>								
23	Bakewell Cemetery Burton Edge		✓	✓					
24	Bakewell Recreation Ground	✓ (Enclosed Play Area Only)	✓	✓	✓ 4pm - 11am	✓	✓	✓	
25	Tennis Courts Recreation Ground	✓		✓					
26	Bath Gardens		✓	✓		✓	✓	✓	
27	Riverside Walk		✓	✓		✓	✓	✓	
28									
29	<b>Bonsall</b>								
30	Bonsall Recreation Ground, Clatterway	✓ (Enclosed Play Area Only)		✓	✓	✓	✓	✓	
31	Yeoman Street Memorial Gardens		✓	✓					
32	Bandstand at the Cross		✓	✓					
33	Old School Yard, The Dale		✓	✓					
34	Nether Green, Clatterway		✓	✓					
35									
36	<b>Bradwell</b>								
37	Recreation Ground Gore Lane	✓		✓					
38	Recreation Ground Brookside	✓		✓					
39	Peace Gardens Church Street	✓		✓					
40									
41	<b>Brailsford</b>								
42	The Plain POS / Recreation Ground	✓ (Play Area Only)	✓	✓					
43	Brailsford Cemetery, Church Lane		✓	✓					
44									
45	<b>Brassington</b>								
46	Brassington Cemetery, Church Street		✓	✓					
47	Brassington Play Area, Meadow Rise	✓		✓					
48	Brassington Recreation Field, South of Green View		✓	✓					
49	Brassington Picnic Area, Wirksworth Dale		✓	✓					
50	Brassington Village Green, Meadow Rise		✓	✓					
51	Brassington Village Pond Middle Lane		✓	✓					
52									
53	<b>Chelmorton</b>								
54	Chelmorton Play Area, Main Street	✓		✓					
55									

56	<b>Cromford</b>								
57	Cromford Memorial Gardens		✓	✓		✓	✓	✓	
58	Cromford Play Area, North Street	✓		✓		✓	✓	✓	
59	Cromford School Playing Fields/Play Area, North Street	✓		✓			✓		
60	St Marks Churchyard, St Mark's Close		✓	✓					
61	Scarthin War Memorial		✓	✓					
62	Steeple Arch Cemetery, Steeple Grange		✓	✓					
63									
64	<b>Darley Dale</b>								
65	Broadwalk Recreation Ground	✓ (Play Area Only)	✓	✓	✓	✓	✓	✓	
66	The Parkway Recreation Ground	✓ (Play Area Only)	✓	✓	✓	✓	✓	✓	
67	Darley Dale Cemetery		✓	✓					
68	Northwood Recreation Ground	✓ (Play Area Only)	✓	✓	✓	✓	✓	✓	
69	Willow Way Play Area	✓ (Enclosed Play Area Only)	✓	✓	✓	✓	✓	✓	
70	Whitworth Park	✓ (Enclosed Play Area Only)		✓	✓				
71									
72	<b>Doveridge</b>								
73	Playing Fields Sand Lane		✓	✓					
74	Doveridge Burial Ground		✓	✓					
75	Meadow View Pathway		✓	✓					
76									
77	<b>Foolow</b>								
78	Foolow Village Green		✓	✓					
79									
80	<b>Hathersage</b>								
81	King George Playing Fields, Back Lane	✓		✓					
82									
83	<b>Hognaston</b>								
84	Play Area, Bakery Close	✓		✓					
85									
86	<b>Hulland Ward</b>								
87	Area of Land at Moss Lane		✓	✓					
88	Play Area Ashes Avenue	✓		✓					
89									
90	<b>Kniveton</b>								
91	Village Recreation Ground, Main Street	✓ (Enclosed Play Areas Only)	✓	✓					
92									
93	<b>Litton</b>								
94	Litton Play Area, Mires Lane			✓		✓			
95									
96	<b>Matlock</b>								
97	Cavendish Rd Play Area & Paths	✓ (Play Area Only)	✓	✓		✓	✓	✓	
98	Orchard Play Area, Hazel Grove	✓ (Play Area Only)	✓	✓	✓	✓	✓	✓	
99	Allen Hill Park		✓	✓		✓	✓	✓	
100	Dimple Recreation Ground, Megdale	✓ (Play Area Only)	✓	✓	✓	✓	✓	✓	
101	Hall Leys Park	✓ (Encl. Play Area, Tennis Courts & Bowls Area Only)	✓	✓	✓ 4pm - 11am	✓	✓	✓	
102	Sensory Garden		✓	✓		✓	✓	✓	
103	Smedley Street Park / Sparrow Park	✓		✓		✓	✓	✓	
104	Starkholmes Memorial, Starkholmes Road		✓	✓					
105	Starkholmes Playing Field	✓ (Enclosed Play Area Only)	✓	✓	✓	✓	✓	✓	
106	Victoria Gardens		✓	✓	✓	✓	✓	✓	
107	Swan House Grass Area		✓	✓		✓	✓	✓	
108	War Memorial Pic Tor		✓	✓					
109	Morledge Recreation Area	✓ (Enclosed Play Area Only)	✓	✓	✓	✓	✓	✓	To rectify error from previous Order
110	Diana Memorial Gardens		✓	✓					
111	Denefields		✓	✓	✓				
112	Wellfield Allotments		✓	✓					

113	Megdale Community Garden		✓	✓				
114	Hurst Rise Playing Field	✓ (Encl. Play Area & Multi Sport Area Only)	✓	✓	✓	✓	✓	✓
115								
116	<b>Matlock Bath</b>							
117	Derwent Gardens	✓ (Enclosed Play Area Only)	✓	✓		✓	✓	✓
118	Lovers Walk Park Area	✓ (Enclosed Play Area Only)	✓	✓		✓	✓	✓
119	Pavilion Park Area		✓	✓		✓	✓	✓
120	Matlock Bath Memorial Gardens		✓	✓				
121	Riverside Picnic Area, Dale Road		✓	✓		✓	✓	✓
122	Artist Corner Picnic Area		✓	✓			✓	✓
123								
124	<b>Middleton by Wirksworth</b>							
125	Middleton Cemetery		✓	✓				
126	Middleton Playing Fields, Chapel Lane	✓ (Enclosed Play Area Only)	✓	✓	✓	✓	✓	✓
127	Middleton Village Green, Main Street		✓	✓				
128	Millennium Gardens, Stile Croft	✓		✓				
129								
130	<b>Middleton by Youlgreave</b>							
131	Play Area, Weadow Lane	✓		✓				
132								
133	<b>Rowsley</b>							
134	Play Area, Chatsworth Road	✓		✓		✓	✓	✓
135	Rowsley Recreation Play Area, Woodhouse Lane	✓		✓				
136								
137	<b>South Darley</b>							
138	The Plantation, Cross Green		✓	✓				
139								
140	<b>Stanton in the Peak</b>							
141	The Green	✓		✓				
142								
143	<b>Stoney Middleton</b>							
144	Playing Fields, The Avenue	✓ (Enclosed Play Area Only)	✓	✓				
145								
146	<b>Sudbury</b>							
147	Sudbury Sports Field, Main Street	✓		✓				
148								
149	<b>Tansley</b>							
150	Tansley Village Green, Church Street	✓ (Enclosed Play Area Only)	✓	✓		✓	✓	✓
151	Tansley Church & Burial Ground		✓	✓				
152	Footpath - Goldhill to Spout Lane		✓	✓				
153								
154	<b>Winster</b>							
155	Winster Churchyard, Elton Road		✓	✓				
156	Winster Cemetery, Elton Road		✓	✓				
157	Woodhouse Lane Play Area	✓		✓				
158								
159	<b>Wirksworth</b>							
160	Bolehill Playing Field, Old Lane	✓ (Play Area Only)	✓	✓	✓	✓	✓	✓
161	Fanny Shaw Cemetery, Cromford Road		✓	✓				
162	Fanny Shaw Playing Field, Cromford Road	✓ (Play Area Only)	✓	✓	✓	✓	✓	✓
163	The Dale Play Area	✓		✓		✓	✓	✓
164	Gorsey Bank Play Area	✓ (Encl. Play Area, Play Area & Multi Games Area)	✓	✓	✓	✓	✓	✓
165	Yokecliffe Park	✓ (Play Area Only)		✓		✓	✓	✓
166	Memorial Gardens, St John Street		✓	✓				
167	St Marys Churchyard		✓	✓				
168	Kingsfield Play Area, Millers Green	✓		✓				
169	Wash Green Play Area	✓		✓				
170								
171	<b>Youlgreave</b>							
172	Coldwell End Play Area	✓		✓				

173	Allotments	✓		✓				
174	QE11 Playing Fields	✓		✓				
175								
176	<b>New requests to be considered</b>							
177	Stanton Moor Option to add						✓	Request of Stanton Estates and PDNPA
178	Bakewell - Scot's Gardens scope tba							Request of Bakewell Town Council
179	Calver - cricket field	✓						Request of Calver Parish Council
180	Doveridge - David Wilson Estate green spaces including woodland		✓	✓				Request of Doveridge Parish Council
181	Doveridge Area around the pond and woodland attached		✓	✓				Request of Doveridge Parish Council
182	Foolow - Village Green						✓	Request of Foolw Parish Meeting
183	Litton - Memorial Playing Field	✓		✓				Request of Litton Parish Council

Community & Environment Committee  
5 July 2021

Report of the Director of Regeneration and Policy

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## **LAND AT BAKEWELL ROAD, MATLOCK: PROPOSED CONVERSION OF MATLOCK MARKET HALL – UPDATE AND APPROACH TO PROGRESSING THE SCHEME**

### **PURPOSE OF REPORT**

To receive an update on the proposed conversion of Matlock Market Hall to support the regeneration of the town centre, consider proposals necessary to progress the scheme to the next stage and authorise the preparation of revised Heads of Terms.

### **RECOMMENDATIONS**

1. Note progress in moving the scheme forward following Council approval of the Business Case.
2. Note the approval of Derbyshire County Council's Capital Programme bid to meet the cost of new bus infrastructure provision on the site.
3. Note the outcome of further stakeholder engagement and the required change to architectural support to enable submission of the planning application for the scheme (RIBA Stage 3).
4. Note the project governance arrangements in Appendix 1.
5. Authority be granted outside of the District Council's Contract Standing Orders to appoint Lathams Architects, supported by their sub-consultant design team, to undertake the technical design (RIBA Stage 4) and CDM Principal Designer role for the scheme, subject to final agreement of fees.
6. That procurement and management of the building elements of the scheme (shell construction) is led by the District Council with responsibility for fit-out remaining with the proposed tenant.
7. Authority is delegated to the Director of Regeneration & Policy to issue revised Heads of Terms for the proposed Development Funding Agreement, Development Agreement and Agreement for Lease for negotiation, reflecting necessary changes to the structure of the scheme.

### **WARDS AFFECTED**

Matlock All Saints and Matlock St Giles and wards within the central area of the district.

### **STRATEGIC LINK**

The development of the Bakewell Road site will positively contribute to the Corporate Plan priority of Prosperity, specifically: *'Promoting investment to stimulate the economy of our market towns'*. Initiating a development scheme for the Bakewell Road site on the edge of Matlock town centre has been identified by Members as a priority action in the 2020-2024 Corporate Plan and the COVID-19 Economic Recovery Plan.

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## **1 BACKGROUND**

- 1.1 The District Council owns the freehold interest in land at Bakewell Road, Matlock and occupies the Market Hall building and covered bus bay area by way of a 99 year under-lease dated 17th May 1986. The head lease is held by London Metric who sublet the neighbouring property to M&S and Boyes. The Market Hall comprises a concrete frame building adjoining the Matlock M&S Food Hall with a flat roof accommodating an upper level District Council operated car park. The adjacent lock up unit and adjoining space comprise a concrete apron area divided into individual drive in / reverse out bus bays within a lean to roof structure off the side elevation of the Market Hall providing a covered waiting area for buses and taxis. This overhang area also comprises the rear service bay to the Market Hall, toilets and plant.
- 1.2 The property holds a prominent position at the entrance to the town centre from the west and the proposed scheme provides the opportunity to create significant improvements, including a return retail frontage to a key property and significantly enhanced gateway to the retail centre.
- 1.3 Members will recall that the Business Case for the proposed conversion of Matlock Market Hall to enable provision of a new indoor leisure attraction - two screen cinema - and enclosure of part of the adjacent covered bus bay area to provide an ancillary commercial use - food & beverage / retail unit - was considered at a special meeting of Full Council on 25 November 2020. District Council approval of the Business Case secured capital investment of up to £848,820 towards the scheme alongside funding from the proposed cinema operator.
- 1.4 A further report to consider a commercial settlement with the existing licensee to secure vacant possession of the Market Hall was approved by Governance & Resources Committee on 11 March 2021.
- 1.5 The site is allocated for mixed use re-development within the Derbyshire Dales Local Plan 2017 and the proposed development identified as a priority in the Derbyshire Dales COVID-19 Economic Recovery Plan 2020 and Corporate Plan 2020-2024.

## **2 UPDATE ON PROGRESS**

- 2.1 Following Council approval to move forward with the scheme, progress has been made in a number of areas including:
  - Draft Heads of Terms discussed with the proposed cinema operator for the proposed Development Funding Agreement, Development Agreement and Agreement for Lease (Jan 21)
  - Initial plans and elevations prepared by the cinema operator's architect (Feb 2021)
  - Draft Flood Risk Assessment procured for the development site (Feb 2021). Further analysis of surface water flows being undertaken

- Stakeholder consultations on initial design (March - April 2021) – draft design shared with local Ward Members; Matlock Community Vision (MCV) Steering Group; London Metric; M&S and Derbyshire County Council (Local Bus Team)
- Legal matters pursued (Jan – May 2021) inc. head leaseholder consents and insurances
- Submission of a Community Renewal Fund (CRF) bid including support towards scheme costs (May 2021) (to note the Fund is revenue based with only 10% capital available) – following County Council assessment of bids the revenue elements of the application, including a feasibility study / options appraisal to inform a future flood mitigation scheme for Matlock town centre (to be led by the County Council) have been included in the CRF package to Government but not the capital element
- Securing vacant possession of the building (May 2021)
- Meeting with London Metric and M&S (inc. site visit with store manager) to explain updates to design, discuss emergency exit and other practical matters (May 2021) (both parties remain supportive in principle)
- Erection of signage notifying users of the site of the re-location of the fruit & veg stallholder and current status of the scheme (May 2021). Taxi drivers licensed with the District Council have also been notified of the current status of the scheme
- HMRC application to opt to tax the developed area (May 2021)
- Assessment of remedial works required to drainage and programme of remedial repairs planned (May / June 2021)
- Material prepared for full planning application (June 2021).

2.2 Alongside District Council work, Derbyshire County Council proposals for alternative / improved bus infrastructure have been approved and provision made within its own capital programme to enable implementation of a new 3m wide footway and bus shelters along the north-west elevation of the building and enhanced layby provision on Bakewell Road. Officers are working with the County Council to finalise aspects of the design. Current bus and taxi services will continue to operate from this town centre location both during construction works and following conversion of the building.

2.3 Through a referral from the cinema operator, an early stage interest in the food & beverage unit is also being followed up by Thomas Lister (the Council's retained commercial adviser) subject to a formal process inviting expressions of interest in the unit.

### **3 CURRENT POSITION**

3.1 Members will recall that the original proposal for this site from the cinema operator came as a package with a retained architect and contractors with the cinema operator acting as developer and project manager. As the project has developed a number of changes have become necessary.

3.2 The first of these relate to architectural support. Whilst the layout and structure of the scheme received broad support throughout the stakeholder engagement



process, concerns were expressed about the exterior design with a number of revisions sought, particularly to the corner frontage of the building prior to submission of a planning application. Based on the extent of stakeholder feedback, subsequent discussions with the operator and his retained architect have resulted in a changed approach with an additional architect – Lathams (who provided architectural input to the scheme at inception stage) – being reappointed to develop/refine the exterior design through a design review process. Positive discussions have been held with MCV Steering Group representatives and ward Members and consensus on a preferred option has emerged. The preferred design (being tested from a technical perspective) incorporates a raised, chamfered glazed entrance to the corner of the building for the proposed food & beverage unit and modified entrance to the cinema with canopy above (both with ramp access). The scheme design includes re-use of existing materials (stone blockwork) and consideration is being given to incorporating measures where possible to enable natural ventilation and sunlight and mitigate solar gain, helping to reduce the level of mechanical heating and cooling required. Energy efficient lighting is proposed within the cinema and floor heights are to be raised throughout to mitigate potential future flooding risk.

- 3.3 Working alongside the operator's retained architect for the internal cinema design (Bill Chew Associates), work is now being undertaken by Lathams (supported by their sub-consultant design team) to bring the scheme to RIBA Stage 3 to enable submission of the planning application and preparation of an outline specification and cost plan for the modified design. Under this approach, Bill Chew Associates will be retained by the operator to concentrate on the cinema specific specialist element.
- 3.4 Although the change in approach has delayed the scheme, engaging an additional architect has helped broker a more acceptable design and keep key stakeholders on board. Retaining the same architect to develop the scheme to full planning application stage is considered appropriate to retain continuity at a key stage in the project and has been approved under a further waiver using Contract Standing Orders, removing the requirement to advertise and obtain three quotes for this low value procurement. The requirement to appoint an additional architect to make necessary design changes was not anticipated when the project was considered by Council. Best Value considerations with regard to utilising an architect with knowledge of the scheme and taking into account work to date (rather than involving a third architect) also support the proposed approach.
- 3.5 The other change relates to the procurement of the building elements of the scheme. In the original proposal the operator was to use their own contractors for both the build and fit out elements of the cinema scheme together with the build elements of the food & beverage unit. Further discussions with the operator have led to a reconsideration of this approach.
- 3.6 Whilst it is understood that the operator's proposed contractors have experience in the fit out of cinema space (having been engaged on previous successful schemes), previous experience relates to the conversion of existing

buildings for cinema purposes rather than construction of a new commercial development as in this case, particularly given the building's very visible town centre location next to a major retailer and bus station. Additionally it was felt that the small size of the company proposed for the construction works may create resilience risks and would not be able to provide the required strength of collateral warranties and insurances that would be required on a scheme of this size and value.

- 3.7 Accordingly it is proposed to tender the construction element of the works to provide a shell space for both the cinema and food & beverage unit. Whilst this tender process would be prepared and managed by the District Council, it would in effect be a joint procurement with the proposed operator. The process will determine the costs for the shell element of the scheme. As part of the detailed design (RIBA Stage 4), the cinema operator and architect will prepare the specification for the construction works required for the cinema. The cinema operator's contractor would be engaged by them directly to undertake the fit-out of the cinema space.
- 3.8 Under this proposal, project management would also be undertaken through a joint arrangement, with the District Council responsible for the shell works and the cinema operator (as proposed tenant) for the cinema fit-out. The bus infrastructure works will be project managed by the County Council.

#### **4 NEXT STEPS AND FORWARD PROGRAMME**

- 4.1 The draft floor plan and scheme elevations have recently been shared with representatives of the MCV Steering Group, London Metric and M&S. Following delays in the appointment of some members of the sub-consultant design team, further work is being undertaken by Lathams to prepare the drawings for final comment. Subject to required input from the consultant team, the aim is to submit the full planning application in July targeting the September Planning Committee. The planning application will allow for future provision of community space within the scheme (subject to separate fundraising) and new bus passenger waiting facilities.
- 4.2 Following completion of RIBA Stage 3 a detailed technical design and specification is required to enable tender documentation to be prepared. For the same reasons set out in para 3.4, subject to finalisation of fees it is proposed to retain Lathams and their appointed sub-consultants to undertake the RIBA Stage 4 Technical Design. Considering timescales have already been significantly impacted by COVID and the necessary change to architectural support, a full procurement exercise would further delay the scheme. Commercial interest in the site has been retained despite COVID but further delays must be avoided in order to maintain this. Given the position of the project, it is considered that the involvement of a potential third architect would set the scheme back further, requiring a review of work to date and duplication of some material previously prepared.
- 4.3 To enable this approach, Members are asked to approve the appointment of Lathams, and their sub-consultant design team, outside of the District Council's

Contract Standing Orders to undertake the technical design (RIBA Stage 4) and CDM Principal Designer role, subject to final agreement of fees by officers. Stage 4 fees are currently estimated to be in the region of £50,000. Although fees on the scheme have inevitably increased due to the necessary change in approach, based on quotations received, the overall costs currently appear to be accommodated within the pre-approved scheme budget. As elements of the design team's work are required to support both the cinema design and fit-out, an indicative fee split has been discussed with the operator subject to agreement following the initial assessment of scheme costs (end of Stage 3). Subject to approval, Lathams will be asked to enter into an (industry standard) contract of appointment through which the Architect would provide a warranty for the shell design and duty of care to the Council.

- 4.4 Based on the proposed changes to the approach to delivering the scheme described in Section 3 and following initial assessment of scheme costs, revised Heads of Terms will be issued for the Development Funding Agreement, Development Agreement and Agreement for Lease for negotiation with the cinema operator.
- 4.5 It is proposed that tender documentation will be prepared by District Council officers with the support of Derbyshire County Council's procurement team, the architect's consultant design team and cinema operator. The preferred contractor will be selected through assessment of the Most Economically Advantageous Tender (MEAT) with input to value engineering from the cinema operator and architects. Should the tendered costs for the shell works exceed the pre-approved scheme budget a further report will be brought back to Committee for consideration.
- 4.6 Based on the approach set out above, the revised indicative programme for delivering the scheme is as follows:

<b>Month</b>	<b>Activity</b>
July 21	Planning application submitted / completion of RIBA Stage 3
July 21	Revised Heads of Terms issued
Aug/Sept 21	Detailed design, specification and tender documentation prepared (RIBA Stage 4)
Sept 21	Planning Application determined
Sept 21	Commence tender process for shell works
Oct 21	Legal documentation finalised
Nov/Dec 21	Appoint contractor for shell works
May/June 22	Estimated completion of works

- 4.7 The process of securing a pre-let interest in the proposed retail / food & beverage unit will continue alongside this programme of work.
- 4.8 To provide a structure to utilise in the delivery phase, project governance arrangements (Appendix 1) will be established comprising:
- a core Project Management Group: initially comprising the Economic Development Manager; Estates and Facilities Manager; Director of

Regeneration and Policy and Chief Executive (with other officers and partners brought in as necessary) meeting every four weeks (first meeting held on 21 May) to project manage the scheme including responsibility for operational decisions, risk management and day-to-day communications

- a Project Board: comprising the Project Management Group; Council's agents; cinema operator, County Council and MCV Steering Group representative meeting approx. every three months moving to every month from start on site to oversee engagement including communications strategy
- Stakeholder Liaison: comprising local ward Members and the MCV Steering Group meeting every three months or more frequently as required
- Community and Environment Committee: meets every three months providing public accountability, strategic risk management and strategic and budget oversight.

4.9 Based on the changes to the approach to delivering the scheme, a review of the project risk register is also being undertaken.

## **5 RISK ASSESSMENT**

### 5.1 Legal

The required legal agreements associated with the proposed investment will be prepared by the District Council's Legal Team with external legal support and will seek to mitigate risks where possible. Work has commenced on a revised Heads of Terms.

A departure from Contract Standing Orders is required to progress proposals for completing RIBA Stage 4 – Detailed technical design. The rationale for this approach is set out within the body of the report. As the total value of the works falls below the £4.7M threshold for works contracts the works would not be subject to the Public Contracts Regulations 2015. Lathams' original commission was approved under Contract Standing Orders section 6.5 (Waivers). Procurement of the shell construction works will follow the District Council's Contract Standing Orders.

As previously reported, the District Council has obtained external legal advice on State Aid with regard to the proposals. The advice indicated that the provision of funding towards the costs of the proposed scheme has the potential to give rise to State Aid / subsidy in relation to the cinema element of the project only. The mechanism for granting assistance under the previous State Aid regime was to rely on Article 53 of the General Block Exemption Regulation (GBER), enabling 80% of investment costs in the cinema element - as a cultural development - up to a ceiling of 2m Euros. The proposed scheme falls within these thresholds.

Officers are in the process of 'mapping over' the EU GBER exemption against the six principles set out in the UK-EU Trade Co-operation Agreement and,

drawing on initial advice, the initial view is that the proposed subsidy required to aid the cinema part of the development remains complaint under UK Government Guidance. External legal advice is to be sought to confirm this position. Based on the business case, the remainder of the scheme is not considered to involve provision of subsidy.

Consent for works is required from London Metric plus a licence for alterations and further Deed of Variation with relevant parties. Indemnity insurance will also be required to address historical restrictive covenants on the site and quotations have been received. A formal response is required from the appointed solicitors of the head leaseholder. This has been raised with London Metric and continues to be pursued.

On the basis of the above the legal risk remains medium

## 5.2 Financial

The report explains a proposed change relating to the procurement of the building elements of the scheme. Under this proposal, project management would also be undertaken through a joint arrangement, with the District Council responsible for the shell works and the cinema operator (as proposed tenant) for the cinema fit-out. This means that the Council will be exposed to the risk and potential impact of cost over-runs on the shell works. However, this must be balanced against the risks of remaining with the previous contractor (see paragraph 3.6).

The required fee expenditure for the work required at RIBA Stage 4 can be met from within the overall pre-approved scheme budget.

A report setting out tendered scheme costs for the shell works (following value engineering) will be brought back to Committee for consideration should additional capital funding be required. The report will also consider the approach to managing any potential cost over-runs.

Members will be aware that the Council has limited amounts available in reserves to fund additional capital expenditure, such as cost over-runs.

On the basis of the above the financial risk is assessed as medium to high.

## 6 OTHER CONSIDERATIONS

In preparing this report, the relevance of the following factors have also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

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## 7 CONTACT INFORMATION

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## **8 ATTACHMENTS**

Appendix 1 – Project Governance



## **APPENDIX 1 - Matlock Regeneration Bakewell Road**

### **Project Governance**

V1.2 [21st May 2021]

#### **INTRODUCTION**

The Bakewell Road Regeneration Project, Matlock, will convert the unattractive, underutilised former indoor Market Hall to enable provision of a new indoor leisure attraction for Matlock (a two screen cinema), and will enclose part of the covered legacy bus bay area to provide an ancillary commercial use (a retail / food & beverage unit).

The project's business case secured District Council approval on 25 November 2020, along with capital investment of up to £848,820 from the District Council. Subsequently, Derbyshire County Council made provision in its own capital programme to enable implementation of a new 3m wide footway, bus shelters and layby provision associated with the project.

As the project moves from planning to delivery, there is a critical need to manage the project to achieve a successful conclusion. As well as overseeing progress and managing risks, successful project management entails involving those affected (e.g. services and organisations that periodically play a part in the project) sufficiently early so they are knowledgeable and prepared. It also involves engaging those that are involved, in particular Matlock Community Vision and Ward Members. Finally, communicating proactively with the community and other stakeholders is also essential.

To provide a structure for all to utilise in the delivery phase, project governance will be established as set out below. It aims to provide confidence to those directly and indirectly involved in project management that the Bakewell Road Regeneration Project is being managed efficiently, fairly and transparently.

#### **PRINCIPLES**

The governance arrangements will involve variously a core Project Management Group, other services/departments, external partners directly involved, community and other stakeholders indirectly involved; and the Community and Environment Committee. The arrangements are discharged through the structure shown on the following pages.

## GOVERNANCE ARRANGEMENTS

### Project Management Group

- Meets – every four weeks, moving to every two weeks from start on site
- Comprises – internal officers
- Membership -
  - Economic Development Manager (project lead)
  - Estates and Facilities Manager (technical lead)
  - Director of Regeneration and Policy (project sponsor)
  - Project Manager when appointed
  - Chief Executive
  - Communications [especially when project is on site]
  - Council's agents (e.g. architect, QS) to be invited to attend as appropriate
  - Cinema Developer to be invited to attend as appropriate
  - Others internal services to join when needed, e.g. Legal, Finance, Development Management, Procurement
- Purpose – to project manage the project including responsibility for operational decisions, risk management and day-to-day communications
- Cannot depart from cost, design and budget parameters set by C&E Committee
- Reports to – Project Board

### Project Board

- Meets – every three months, moving to every month from start on site
- Comprises – Project Management Group plus Developer and key stakeholder representatives
- Membership -
  - Project Management Group
  - Council's agents (e.g. architect, QS)
  - Cinema Developer
  - Derbyshire County Council Local Bus Team representative
  - Representative of MCV Steering Group
- Purpose – to oversee engagement including communications strategy
- Cannot depart from cost, design and budget parameters set by C&E Committee
- Reports to – Community & Environment Committee
- Notes also go to – Matlock Community Vision Steering Group, all Matlock Ward Members

### Stakeholder liaison

- Meet – every three months or more frequently as required
- Comprises – two groups meeting separately with Project Lead etc.
  - **MCV Steering Group**
  - **Matlock Ward Members**
- Purpose – consultation and engagement with these two key stakeholder groups

### Community and Environment Committee (public meeting)

- Meets – every three months approx. Meets in public unless confidential matters need to be exempted (by exception)
- Comprises – elected district councillors
- Purpose – to provide public accountability, strategic risk management, and make strategic and budget decisions



- Minutes go to – full Council

Community & Environment Committee  
5<sup>th</sup> July 2021

Report of the Director of Regulatory Services

## **AIR QUALITY MANAGEMENT AREA, ASHBOURNE – UPDATING REPORT**

### **PURPOSE OF REPORT**

This report updates Members on the actions taken following the declaration of an Air Quality Management Area in Ashbourne at the meeting of this Committee on 7 April 2021.

### **RECOMMENDATION**

That members note the actions taken in progressing the action plan process

### **WARDS AFFECTED**

Ashbourne North

### **STRATEGIC LINK**

Protecting and improving air quality supports the District Council's priority of Place and directly addresses the Corporate Plan indicator CP20/PL14 to carry out a Detailed Assessment and progress to an Air Quality Management Area and Action Plan as necessary.

## **1 BACKGROUND**

- 1.1 At the meeting of the Community and Environment Committee held on 7 April 2021 it was resolved to declare an Air Quality Management Area (AQMA) in respect of the following area:
  - Buxton Road from the junction with Windmill Lane and North Avenue, to the junction with St John's Street;
  - St John's Street from number 22 St John's Street to the junction with Cokayne Avenue and Park Road.
- 1.2 The AQMA was declared in relation to exceedances of the annual average air quality objective for nitrogen dioxide ( $40\mu\text{g}\text{m}^{-3}$ ) and the area was defined to include all areas in which levels of nitrogen dioxide came within 10% of the air quality objective (ie that were likely to exceed  $36\mu\text{g}\text{m}^{-3}$ ). The AQMA is formally known as the Derbyshire Dales District Council Air Quality Management Area (No 2; NO<sub>2</sub>) Order 2021 and came into effect on 5 May 2021.
- 1.3 At the 7 April 2021 meeting it was agreed that quarterly updating reports would be submitted to further meetings of this Committee. This report is the first such update.

## 2 REPORT

- 2.1 Following the meeting on 7 April 2021, Officers contacted Derbyshire County Council's Transport team and began the process of progressing an action plan. This conversation had been ongoing for some time, as liaison had been necessary to obtain the traffic figures necessary to undertake the Detailed Assessment. However, it was agreed that it would now be appropriate to hold an Action Plan inception meeting. This meeting was held on 13 May 2021 and it was agreed that the team would follow the model used for the creation of other AQMA Action Plans in Derbyshire, that is that a long list of all possible options would be devised and that this would then be evaluated to determine which of these options might be suitable for Ashbourne. It was also agreed that representatives from Ashbourne Town Council and Ashbourne Town Team would be involved in the Action Plan process. A series of meetings would be needed in order to produce the final approved Action Plan and to monitor the actions agreed as part of the Plan.
- 2.2 In order to manage the Action Plan process, officers have set up a simple action log to record progress. This action log is a live document and will become of more use as the Action Plan process develops. However, it is reproduced below in order to provide Committee with an update at this stage:

Number	Date	Action
001	05/05/21	AQMA formally declared
002	12/05/21	AQMA accepted by DEFRA
003	TBC	AQMA uploaded to DEFRA website – problems with DEFRA website have prevented immediate uploading
004	13/05/21	Inception meeting with DCC Highways – agreed to creation of long list for action plan, involvement of interested parties and allocated staff resources
005	19/05/21	Publication of DDDC webpage – <a href="https://www.derbyshiredales.gov.uk/environment-and-waste/pollution-noise/air-pollution/air-quality-management-areas/buxton-road-ashbourne">https://www.derbyshiredales.gov.uk/environment-and-waste/pollution-noise/air-pollution/air-quality-management-areas/buxton-road-ashbourne</a>
006	25/05/21	Contact made with Ashbourne Town Council and Ashbourne Town Team
007	25/05/21	Date agreed for creating long list.
008	18/06/21	Proposed date for action plan working group to discuss long list

- 2.3 A verbal update will be given on actions taken after the publication of this report.

## 3 RISK ASSESSMENT

### 3.1 Legal

The duties of the Local Authority following the declaration of a AQMA are contained in section 84 of the Environment Act 1995 which includes the obligation to prepare a written plan on how to achieve the management of air quality in that area. The details as contained in this report demonstrate the steps taken by the Authority to comply with its statutory obligations. Therefore the risk is low

## 3.2 Financial

The costs associated with the air quality action plan can be met from existing budgets. Therefore, the financial risk is assessed as low.

## 4 OTHER CONSIDERATIONS

- 4.1 In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

## 5 CONTACT INFORMATION

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## 6 BACKGROUND PAPER

- 6.1 None

## 7 ATTACHMENTS

- 7.1 None

Community & Environment Committee  
5<sup>th</sup> July 2021

Report of the Director of Regeneration and Policy

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## **SUPPLEMENTARY PLANNING DOCUMENT: CLIMATE CHANGE**

### **SUMMARY**

This report presents Members with the details of the representations received during the six week period of public consultation on the draft Climate Change Supplementary Planning Document held in February/March 2021. The report recommends subject to a number of minor modifications to its contents the adoption of the Climate Change Supplementary Planning Document.

### **RECOMMENDATION**

1. That the representations received, and Officer Recommendations during the public consultation as set out in Appendix 1 be noted.
2. That the revised Climate Change Supplementary Planning Document (SPD), attached in Appendix 2 be adopted.

### **WARDS AFFECTED**

All wards outside the Peak District National Park

### **STRATEGIC LINK**

The adoption of the Climate Change Supplementary Planning Document will support the delivery of the adopted Derbyshire Dales Local Plan and assist with the delivery of one the District Councils key priorities of addressing Climate Change in the Corporate Plan 2020-2024.

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## **1 BACKGROUND**

- 1.1 Members will recall that the District Council resolved unanimously at its meeting on 30 May 2019 that climate change was an existential threat, and as a result declared a Climate Change Emergency in Derbyshire Dales. .
- 1.2 Since the declaration of a Climate Change emergency by the District Council a Members Climate Change Working Party identified four priority areas for action:
  - Transport;
  - Estates;
  - Planning Policy;
  - Housing Policy.

- 1.3 At Council on 20<sup>th</sup> January 2020 it was agreed that two elements of the Climate Change Action Plan relating to Planning should include:
- Work with the Council's Place Hub to develop a Supplementary Planning Document to set out the Council's expectations for new development to ensure that it responds proactively to the Climate Change Emergency through appropriate mitigation and adaptation actions
  - Ensure that the next review of the Local Plan adequately responds to the Climate Change Emergency
- 1.4 In taking forward the District Council's Corporate Plan for the period 2020-2024 it was resolved at Council on 5<sup>th</sup> March 2020 that one of the priority actions for taking forward the work on the Climate Change Emergency was:
- Preparing and adopting a Supplementary Planning Document on Climate Change
- 1.5 In August 2020, following a four week procurement process, which involved the Climate Change Working Party reviewing the tender specification, Land Use Consultants Ltd were appointed to undertake the preparation of a Climate Change Supplementary Planning Document on behalf the District Council.
- 1.6 A draft version of the Climate Change SPD was considered by Members at the Community and Environment Committee on the 10<sup>th</sup> February 2021 at which it was resolved (Minute 257/20):
1. That the draft Climate Change Supplementary Planning Document be approved for a period of six weeks public consultation.
  2. That in the event of the receipt of any substantive representations during the six week period of public consultation on the contents of the draft Climate Change Supplementary Planning Document that a further report be presented to this Committee.
  3. That in the event that no substantive representations are received during the six week period of public consultation on the contents of the draft Climate Change Supplementary Planning Document that delegated authority be given to the Director of Regeneration and Policy and Director of Regulatory Services to adopt the Climate Change Supplementary Planning Document following consultation with the Chair and Vice Chair of this Committee.
- Members approved a six week consultation period from 12<sup>th</sup> February to the 26<sup>th</sup> March 2021.
- 1.7 In accordance with the Statement of Community Involvement, details of the six week public consultation were made available on the District Council's website along with an online survey which allowed residents and other interested stakeholders to comment on the contents of the draft SPD. The Local Plan consultation database was used to raise awareness of the consultation.
- 1.8 Assuming that Members accept both Recommendations in this report and adopt the revised SPD as set out in Appendix there is a period of 13 weeks for

any judicial challenge to be made. The end of the 13 week period would be the 22nd September 2021. At that point the District Council would be able to use the SPD in the determination of planning applications.

## **2 RESULTS OF PUBLIC CONSULTATION**

2.1 During the six weeks public consultation period a total of 31 completed responses were made using the online consultation survey, with an additional 24 responses received by email. Representations were received from members of the public and organisations including; The Environment Agency, Natural England, Highways England, Historic England, Derby and Derbyshire Clinical Commissioning Group, Derbyshire CPRE, Derbyshire Green Party, Derbyshire Dales Climate Hub, Severn Trent Water, Local Lead Flood Authority, Matlock Civic Society, Matlock Wolds Community (WAG), Wirksworth Community and Sport Association, Peak District National Park Authority, Derbyshire County Council, Matlock Town Council and Ashbourne Town Council and Middleton Parish Council.

2.2 The main issues raised during the public consultation that have resulted in suggested amendments to the Draft SPD were:

- Addition of PD3: Biodiversity and the Natural Environment to the introduction of the SPD. This is to provide consistency with the subsequent sections.
- Amended graphic on page 6 in order clarify meaning of “climate systems” and alternative wording for “improved house prices.”
- Acknowledgement of the World Heritage Site in section 2. in response to Historic England comments.
- Inclusion of Natural Flood Management in Section 3. in response to the Environment Agency representation.
- Reordering of text in section 4. To give more prominence to non-residential schemes.
- Addition of Historic England footnotes, section 4. regarding the potential impact of biomass crops on archaeology.
- Addition of mandatory water standard of 110litres/day/person to reflect current building regulations in section 6. In response to Severn Trent and the Environment Agency.
- Inclusion of swift bricks in the checklist of measures to increase biodiversity in development schemes.
- Insertion of missing footnote page 52 re; growing space standards.

2.3 A number of representations made comments regarding the language used in the SPD stating that they would prefer to read more mandatory requirements, obliging developers to include climate change mitigation and adaption measures in their proposals. The SPD cannot mandate action, or introduce new planning policy, this would be beyond its legal scope. The purpose of a SPD is to provide additional information as to how policies in an adopted Local Plan can be implemented.

- 2.4 Whilst those representations set out in Appendix 1 raise concerns, other than minor modifications as specified, it is not considered necessary or appropriate to make substantive changes to the contents of the draft Climate Change Supplementary Planning Document prior to adoption.
- 2.5 An updated version of the Climate Change Supplementary Planning Document is set out in Appendix 2 to this report with changes highlighted. If both recommendations are accepted by Members then the version of the Supplementary Planning Document set out in Appendix 2 will be formally adopted by the District Council.

### **3. NEXT STEPS**

- 3.1 The statutory procedures for preparing and adopting a Supplementary Planning Document do not require that any representations are subject to an Examination in Public in the same way as a Local Plan. This allows the District Council to consider the representations, modify and adopt the Supplementary Planning Document it considers is appropriate. Once adopted the Climate Change Supplementary Planning Document will have statutory weight in the determination of planning applications.
- 3.2 In light of the recommendation that no substantive changes be made to the contents of the draft Climate Change Supplementary Planning Document it is considered appropriate that the version as set out in Appendix 2 is adopted by Council and that following the period where it may be subject of judicial review (13 weeks) that it be used with immediate effect thereafter in the determination of future planning applications –22nd September 2021.
- 3.3 The review of the Derbyshire Dales Local Plan will determine what changes are needed to the existing policies to make them more rigorous in relation to mitigation and adaptation to climate change. The SPD complements the policies in the adopted Derbyshire Dales Local Plan and provides advice and guidance on how to address the requirements of those policies. It can therefore, be seen as a stepping stone between the existing Local Plan and the emerging Local Plan.

### **4 RISK ASSESSMENT**

#### **4.1 Legal**

The public consultation, and subsequent adoption of the Climate Change Supplementary Planning Document was undertaken in accordance with the requirements set out within The Town and Country Planning (Local Planning) (England) Regulations 2012. Following any resolution to adopt the Climate Change SPD a period of 13 weeks exists to allow anybody with a vested interest to seek a judicial review of the processes and procedures used in the preparation of the Climate Change SPD. The legal risk is therefore assessed as being low.



## 4.2 Financial

The costs associated with preparing and adopting the Supplementary Planning Document (SPD) are contained within current budgets. It is intended that the SPD would be published as an online document with paper versions available on request. The financial risk is, therefore, assessed as low.

## 4.3 Corporate Risk

A failure to comply with the statutory provisions relating to the preparation and adoption of the Supplementary Planning Document could lead to challenge by developers and/or land owners, and constitute a strategic risk to the District Council in using the SPD in the determination of planning applications. Failure on the part of the District Council not to take the contents into account during the determination of planning applications could result in a failure to deliver the climate change ambitions of the District Council.

## 5 OTHER CONSIDERATIONS

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

## 6 CONTACT INFORMATION

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## 7 BACKGROUND PAPERS

Description	Date	File
The Town and Country Planning (Local Planning) (England) Regulations 2012 Part 5: Supplementary Planning Documents		<a href="http://www.legislation.gov.uk/uksi/2012/767/pdfs/uksi_2012_0767_en.pdf">http://www.legislation.gov.uk/uksi/2012/767/pdfs/uksi_2012_0767_en.pdf</a>
National Planning Policy Framework		<a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779764/NPPF_Feb_2019_web.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/779764/NPPF_Feb_2019_web.pdf</a>

## 8 ATTACHMENTS

Appendix One: Schedule of Representations and Officer Comments on the Draft Derbyshire Dales Climate Change Supplementary Planning Document

Appendix Two – Revised Derbyshire Dales Climate Change Supplementary Planning Document

Community & Environment Committee  
5<sup>th</sup> July 2021

Report of the Director of Regeneration and Policy

## **FIRST HOMES**

### **PURPOSE OF REPORT**

To advise Members of the introduction by the Government of a new tenure of affordable housing – First Homes. The report also advises Members of the of national policy changes being brought into effect in relation to First Homes from 28<sup>th</sup> June 2021, as well as a recommended approach to address the issues that the introduction has for the District Council, as local planning authority.

### **RECOMMENDATIONS**

1. That the introduction of First Homes by the Government is noted.
2. That the additional research on the delivery of First Homes in Derbyshire Dales be noted, and that further reports be presented to this Committee or Council in due course.
3. That a further report be presented to this Committee or Council in respect of the potential for designation of areas of the local planning authority area as a Rural Area under s157 of the Housing Act 1985.

### **WARDS AFFECTED**

All Outside of the Peak District National Park

### **STRATEGIC LINK**

The introduction of First Homes will introduce additional choice in relation to the type of affordable homes being made available across Derbyshire Dales which will contribute to the delivery of the Corporate Plan 2020-24 objective of promoting housing development that meets the needs of the present and future population of the District. The extent to which First Homes can meet the needs of the community is, however, yet to be established.

## **1 BACKGROUND**

- 1.1 In February 2020 the Government published an initial consultation on its proposals for First Homes. In setting out the case for First Homes affordability was cited as the biggest barrier to home ownership, in particular for young people. The emphasis in the first consultation was that First Homes would provide a wider range of affordable housing products for local people.
- 1.2 The consultation set out that First Homes should have a minimum of 30% discount, but with local authorities having discretion to set higher discounts where the evidence exists. To ensure that these properties remain available within the community in perpetuity the Government indicated that these homes would be

subject to restrictive covenants, which would have to be met in order for a property to be sold on. As an alternative to discounts variable regional price caps were suggested.

- 1.3 In August 2020 a further consultation on proposed changes to the current planning system included more detailed proposals for the introduction of the First Homes scheme. As part of that consultation the Government set out a minimum of 25 per cent of all affordable housing units secured through developer contributions should be First Homes in most instances provide on-site.
- 1.4 The consultation paper set out that the minimum discount for First Homes should be 30% from market price which would be set by an independent registered valuer. The valuation would assume the home is sold as an open market dwelling without restrictions. Local authorities would have discretion to increase the discount to 40% or 50%, although this would need to be evidenced in the local plan making process. It was suggested that where discounts of more than 30% are applied to First Homes, the requirement for a minimum of 25% of units onsite to be First Homes would remain in place
- 1.5 In addition the consultation paper set out that the Government intended to introduce a First Homes exception sites policy, to replace the existing entry-level exception sites policy. Exception sites being small sites brought forward outside the local plan to deliver affordable housing.
- 1.6 On 1<sup>st</sup> April 2021 the Government published more detailed proposals on the operation of the First Homes scheme:

### **Design**

- First Homes must be discounted by a minimum of 30%. Local authorities and neighbourhood planning groups can require higher minimum discounts at 40% or 50% if need can be evidenced through the most appropriate method available to them (either in the local or neighbourhood plan, an emerging policy or, where appropriate, a Supplementary Planning Document).
- After the discount is applied the initial sale price of a First Homes must not exceed £250,000 (or £420,000 in Greater London). Local authorities and neighbourhood planning groups can set lower caps at local level through the most appropriate method available to them (either in the local or neighbourhood plan, an emerging policy or, where appropriate, a Supplementary Planning Document).
- Initial sales of First Homes must contain a legal mechanism to ensure each future sale maintains the discount (as a percentage of current market value). However, a mortgagee enforcing their security against the property will be exempt from this requirement.
- First Homes are not intended to be used for commercial gain and there will be restrictions on letting or sub-letting the property.

### **Eligibility**

- Purchasers of First Homes must be first-time buyers and must have a household income not exceeding £80,000 (or £90,000 in Greater London).
- Local authorities and neighbourhood planning groups can apply additional criteria, such as a lower income cap, local connection or prioritisation for key workers) through the most appropriate method available to them (either in the local or neighbourhood plan, an emerging policy or, where appropriate, a Supplementary Planning Document).
- Local criteria is limited to the first 3 months of marketing before reverting to the national criteria.
- Members of the Armed Forces, divorced/separated spouses/civil partners or members of the Armed Forces, the spouses/civil partners of deceased members of the Armed Forces (if their death was wholly or partly caused by their service) or veterans within 5 years of leaving the Armed Forces will be exempt from any local connection criteria.
- A First Home should be the buyers only home and a purchaser will need to use a mortgage or home purchase plan for at least 50% of the purchase price of the home.

### **Delivery**

- Planning policy will set a requirement that a minimum of 25% of homes delivered through developer contributions should be First Homes.
- Entry-level exception site policy to become a new First Homes exception site policy, allowing a small proportion of market homes and/or other forms of affordable housing to support viability.
- Mandatory exemption from the Community Infrastructure Levy for First Homes.

- 1.7 On 24<sup>th</sup> May 2021 the Government by way of a Ministerial Written Statement introduced changes to national planning policy to support the delivery of First Homes, with effect from 28<sup>th</sup> June 2021. A copy of which is set out in Appendix 1.

## **2 IMPLICATIONS FOR DERBYSHIRE DALES**

- 2.1 The Written Ministerial Statement introduces changes to the National Planning Policy Framework and the National Planning Policy Guidance. As such the changes to national policy are material consideration which the District Council as local planning authority will need to take into account when discharging its planning functions.
- 2.2 The NPPG has been revised to include a specific section on First Homes: <https://www.gov.uk/guidance/first-homes>. This now requires from 28<sup>th</sup> June 2021 that 25% of affordable housing provision is delivered as First Homes, with the remaining 75% reflecting the current policy on affordable housing as set out in the adopted Derbyshire Dales Local Plan.
- 2.3 The new guidance sets out transitional arrangements for proposals coming forward through the Development Management process:

*The new First Homes policy requirement does not apply for the following:*

- *sites with full or outline planning permissions already in place or determined (or where a right to appeal against non-determination has arisen) before 28 December 2021*
- *applications for full or outline planning permission where there has been significant pre-application engagement which are determined before 28 March 2022;*

2.4 At the same time the Government has revised its guidance on Exception Sites in the NPPG to reflect its approach to First Homes. This now has two elements;

- **First Home Exception Sites** - is an exception site (that is, a housing development that comes forward outside of local or neighbourhood plan allocations to deliver affordable housing) that delivers primarily First Homes. Such sites can come forward on unallocated land outside of a development plan. They cannot come forward in areas designated as Green Belt, or designated rural areas as defined in Annex 2 of the National Planning Policy Framework. In these areas rural exception sites are the sole permissible type of exception site. The WMS also sets out such sites should be adjacent to existing settlements, proportionate in size to them, not compromise the protection given to areas or assets of particular importance in the National Planning Policy Framework, and comply with any local design policies and standards. A small proportion of market homes may be allowed on the site at the local authority's discretion, for example where essential to enable the delivery of First Homes without grant funding. Also, a small proportion of other affordable homes may be allowed on the sites where there is significant identified local need.
- **Rural Exception Sites** - Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. A proportion of market homes may be allowed on the site at the local planning authority's discretion, for example where essential to enable the delivery of affordable units without grant funding.

2.5 At the current time the revised national policy would allow both First and Rural Exception Sites to come forward in the area for which the District Council is the local planning authority.

2.6 As Members will be aware the District Council has embarked upon a review of the DDLP, and in relation to First Homes, Icen Projects Ltd, who have been commissioned to provide advice on future housing needs have been instructed to provide advice to assist with the development of an appropriate policy on First Homes for inclusion in the Local Plan. This has included:

- The level of discount from Market Value – is there a justification for a discount of greater than 30%, if so what should it be and should the discount be variable depending upon property size.
- Is the maximum price of £250K after discount an appropriate maximum sales value for Derbyshire Dales ?
- Is the national threshold of £80,000 for household income appropriate for Derbyshire Dales ?
- What size of property is appropriate to be seen as a First Home within Derbyshire Dales ?
- What is the level of need for such products across Derbyshire Dales? i.e. how many first time buyers would be eligible for this tenure type over the plan period ?

2.7 The new national policy in relation to First Homes Exception Sites, has no size threshold, and could include some market and other affordable tenures to support

viability. The exemption from this would be in areas designated by the Secretary of State as Rural Areas under s157 of the Housing Act 1985.

- 2.8 It is anticipated that this form of development may lead to higher land values as they will be more attractive to landowners than traditional rural exception sites, reducing the attractiveness of what has been a very successful model for the delivery of affordable housing across Derbyshire Dales. Whilst First Homes may well widen the affordable housing model to include low cost ownership experience and existing evidence suggests that such a tenure may not be of significant benefit to the communities of Derbyshire Dales.
- 2.9 As such it is recommended that as part of the review of the Derbyshire Dales Local Plan whether there is benefit in making an application to the Secretary of State to designate any areas that meet the criteria as a Rural Areas under s157 of the Housing Act 1985. The effect of which would be to remove the potential for more speculative sites coming forward as First Homes Exception Sites, and thereby maintain the District Councils current approach of providing affordable housing through Registered Providers either for affordable rent, social rent or shared ownership.

### Resources Required to Implement First Homes Policy

- 2.10 The advice from MHCLG and Homes England is that they are seeking to provide a set of standard clauses for use in s106 Planning Obligations where the provision of First Homes is to be made. This is anticipated will provide consistency in relation to the application of the legal aspects of the First Homes policy. This approach is to be welcomed.
- 2.11 The steps in the Customer Journey for both the purchase of new and resale First Homes envisages that local authorities would be involved to a greater or less degree throughout the whole process. It is considered that there is likely to be some involvement in the process for legal, finance, housing, estates and planning.
- 2.12 At this time the Government has not given any indication of how it will provide support to cover the additional burdens that these requirements will place upon local authorities. There has been some indication that additional burdens funding may be forthcoming. Alternatively it has been suggested that developers should cover the cost of such works as a fee added to the s106 Obligations.
- 2.13 Once more details of the process involved in respect of First Homes are known, then it is considered that further work be undertaken to determine the District Council's processes going forward. This could include consideration of, for example, whether such processes should be externalised. As this is an operational matter this would be for the Corporate Leadership to consider and advise Members in the future.

## **3 RISK ASSESSMENT**

### **3.1 Legal Risk**

The revised advice in the NPPF and NPPG are material considerations, which the District Council will need to take into account when exercising its land use planning functions. Failure to take them into properly into account could lead to the dismissal of appeals, and the award of costs against the District Council. This is a scenario typical of changes in national policy practice, and as such the legal risk is low.

### 3.2 Financial Risk

The model envisaged for the delivery of First Homes would see them being brought forward by developers and without financial subsidy from the District Council. As such the financial risk is low.

### 3.3 Corporate Risk

The introduction of First Homes will introduce additional choice in relation to the type of affordable homes being made available across Derbyshire Dales which will contribute to the delivery of the Corporate Plan 2020-24 objective of promoting housing development that meets the needs of the present and future population of the District. The extent to which First Homes can meet the needs of the community is, however, yet to be established. As such the Corporate Risk is considered to be medium.

## 4 OTHER CONSIDERATIONS

- 4.1 In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

## 5 CONTACT INFORMATION

- 5.1 Mike Hase - Policy Manager  
Tel No. 01629 761251  
Email [mike.hase@derbyshiredales.gov.uk](mailto:mike.hase@derbyshiredales.gov.uk)

## 6 BACKGROUND PAPERS

- 6.1 Response to Previous MHCLG Consultation on First Homes February 2020

## 7 ATTACHMENTS

Appendix 1 – Written Ministerial Statement – 24<sup>th</sup> May 2021



**APPENDIX 1 - Written Ministerial Statement – 24<sup>th</sup> May 2021**

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# Affordable Homes Update

## Statement made on 24 May 2021

Statement UIN HLWS48

### Statement made by




**Lord Greenhalgh** >

Minister of State for Building Safety and Communities

Conservative

---

Life peer

 Lords

### Statement

My Rt. Hon. Friend, the Minister of State for Housing (Christopher Pincher) has today made the following Written Ministerial Statement:

On 1 April 2021 the Government published responses to two consultations: delivering First Homes and the new model for Shared Ownership. This statement sets out the Government's plans for the delivery of First Homes and our new model for Shared Ownership through the planning system.

This statement issues substantial changes to planning policy which will come into effect on 28 June 2021.

The issues covered in this statement include:

- The definition of a First Home
- Eligibility criteria for First Homes
- Setting developer contributions for First Homes
- The remaining 75% of affordable housing secured through developer contributions
- Plans, development management and transitional arrangements
- Level of discount
- Exception sites
- Delivering Shared Ownership homes

#### Introduction

The Government is committed to supporting people to own their home and make home ownership a reality for households and families. Since spring 2010 almost 709,000 households have been helped by Government schemes, including Help to Buy and Right to Buy, and we are taking steps to increase the supply of new housing. The Government is undertaking the most ambitious reforms to

our planning system since the Second World War, making it easier to build homes where they are most needed, and the stamp duty holiday (applying to the first £500,000 of property sales) has given a much-needed boost to the economy. Ensuring access to home ownership remains a key priority and challenge for this Government. However, rising prices, high deposits and difficulty accessing mortgage finance still mean that far too many people are denied the opportunity to own a home of their own. Polling shows that 87% of people would prefer to own their home given a free choice. Therefore, the Government is determined to ensure that there is an adequate supply and variety of options to help hard-working people onto the housing ladder across England.

### First Homes

The Government first consulted on First Homes, the new scheme to provide homes for first-time buyers at a discount of a minimum of 30%, in February 2020. This consultation made proposals around both the design of First Homes and changes to the planning system to support their delivery.

We received nearly 800 responses to this first consultation. There was considerable support for our proposals for a minimum discount of 30% and strong support for proposals to develop a national standard model with discretion for local areas to set their own criteria. Many local authorities, housing developers and business organisations gave very helpful comments about how our proposed changes to planning policy could be introduced and we are very grateful for this. The Government published its consultation response on 6 August 2020, which is available [online](#). On the same day, the Government published a consultation, *Changes to the current planning system*, which included proposals on the detail of changes to planning policy to deliver First Homes. We received nearly 2,400 responses to this second consultation. The Government published its response to the First Homes part of that consultation on 1 April 2021, and a copy of that response will be placed in the Library of the House. It is also available online at: <https://www.gov.uk/government/consultations/changes-to-the-current-planning-system/outcome/government-response-to-the-first-homes-proposals-in-changes-to-the-current-planning-system>

After careful consideration of all the responses to both these consultations, the Government is today setting out its plans for the delivery of First Homes, defining the product and changes to planning policy as set out below.

### First Homes Criteria

From 28 June 2021, a home meeting the criteria of a First Home will also be considered to meet the definition of ‘affordable housing’ for planning purposes. The First Homes Criteria means:

- A First Home must be discounted by a minimum of 30% against the market value; and,
- after the discount has been applied, the first sale of the home must be at a price no higher than £250,000 (or £420,000 in Greater London).

Local authorities will be able to set a deeper minimum discount at either 40% or 50% and impose lower price caps, if they can demonstrate a need for this through evidence. However, the same level of discount as a percentage below market value must apply to the home each time it is sold in perpetuity (subject to certain specific exclusions), so that communities continue to benefit from the homes for years to come. The discount in perpetuity should be secured through a planning obligation. First Homes should, as a matter of course, comply with any other applicable planning policies and / or building regulations, for example those relating to space, accessibility, energy efficiency or carbon emissions. This includes avoiding the sale of homes as leasehold where this is not necessary.

In order to ensure that suitable mortgages are available for First Homes, local authorities should provide for a mortgage lender enforcing its security over a First Homes to be able to realise the full market value of the property, returning any surplus up to the value of the First Homes discount to the local authority.

### First Homes Eligibility Criteria

First Homes must be prioritised for first-time buyers (as defined in paragraph 6 of schedule 6ZA of the Finance Act 2003 for the purposes of Stamp Duty Relief for first-time buyers) and not be sold to any household with a combined annual income in excess of £80,000 (or £90,000 in Greater London). Local authorities will be able to apply additional criteria at a local level. For example, they may wish to set a lower income cap, prioritise key workers (who also meet the first time buyer definition) and / or specify a particular local connection requirement based on work or current residency. Neighbourhood plans will also be able to apply these additional criteria at neighbourhood level. We do not intend to set out a national definition for key workers or local connections for the purposes of First Homes, but instead empower local authorities to take these decisions in the best interests of their areas and residents.

In recognition of the unique nature of their circumstances, members of the Armed Forces, the divorced or separated spouse or civil partner of a member of the Armed Forces, the spouse or civil partner of a deceased member of the Armed Forces (if their death was caused wholly or partly by their service) or veterans within five years of leaving the Armed Forces should be exempt from any local connection testing restrictions.

A person who can afford to purchase a First Home without a mortgage should not be eligible to purchase a First Home. As a deterrent against the use of First Homes for investment, all purchasers of First Homes must use a mortgage or home purchase plan (if required to comply with Islamic law) for at least 50% of the discounted purchase value.

If local authorities or neighbourhood planning groups choose to introduce their own eligibility restrictions, these will be time-limited to the first three months from the start date of marketing of the property. Upon expiry of the three-month period, any homes which have not been sold or reserved will revert to the national standard criteria set out above. This is to ensure that homes do not remain unsold if suitable buyers in the local area cannot be found.

To support developers and local authorities in using First Homes we are currently developing model section 106 obligations that can be used to secure First Homes at the planning stage. These will make it easier for developers to meet national requirements, for local authorities to consider imposing their own time-limited restrictions and will protect the interest of mortgage lenders by ensuring they can realise the full market value of the property in defined exceptional circumstances. These model obligations will also contain wording for a model title restriction, which will be recognised by HM Land Registry and will ensure the homes retain their discount in perpetuity.

We are clear that First Homes are intended to be used as a person's sole or primary residence and should not be used for investment or commercial gain. However, we also recognise that there are occasions when it may be necessary for owners of First Homes to let out their property for short periods of time, especially in response to unexpected life events. Therefore, a First Homes owner can only rent out their home for a maximum period of two years, as long as the relevant local authority is notified. Recognising that certain circumstances require a unique response, local authorities should be willing to grant permissions to rent out for longer periods under the following circumstances: deployment elsewhere (for members of the Armed Forces); primary caring responsibilities for relative/friend; short job posting elsewhere; redundancy; domestic abuse; and relationship breakdown. This will not affect restrictions on letting a property prescribed by a mortgage lender and permission from them would likely also be required.

### **Changes to planning policy**

In order to support the future development of First Homes, the Government is today also setting out changes to planning policy as set out above and below. These changes will come into effect from 28 June 2021.

### **Setting developer contributions for First Homes**

A minimum of 25% of all affordable housing units secured through developer contributions should be First Homes. This is a national threshold which should be applied for England.

In accordance with paragraph 62 of the National Planning Policy Framework, affordable housing is expected to be delivered on-site unless off-site provision or an appropriate financial contribution in lieu can be robustly justified; and the agreed approach contributes to the objective of creating mixed and balanced communities.

Where cash contributions for affordable housing are secured instead of on-site units, a minimum of 25% of these contributions should be used to secure First Homes. Where a mixture of cash contributions towards affordable housing and on-site units are secured, 25% of the overall value of affordable housing contributions should be applied to First Homes.

Local authorities should already have affordable housing policies set out in their development plan, which will include the amounts of affordable housing to be sought, and the tenure mix of this housing. Paragraph 57 of the National Planning Policy Framework currently states that where up-to-date policies have set out the contributions expected from development, planning applications that comply with them should be assumed to be viable. Under the approach set out in this Written Ministerial Statement, therefore, it is necessary to define the criteria for policy compliance, under which a development is assumed to be viable.

Under the new system, a policy compliant planning application should seek to capture the same amount of value as would be captured under the local authority's up-to-date published policy. In addition to capturing the same amount of value towards affordable housing as the existing policy, where on-site affordable housing is required, a policy compliant application will have a minimum of 25% of affordable housing units on-site as First Homes.

### **The remaining 75% of affordable housing secured through developer contributions**

The Government recognises the importance of social rent as part of the affordable housing tenure mix. A local authority should prioritise securing their policy requirements on social rent, once they have secured the 25% First Homes requirement. Where other affordable housing units can be secured, these tenure-types should be secured in the relative proportions set out in the development plan.

If an application aligns with a local authority's up-to-date policy on cash contributions in lieu of on-site provision, then it will be a policy compliant application in that regard.

Local planning authorities should use the most appropriate method available to them to set out how these requirements impact on their current affordable housing tenure mix policies.

### **Exemptions from requirements to deliver affordable home ownership products**

Paragraph 64 of the National Planning Policy Framework sets out that for major development involving the provision of housing, 10% of all homes on site should be affordable home ownership products, unless one of the exceptions applies. First Homes are an affordable home ownership product. Where specific developments are exempt from delivering affordable home ownership products under paragraph 64 of the Framework, they shall also be exempt from the requirement to deliver First Homes.

### **Plans, Development Management and Transitional Arrangements**

Local plans and neighbourhood plans should take into account the new First Homes requirements from 28 June 2021. Local authorities may therefore need to review the tenure mix for the remainder of the affordable housing that they are seeking to secure. However, we also recognise that there will be a number of local plans and neighbourhood plans that have been prepared based on the existing National Planning Policy Framework and that have reached more advanced stages of the plan-making process. We do not intend that the evidence base for these should be re-opened, thus delaying the plan-making process. The following transitional arrangements will therefore apply.

Local plans and neighbourhood plans that have been submitted for Examination<sup>[1]</sup> before 28 June 2021 are not required to reflect the First Homes policy requirements. Additionally, local plans and neighbourhood plans that have reached publication stage<sup>[2]</sup> by 28 June 2021 will also not be required to reflect the First Homes policy requirement as long as they are submitted for Examination before 28 December 2021. However, reflecting our desire to introduce First Homes requirements at the earliest possible opportunity, Planning Inspectors should consider through the Examination whether a requirement for an early update of the local plan might be appropriate.

Where local and neighbourhood plans are adopted under the aforementioned transitional arrangements, the First Homes requirements will also not need to be applied when considering planning applications in the plan area until such time as the requirements are introduced through a subsequent update.

Where local and neighbourhood plans do not benefit from the aforementioned transitional arrangements, the local planning authority should make clear how existing policies should be interpreted in the light of First Homes requirements using the most appropriate tool available to them.

We also recognise that many developers will have been preparing planning applications under different assumptions. Across all local authorities, the new requirement for 25% First Homes will not apply to sites with full or outline planning permissions already in place or determined (or where a right to appeal against non-determination has arisen) before 28 December 2021 (or 28 March 2022 if there has been significant pre-application engagement), although local authorities should allow developers to introduce First Homes to the tenure mix if they wish to do so. This transitional allowance will also apply to permissions and applications for entry-level exception sites.

The Government will continue to monitor the effectiveness of these transitional arrangements in light of emerging economic circumstances.

### **Level of discount**

The minimum discount for First Homes should be 30% from market value, which will be set by an independent registered valuer. The valuation should assume the home is sold as an open market dwelling without restrictions. Where evidence justifies it (either in the local or neighbourhood plan, an emerging policy or, where appropriate, a Supplementary Planning Document), the minimum discount in an area can be increased to 40% or 50%.

where discounts of more than 30% are applied to First Homes, the requirement for a minimum of 25% of the affordable housing units secured through developer contributions to be First Homes will remain in place. The approach to delivering the remaining 75% of affordable housing is set out above.

### **Community Infrastructure Levy (CIL)**

The Government has introduced new Community Infrastructure Levy (CIL) regulations which allow the developers of First Homes to obtain an exemption from the requirement to pay CIL, in line with other affordable housing products. These regulations came into force on 16 November 2020.

### **Exception Sites**

A key priority of this Government is to enable as many people as possible to enjoy the benefits of home ownership, and First Homes are a crucial way in which this will be achieved. In order to maximise the number of First Homes made available to those keen to get on the housing ladder, the Government is also seeking to deliver First Homes via exception sites. Exception sites are small sites brought forward outside of development plans in order to deliver affordable housing, and currently consist of rural exception sites and entry-level exception sites.

While the Government supports the mechanism of allowing land to come forward outside of the development plan to deliver much-needed homes via exception sites, the entry-level exception site policy has not delivered affordable housing to the extent originally envisaged. Following the consultation, the Government is replacing this policy with a 'First Homes exception sites' policy, in order to encourage First Homes-led developments on land that is not currently allocated for housing. Local authorities should support the development of these First Homes exception sites, suitable for first-time buyers, unless the need for such homes is already being met within the local authority's area. Local connection criteria may be set where these can be supported by evidence of necessity and will not compromise site viability. First Homes exception sites should be on land which is not already allocated for housing and should:

a) comprise First Homes (as defined in this Written Ministerial Statement)

b) be adjacent to existing settlements, proportionate in size to them, not compromise the protection given to areas or assets of particular importance in the National Planning Policy Framework[3], and comply with any local design policies and standards.

A small proportion of market homes may be allowed on the site at the local authority's discretion, for example where essential to enable the delivery of First Homes without grant funding. Also, a small proportion of other affordable homes may be allowed on the sites where there is significant identified local need.

While the Government wants to ensure that home ownership is available to as many people as possible, we recognise that certain rural areas face particular challenges in terms of affordability, and that rural exception sites can be very effective in addressing the lack of affordable housing in these areas. As such, the Government has decided that in designated rural areas[4], which includes some of the more constrained and expensive regions of the country such as National Parks and Areas of Outstanding Natural Beauty, rural exception sites will remain as the sole exception site which can come forward. Elsewhere, First Homes exception sites and rural exception sites can both come forward.

### **Delivering Shared Ownership homes**

This Government believes Shared Ownership has a vital role to play in supporting people from all backgrounds to become homeowners. By purchasing a share of a property, aspiring homeowners can overcome the income and deposit barriers that can stand in their way. This is why the Government is making Shared Ownership work better by introducing a new model for Shared Ownership which will be delivered through grant funding and through the planning system.

On 28 August 2019, we ran a discussion paper to consult on several proposed changes to the Shared Ownership model. In the Government's response to the consultation, published in September 2020, we confirmed the outline of the new model of Shared Ownership and committed to set an expectation for Shared Ownership homes secured through the planning system to be based on the new model.

The [new model for Shared Ownership: technical consultation](#), which ran from 19 November to 17 December 2020, set out further details of the new model of Shared Ownership, including the proposal that we will expect all Shared Ownership homes delivered through obligations under Section 106 of the Town and Country Planning Act 1990 to be based on the new model. We consulted on potential transitional arrangements.

We are today confirming that this expectation will come into effect from 28 June 2021. The principal changes to the Shared Ownership model are summarised as follows:

i) Minimum share to be purchased

The minimum share for initial Shared Ownership purchases will be lowered to 10% from the current 25%. The maximum share at initial purchase will remain unchanged at 75%.

ii) The purchase of further shares ('staircasing')

New shared owners will be able to staircase in 1% increments for 15 years enabling shared owners to purchase up to 15% through this route. This option will be accompanied by reduced fees. It will still be possible to staircase in larger increments with the minimum additional share purchase reduced from 10% to 5%. Shared owners wishing to staircase in 5% increments or more will have to pay the range of fees as currently, such as a valuation fee, legal and mortgage costs as appropriate.

iii) Shared ownership resales

The new Shared Ownership model will end the provider's resale nomination period at the four week point if they wish to pursue a sale on the open market.

iv) Responsibility for repairs and maintenance

The new shared ownership model introduces a new 10-year period during which the Shared Ownership Leaseholder will receive support from their landlord with the cost of repairs and maintenance in new build homes. Only after 10 years will the shared owner take on full responsibility for any repairs and maintenance costs. This 10-year period is in addition to any repairs or maintenance covered by the new build warranty to cover any works required that the warranty does not cover.

v) Shared Ownership lease term

All new leases must be issued with a minimum lease length term of 990 years. These longer leases will provide long term security for shared owners and save them from paying for multiple lease extensions.

We believe these reforms will make the scheme more consumer friendly, easier to access and fairer, leading to a better experience for a future generation of shared owners.

The Government response to the new model for Shared Ownership: technical consultation, that we published in April 2021, sets out further details on these changes. You can also consult the Homes England Capital Funding Guide (<https://www.gov.uk/guidance/capital-funding-guide/1-help-to-buy-shared-ownership>), or the GLA Capital Funding Guide for homes in London, for further guidance on how to implement Shared Ownership.

Later this month, Homes England will publish a model lease which can be used as a basis for leases under the new model of Shared Ownership.

We recognise that many developers will have been preparing planning applications under different assumptions. The new requirement for the new Shared Ownership model will not apply to sites with full or outline planning permissions already in place or determined (or where a right to appeal against non-determination has arisen) before 28 December 2021 (or 28 March 2022 if there has been significant pre-application engagement), although local authorities should allow developers to introduce the new Shared Ownership model if they wish to do so.

The local and neighbourhood plan transitional arrangements set out above for First Homes also apply to the new requirement for the new Shared Ownership model.

[1] Regulation 15 of the Neighbourhood Planning (General) Regulations 2012 for Neighbourhood Plans, and Regulation 22 of Town and Country Planning (Local Planning) (England) Regulations 2012 for Local Plans.

[2] Regulation 14 of the Neighbourhood Planning (General) Regulations 2012 for Neighbourhood Plans, and Regulation 19 of the Town and Country Planning (Local Planning) (England) Regulations 2012 for Local Plans.

[3] i.e. the areas referred to in footnote 6 of the National Planning Policy Framework. First Homes exception sites should not be permitted in National Parks (or within the Broads Authority), Areas of Outstanding Natural Beauty, land designated as Green Belt, or areas designated as rural under s. 157 of the Housing Act 1985.

[4] As set out in Annexe 2 of the National Planning Policy Framework

## Statement from

**Ministry of Housing, Communities and Local Government**

## Linked statements

This statement has also been made in the House of Commons

**Ministry of Housing, Communities and Local Government** >

Affordable Homes Update



[Christopher Pincher](#)

Minister of State for Housing  
Conservative, Tamworth

Statement made 24 May 2021

HCWS50

 Commons



Community & Environment Committee  
5<sup>th</sup> July 2021

Report of the Director of Housing

## **AFFORDABLE HOUSING DEVELOPMENT PROGRAMME**

### **PURPOSE OF REPORT**

This report sets out the details of the current affordable housing programme. It incorporates progress on current schemes, those recently completed and those in the ‘pipeline’.

### **RECOMMENDATION**

1. That the outturn for 2020/21 be noted
2. That the projected completions for 2021/22 be noted

### **WARDS AFFECTED**

All wards

### **STRATEGIC LINK**

Enabling the development of affordable housing supports the Council's priority of providing housing which meets local needs. The schemes in this report are a key part of alleviating housing need within the District.

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## **1 SUMMARY**

- 1.1. It has been previously reported to the Committee that there had been an acceleration of private developer led sites in the Derbyshire Dales. The onset of Covid-19 in early 2020 inevitably slowed the extent to which new sites were coming forward. But activity has recovered since the initial slow down, with developers implementing covid-safe methods of construction. Consequently, the Council has continued to successfully negotiate the provision of on-site affordable homes. Some of these sites also provide an off-site financial contribution in the form of payments to the Council which are then used to support our wider housing enabling activity.
- 1.2. The government's national policy towards housing fluctuates over time. Currently, we are in a period of high investment, with significant financial support to fund the delivery of new housing, as government seeks to boost delivery across all tenures including affordable housing.
- 1.3. The Derbyshire Dales has a strong relationship with several housing association partners, Platform Housing Group (formerly Waterloo Housing Group), Nottingham Community Housing Association (NCHA), Peak District Rural Housing Association (PDRHA) and with private developers to ensure on site homes can be bought by the 3 associations. The District Council's funding has given NCHA, PDRHA and Platform the confidence to invest more of their resources here rather than elsewhere. The

District Council also works with other housing associations, Community Land Trusts and Almshouses.

- 1.4 The recent commencement of the Council's development and acquisition programme will further boost the supply of affordable housing, making available new housing that will be retained in ownership by the Council. A separate report setting out extensive details on this programme was presented to the committee in April 2021.
- 1.5 This report sets out the whole range of current schemes, both from the council's own development programme and also its wider partnership working with housing associations.
- 1.6 The scheme-by scheme specifics are provided in table 2.1 below. Council funding in support of these schemes will be set out in a separate report relating to the Capital Programme.

## 2 REPORT

- 2.1 In order to consider our current programme in context, it is useful to compare it with what has happened in recent years. Table 2.1 below shows completions in 2019/20 - before Covid-19 began to have an impact.

**Table 2.1: Affordable Housing Completions 2019/20**

Scheme	Provider	No. of Homes
Ashbourne, land south of Derby Road (48 in total)	Platform	13
Matlock, Dimple Road	Platform	12
Barmote Croft, Wirksworth (conversion)	Platform	7
Doveridge, Derby Rd East of Baker's Lane (Bellways)	Plexus/Mears Group	11
Hulland Ward, Biggin View (Cameron homes)	Derwent	9
Taddington	PDRHA	4
Bradwell, 12 tenanted properties	PDRHA & Bradwell CLT	12
Ashbourne, 1 buy back of a RTB	Platform	1
Ashbourne, Lathkill Drive (Chevin)	Futures	13
<b>Total</b>		<b>82</b>

- 2.2 Completions in 2020/21 were substantially down from the preceding year, due mainly to the impact of Covid 19. Table 2.2, below, shows the detail.

**Table 2.2: Affordable Housing Completions 2020/21**

Area	Provider	No. of Homes
Winster	PDRHA	4
Hulland Ward	PDRHA	6
Ashbourne	Platform	2
<b>Total</b>		<b>12</b>

2.3 2021/22 is showing a substantial recovery in numbers, as Covid-safe construction methods have allowed delivery to continue. Schemes underway or scheduled to finish in the current financial year are tabulated in 2.3 below:

**Table 2.3 Affordable Housing Schemes 2021/22**

Area	Scheme description	No. of Homes	Provider	Status/ start on site	Est Completion
Ashbourne	Henmore Gardens (S106)	7	Platform	Under construction	TBC
Bakewell	Lady Manners Development	30	Platform	Under construction	June 2021
Hartington	Former Dove Dairy site (S106)	5	TBC	2021	TBC
Matlock	Bakewell Rd	57	NCHA	Under construction	2021-22
Matlock /Darley Dale	Individual Empty Homes	2	DDDC	TBC	TBC
Marston Montgomery	Appletree Lane (S106)	5	WildGoose / PDRHA	Under construction	June 2021
Monyash	Former Riverside HA properties, Soldiers Croft	5 (existing affordable properties)	DDDC	TBC	2021
<b>Total</b>		<b>104</b>			

2.4. There are a number of other possible schemes where discussions are still at an early stage. When these have progressed into to more concrete proposals they will be brought to the attention of this committee.

### **3 RISK ASSESSMENT**

#### **3.1. Legal**

As this report is for noting progress only there is no legal risk as no decisions are being made.

#### **3.2. Financial**

The schemes within this affordable housing programme have already been included in the Council's capital programme. Therefore, the financial risk of this report is assessed as low.

#### 4 OTHER CONSIDERATIONS

In preparing this report, the relevance of the following factors has also been considered: prevention of crime and disorder, equalities, environmental, climate change, health, human rights, personnel and property.

#### 5 CONTACT INFORMATION

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#### 6 BACKGROUND PAPERS

Date	Description	Location
2021	Community and Environment Committee 7th April 2021, Council Housing Update Report	Director of Housing
2019	Community and Environment Committee 26 June 2019, Affordable Housing Development Programme	Director of Housing