

23 January 2018

<b>Committee</b>	Executive
<b>Date</b>	Wednesday, 31 January 2018
<b>Time of Meeting</b>	2:00 pm
<b>Venue</b>	Committee Room 1

**ALL MEMBERS OF THE COMMITTEE ARE REQUESTED TO ATTEND**



**for Sara J Freckleton  
Borough Solicitor**

## **Agenda**

### **1. ANNOUNCEMENTS**

When the continuous alarm sounds you must evacuate the building by the nearest available fire exit. Members and visitors should proceed to the visitors' car park at the front of the building and await further instructions (during office hours staff should proceed to their usual assembly point; outside of office hours proceed to the visitors' car park). Please do not re-enter the building unless instructed to do so.

In the event of a fire any person with a disability should be assisted in leaving the building.

### **2. APOLOGIES FOR ABSENCE AND SUBSTITUTIONS**

To receive apologies for absence and advise of any substitutions.



Item	Page(s)
<b>3. DECLARATIONS OF INTEREST</b>	
<p>Pursuant to the adoption by the Council on 26 June 2012 of the Tewkesbury Borough Council Code of Conduct, effective from 1 July 2012, as set out in Minute No. CL.34, Members are invited to declare any interest they may have in the business set out on the Agenda to which the approved Code applies.</p>	
<b>4. MINUTES</b>	1 - 8
<p>To approve the Minutes of the meeting held on 3 January 2017.</p>	
<b>5. ITEMS FROM MEMBERS OF THE PUBLIC</b>	
<p>To receive any questions, deputations or petitions submitted under Rule of Procedure 12.</p> <p><i>(The deadline for public participation submissions for this meeting is 25 January 2018)</i></p>	
<b>6. EXECUTIVE COMMITTEE FORWARD PLAN</b>	9 - 11
<p>To consider the Committee's Forward Plan.</p>	
<b>7. BUDGET 2018/19</b>	To Follow
<p>To recommend a budget for 2018/19 to Council for approval.</p>	
<b>8. FINANCIAL UPDATE - QUARTER THREE 2017/18 PERFORMANCE</b>	12 - 20
<p>To consider and scrutinise the Council's financial performance information for the third quarter of 2017/18.</p>	
<b>9. GLOUCESTERSHIRE FLOOD RELIEF FUND</b>	21 - 23
<p>To agree to the appointment of new Trustees in order to release the funds remaining in the Gloucestershire Flood Relief Fund in line with the original intentions of the fund.</p>	
<b>10. COUNCIL TAX - EMPTY HOMES PREMIUM</b>	24 - 27
<p>To make a recommendation to Council that a Council Tax Empty Homes Premium of 50% is implemented from 1 April 2018 in respect of properties that have been unoccupied and substantially unfurnished for more than two years.</p>	
<b>11. PLANNING ENFORCEMENT PLAN</b>	28 - 56
<p>To endorse the comments of the Overview and Scrutiny Committee and to approve the draft Planning Enforcement Plan for public consultation.</p>	
<b>12. FLOOD AND WATER MANAGEMENT SUPPLEMENTARY PLANNING DOCUMENT ADOPTION</b>	57 - 134
<p>To recommend the Flood and Water Management Supplementary Planning Document to Council for adoption.</p>	

**DATE OF NEXT MEETING**  
**WEDNESDAY, 14 MARCH 2018**  
**COUNCILLORS CONSTITUTING COMMITTEE**

Councillors: K J Berry, R A Bird (Vice-Chair), G F Blackwell, M Dean, R Furolo, J Greening, E J MacTiernan, J R Mason and D J Waters (Chair)

**Substitution Arrangements**

The Council has a substitution procedure and any substitutions will be announced at the beginning of the meeting.

**Recording of Meetings**

Please be aware that the proceedings of this meeting may be recorded and this may include recording of persons seated in the public gallery or speaking at the meeting. Please notify the Democratic Services Officer if you have any objections to this practice and the Chairman will take reasonable steps to ensure that any request not to be recorded is complied with.

Any recording must take place in such a way as to ensure that the view of Councillors, Officers, the public and press is not obstructed. The use of flash photography and/or additional lighting will not be allowed unless this has been discussed and agreed in advance of the meeting.

## TEWKESBURY BOROUGH COUNCIL

**Minutes of a Meeting of the Executive Committee held at the Council Offices,  
Gloucester Road, Tewkesbury on Wednesday, 3 January 2018 commencing at  
2:00 pm**

**Present:**

Chair	Councillor D J Waters
Vice Chair	Councillor R A Bird

**and Councillors:**

K J Berry, G F Blackwell, M Dean, R Furolo, J Greening, E J MacTiernan and J R Mason

**also present:**

Councillors P W Awford and T A Spencer

**EX.69 ANNOUNCEMENTS**

- 69.1 The evacuation procedure, as noted on the Agenda, was advised to those present.
- 69.2 The Chair welcomed Councillors Awford and Spencer to the meeting. He advised that Councillor Awford was in attendance as Chair of the Overview and Scrutiny Committee to introduce Item 7, Performance Management Report – Quarter Two 2017/18, and Councillor Spencer was in attendance as the local Member to observe Item 9, Twyning Neighbourhood Plan Referendum. In addition, the Chair introduced Katie Jenkins from the Department for Business Energy and Industrial Strategy who was shadowing the Chief Executive for the day.

**EX.70 DECLARATIONS OF INTEREST**

- 70.1 The Committee's attention was drawn to the Tewkesbury Borough Council Code of Conduct which was adopted by the Council on 26 June 2012 and took effect from 1 July 2012.
- 70.2 There were no declarations of interest made on this occasion.

**EX.71 MINUTES**

- 71.1 The Minutes of the meeting held on 22 November 2017, copies of which had been circulated, were approved as a correct record and signed by the Chair.

**EX.72 ITEMS FROM MEMBERS OF THE PUBLIC**

- 72.1 There were no items from members of the public on this occasion.

**EX.73 EXECUTIVE COMMITTEE FORWARD PLAN**

73.1 Attention was drawn to the Committee's Forward Plan, circulated at Pages No. 10-12. Members were asked to consider the Plan.

73.2 Accordingly, it was

**RESOLVED:** That the Committee's Forward Plan be **NOTED**.

**EX.74 PERFORMANCE MANAGEMENT REPORT - QUARTER TWO 2017/18**

74.1 The report of the Chair of the Overview and Scrutiny Committee, circulated at Pages No. 13-50, asked Members to review and, if appropriate, take action on the observations of the Overview and Scrutiny Committee following its review of the 2017/18 quarter two performance management information.

74.2 Attention was drawn to the observations made by the Overview and Scrutiny Committee, attached at Appendix 1 to the report, and to the Council Plan Performance Tracker, attached to the report at Appendix 2.

74.3 The Overview and Scrutiny Committee Chair explained that the Committee had noted the performance management report which included key activities achieved in the quarter. These were highlighted in Paragraph 2.3 of the Executive Committee report and included additional property investment; commencement of the refurbishment project; an excellent peer review outcome for the Housing Team; and, since the Overview and Scrutiny Committee, approval of the Joint Core Strategy. The Committee had also noted those Council Plan actions that were not progressing in accordance with the timetable and they were summarised in Paragraph 2.4 of the report including the regeneration of the Spring Gardens site; working in partnership to redevelop Healings Mill; and a slight delay to the target date for the completion of the refurbishment project. It was recognised by Members that, overall, delivery of the Council Plan was on track but, inevitably, some actions may not progress as smoothly as expected. The Committee had looked through the performance tracker page by page to gain assurance on the accuracy of reporting and to obtain more detailed information where appropriate. The questions raised by the Committee were attached at Appendix 1 to the report and, in particular, it was recognised that the Property Team had acquired three new properties as part of the Council's property investment portfolio; assurance was sought that a review of the trade waste service would be moving forward as, to date, timescales had not been achieved; clarification was provided as to the role of the Council in relation to the development of the Healings Mill site and Members were advised that the new target date of January 2018 was when a broad outline and brief of the site would be developed; the performance in processing minor planning applications had been challenged – this had been reported positively but Members struggled to see how a 90% target could be achieved based on an outturn of 66.04% and 68.29% for quarters one and two; assurance had been provided that there would be no further slippage in the target date or completion of the refurbishment project; and it had been recognised that the Environmental Health and Planning Services needed to be fit for purpose - a revised target date of April 2018 would ensure enough time was available to look at these services. In addition, concern had been expressed by Members as to the level of sickness absence and the Committee had been advised that a review of the Absence Management Policy was a pending item in the Committee's work programme and was likely to be undertaken in February.

- 74.4 In addition, the Overview and Scrutiny Committee Chair advised that there would possibly be a detailed Scrutiny Review on the serious water main leak that had occurred recently and he invited the Chief Executive to provide some information on this. The Chief Executive advised that on 15/16 December there had been a serious water main burst in Tewkesbury. This had raised a number of issues over things that had gone well/less well but, in addition, it had been the second large supply disruption within six months. He had discussed the matter with the Overview and Scrutiny Committee Chair and the Leader and Deputy Leader of the Council and it had been agreed that Overview and Scrutiny Committee would be asked if it wished to undertake a review in public to look at the reasons for the interruption in supply and the way in which the disruptions had been handled by all of the agencies involved. He had spoken to Severn Trent which was supportive of the review. He had also written to the Chief Constable and the Chief Fire Officer from whom responses were awaited. The way in which the review would be carried out was for the Overview and Scrutiny Committee to decide but, in the first instance, the matter would be raised at the next meeting to see if it was something the Committee wished to take forward.
- 74.5 Referring to economic development, a Member questioned when the Council's vacant Tourism Officer post would be filled. In response, the Head of Development Services explained that this was being considered as part of the overall review of Development Services. It was anticipated that the outcomes of the review would be available for Members' consideration shortly. The Member emphasised the importance of tourism to Tewkesbury Borough and felt this needed to be addressed as a priority. The Head of Development Services agreed that tourism was of the utmost importance. She was acutely aware of the need to ensure the Council was responding to the tourism industry in the best and most effective way and this would be at the heart of any decisions made on how best to approach tourism in the future. In addition, the Deputy Chief Executive confirmed that all aspects needed to be considered before the post was filled on a 'like for like' basis. There was certainly not an intention to dilute the Council's tourism offer but there may be options to deliver it in a more effective way and this was what would be considered within the review and then, in due course, by Members.
- 74.6 In response to a Member query, the Overview and Scrutiny Chair commented that, in his view, the scrutiny of the performance information had been extremely thorough and Members had been content that the Council's performance overall was heading in the right direction. A Member referred to the Council's commercial property investments and questioned whether the government's announcements on how the rules on this might change would affect it. In response, the Deputy Chief Executive advised that, at this stage, the rules had not changed but it was understood that the Department for Communities and Local Government was exploring the issue and looking at how Councils across the country were approaching property investments. One of the key things was governance arrangements which was something Tewkesbury Borough Council was very good at; it had a Commercial Investment Board which comprised six Members and was tasked with looking at each investment carefully to understand what the investment was and why the Council was investing as well as ensuring that it was investing proportionately and that risks were being mitigated.
- 74.7 Accordingly, it was

**RESOLVED:** That the Overview and Scrutiny Committee's comments on the Performance Management Report for Quarter Two of 2017/18 be **NOTED**.

**EX.75 HOUSING STRATEGY MONITORING REPORT**

- 75.1 The report of the Head of Community Services, circulated at Pages No. 51-75, presented the action plan for 2018/19 which formulated the actions needed to continue to meet the priorities of the Housing Strategy. Members were asked to consider and support the Housing Strategy Action Plan for 2018/19.
- 75.2 The Deputy Chief Executive explained that the Housing Strategy 2017-21 had been developed by an Overview and Scrutiny Working Group and had been adopted in January 2017. The comprehensive Housing Strategy incorporated renewal as well as two distinct sub-strategies: the Homelessness and Prevention of Homelessness Strategy and the Tenancy Strategy. The strategy contained four key priorities to meet the needs of the Borough which were to increase the supply of housing; to prevent homelessness; to meet the needs of specific groups; and to improve the health and wellbeing of local people. The Homelessness Act 2002 and Local Government Act 2003 required all District Councils to develop a strategy that set out the Council's policies, commitments and programme for a wide range of housing matters. Following the development of the Council's Housing Strategy 2017-21, the Overview and Scrutiny Committee had requested that outcomes identified in the strategy action plan be monitored, that regular updates be presented to the Overview and Scrutiny Committee and that the annual action plan be refreshed and agreed by the Executive Committee on an annual basis. The report currently before Members was the annual refresh. Last year, the Council had achieved a good peer review outcome which meant the service could apply for bronze level status and this was also reflected in the action plan.
- 75.3 A Member drew attention to Page No. 53 – Paragraph 2.2.1 - of the report which explained that two actions regarding alternative construction methods to deliver affordable housing on Council-owned land had been removed following completion but at Page No. 66 it seemed the same action was being progressed. The Member questioned why this would have been removed as the Council had only just starting looking into it at this stage. In response, the Deputy Chief Executive confirmed that this was still being investigated and the action plan would be amended to make this clear. In terms of specific mentions of modular housing, the Deputy Chief Executive explained that this was a solution to a number of issues throughout the Housing Strategy action plan; however, it was not included as a specific action and this was something that could be added should Members so wish.
- 75.4 Referring to Page No. 59 – Identify long-term empty homes and use a range of enforcement and incentive options to bring vacant homes back into use; where possible evaluating and encouraging their use to benefit the Council's housing services – a Member questioned whether Severn Vale Housing Society would be helping with this. In response, the Committee was advised that the Housing team interrogated the Council Tax system for records of empty homes and those tended to be private sector housing so would not be the responsibility of Severn Vale Housing Society. It was a statutory responsibility of the Council to bring properties back into use and Officers were looking at a number of incentives to achieve this including loans for repairs. A Member indicated that there were large numbers of empty properties and a huge need for homes; he questioned whether any authorities were successfully addressing this problem and also where the Council would get the funding to make loans to owners for those properties. The Deputy Chief Executive advised that, as part of the homelessness reduction plan, there was a need to look at all options in terms of bringing empty properties back into use. There was no specific plan as such but Officers were looking to develop a project around bringing properties back into use and what incentives would be needed etc. If the way forward was the provision of financial contributions it would

of course be a decision for the Executive Committee to make. It was understood that Stroud District Council had an Empty Properties Officer who worked directly with landlords and would lead on projects; this may be the kind of approach the Council needed to consider. A Member expressed concern that the offer of loans to bring properties back into use could encourage landlords to let properties fall into disrepair and she felt it would be better to target empty properties that were already fit for purpose before those that were in need of refurbishment. She knew of a number of properties in her area that were brand new but had not been sold so had been empty for quite a long time, as well as one property that was fully refurbished and furnished but had lay empty for at least six months. The Deputy Chief Executive confirmed that a holistic approach was required and the Housing, Environmental Health and Revenues and Benefits teams were working closely to find the best way forward. The Revenues and Benefits Manager confirmed that there had been some announcements in the Chancellor's autumn statement which could help the position; those were being considered and would be brought to Members as and when appropriate.

- 75.5 A Member suggested the report would be more helpful if it included quantifiable numbers i.e. how many homes the Council needed to bring back into use. In response, the Deputy Chief Executive advised that the purpose of the report was for the Executive Committee to consider and approve the action plan which was, essentially, a list of projects that would come forward over time. In terms of specific numbers, the Committee was advised that there were around 270 long term empty properties (those vacant for six months or more) in the Borough and just fewer than 1,900 people on the housing waiting list. All of the empty properties had been visited so Officers had a good grasp of what and where they were as well as what would be needed to bring them back into use. In response to a query regarding the status of the properties, Members were advised that empty properties which were for sale would be viewed favourably by the Council as long as the owners could demonstrate they were being actively marketed. Part of the issue was about raising the standard of housing stock for residents of the Borough but also to provide properties for people that needed them. In terms of the idea of providing a loan to homeowners to enable them to refurbish a property to bring it back into use, this would involve a legal charge on the property and a condition that it would be rented to someone in housing need once it was repaired. The Deputy Chief Executive thanked Officers for their views and indicated that the project could be prioritised higher on the action plan, should Members so wish.
- 75.6 A Member indicated that there were a lot of actions in the plan and he questioned whether, in reality, it could be resourced. In response, the Chief Executive explained that an action plan should not be submitted to Members if the resources were not available to achieve the actions. The action plan ran until 2019 but, if Members felt the use of empty homes needed to be more of a priority, Officers could look at bringing it forward; however, this may mean something else had to take less of a priority. In comparative terms, 270 long term empty properties was not a huge number but it was understood that every little helped in terms of the provision of housing. Bringing empty homes back into use was one of the ways in which the supply of housing could be increased.
- 75.7 Accordingly, it was

**RESOLVED:** That the Housing Strategy Action Plan for 2018/19 be supported.

**EX.76 TWYNING NEIGHBOURHOOD PLAN REFERENDUM**

- 76.1 The report of the Planning Policy Officer, circulated at Pages No. 76-200, sought approval for the Twyning Neighbourhood Plan to proceed to a community referendum.
- 76.2 As could be seen within the report, Twyning Parish Council had confirmed that it fully supported the amendments made to its Plan by the independent examiner and asked that the Plan was submitted for a referendum. The Head of Development Services explained that the Council had a duty to advise and assist communities in the development of their Neighbourhood Plans and the Twyning Neighbourhood Development Plan was the fourth one within the Borough to get to the referendum stage. The Plan had been through the necessary consultation period, as well as an independent examination, and the report of the examiner was attached as an Appendix to the Committee report.
- 76.3 The local Member advised that the community had been working through the neighbourhood planning exercise for quite some time and he felt the Plan was now ready to go forward. He hoped Members would support its submission for a community referendum.
- 76.4 Accordingly, it was

**RESOLVED:** That the modifications made to the Twyning Neighbourhood Plan, as recommended by the Examiner, be **APPROVED** and it be formally **AGREED** that the Plan be progressed to Community Referendum, ascribed by Regulation 18 of the Neighbourhood Planning (General) Regulations 2012 (as amended).

**EX.77 BUSINESS RATES UPDATE**

- 77.1 The report of the Head of Corporate Services, circulated at Pages No. 201-210, sought to gain approval for the amendment of the Business Rates Policy for New Reliefs to ensure the Council was able to provide support to those businesses affected by the business rates revaluation. It also provided an update on the implementation of the other spring budget 2017 business rates changes and further changes announced in the autumn budget. Members were asked to adopt the revised policy for awarding reliefs to ratepayers facing significant increases in business rates bills following the 2017 revaluation; to adopt the Business Rates Relief Scheme for Pubs for 2018/19; to adopt the doubling of Rural Rate Relief for 2018/19; and to delegate authority to the Head of Finance and Asset Management, in consultation with the Lead Member for Finance and Asset Management, to implement any further business rates reliefs which were introduced by the government.
- 77.2 The Head of Corporate Services explained that the report sought to provide an update on the implementation of the changes to business rates which had been announced in the spring budget as well as further changes announced in the autumn budget. He drew particular attention to Paragraph 2.2 of the report which confirmed three measures introduced by the government to provide support to businesses: small businesses relief; local discretionary relief schemes; and rate relief for pubs. Paragraphs 2.4-2.11 confirmed the actions taken to date but, in particular, Paragraph 2.6 set out proposed amendments to the Council's local discretionary relief scheme which were needed because the software system used could not deal with the complexity of the previously agreed scheme. He explained that the broad principles of the scheme would remain unchanged but there were two amendments proposed which would mean it could be implemented and that,

overall, more of the government grant would find its way to the businesses that needed it.

77.3 A Member questioned whether the Council's software system needed to be changed if it could not accommodate the complexity of the policy introduced. In response, the Revenues and Benefits Manager explained that, unfortunately, the parameters of the previous policy had not been tested in the system prior to being agreed by the Committee; however, the minor changes she was proposing had been tested and she was confident they could be delivered. Referring to Paragraph 2.9 of the report, a Member questioned whether providers of ultrafast broadband would receive 100% relief. In response, he was advised that this was pending legislation from central government but any business that met the necessary criteria could receive relief. It was understood that, currently, the intention was for the legislation to be backdated to April 2017 but, under Section 31, the Council would get that back on a pound for pound basis so there would be no cost to implement the reliefs.

77.4 Accordingly, it was

**RESOLVED:**

1. That the revised policy for awarding reliefs to ratepayers facing significant increases in business rates bills following the 2017 revaluation be **ADOPTED**.
2. That the Business Rates Relief Scheme for Pubs for 2018/19 be **ADOPTED**.
3. That the doubling of Rural Rate Relief for 2018/19 be **ADOPTED**.
4. That delegated authority be given to the Head of Finance and Asset Management, in consultation with the Lead Member for Finance and Asset Management, to implement any further business rate reliefs introduced by government.

**EX.78 COUNCIL TAX REDUCTION SCHEME 2018-19**

78.1 The report of the Head of Corporate Services, circulated at Pages No. 211-214, set out the requirement for the Council to have in place a Council Tax Reduction Scheme to support residents who qualified for assistance in paying Council Tax. Members were asked to recommend to Council that the Council Tax Reduction Scheme for 2018/19 be adopted.

78.2 The Head of Corporate Services explained that, in 2013, the Council Tax Benefit which residents could apply for to assist with the payment of their Council Tax had been abolished. Local authorities had then been responsible for setting their own Council Tax Reduction Schemes for working age people; the scheme for pensioners was set by government and was not subject to funding cuts. In devising new schemes, most local authorities had adopted something that replicated the old Council Tax Benefit schemes and then applied a minimum payment for working age customers to make up the difference. The legislation expected the Council to review its scheme on an annual basis and this needed to be done by 31 January 2018. The recommendation was that the current scheme would remain in place for 2018/19 but would be reviewed thereafter. The Head of Corporate Services indicated that this was a possible item for a scrutiny review but would be discussed by the Overview and Scrutiny Committee in due course.

78.3 Accordingly, it was

**RESOLVED:** That it be **RECOMMENDED TO COUNCIL** that the Council Tax Reduction Scheme for 2018-19 be **ADOPTED**.

**EX.79 SEPARATE BUSINESS**

79.1 The Chair proposed, and it was

**RESOLVED** That, under Section 100(A)(4) of the Local Government Act 1972, the public be excluded from the meeting for the following items on the grounds that they involve the likely discussion of exempt information as defined in Part 1 of Schedule 12(A) of the Act.

**EX.80 SEPARATE MINUTES**

80.1 The separate Minutes of the meeting held on 22 November 2017, copies of which had been circulated, were approved as a correct record and signed by the Chair.

The meeting closed at 3:00 pm

**EXECUTIVE COMMITTEE FORWARD PLAN 2017/18**

**REGULAR ITEM:**

- **Forward Plan – To note the forthcoming items.**

<b>Addition to 31 January 2018</b>
<ul style="list-style-type: none"> <li>• Gloucestershire Flood Relief Fund.</li> <li>• Council Tax – Empty Homes Premium.</li> </ul>

<b>Committee Date: 14 March 2018</b>			
<b>Agenda Item</b>	<b>Overview of Agenda Item</b>	<b>Lead Officer</b>	<b>Has agenda item previously been deferred? Details and date of deferment required</b>
Equalities Policy.	To approve the Equalities Policy.	Graeme Simpson, Head of Corporate Services.	No.
Review of Development Services.	To consider the outcomes from the review of Development Services.	Annette Roberts, Head of Development Services.	No.
<b>Confidential Item: Disposal of Land at Bishops Cleeve.</b>	To consider the information provided and agree a way forward.	<b>Simon Dix, Head of Finance and Asset Management.</b>	<b>Yes, deferred from 31 January 2018 for further discussion.</b>
<b>(To be considered in private because of the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 – Information relating to the financial or business affairs of any particular person (including the authority holding that information)).</b>			
<b>Confidential Item: Lower Lode Depot.</b>	To consider the information provided and agree a way forward.	<b>Simon Dix, Head of Finance and Asset Management.</b>	<b>No.</b>
<b>(To be considered in private because of the likely disclosure of exempt information as defined in Paragraph 3 of Part 1 of Schedule 12A to the Local Government Act 1972 – Information relating to the financial or business affairs of any particular person (including the authority holding that information)).</b>			

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Agenda Item 6

<b>Committee Date: 25 April 2018</b>			
<b>Agenda Item</b>	<b>Overview of Agenda Item</b>	<b>Lead Officer</b>	<b>Has agenda item previously been deferred? Details and date of deferment required</b>
Performance Management Report – Quarter Three 2017/18 (Annual).	To receive and respond to the findings of the Overview and Scrutiny Committee’s review of the quarter three performance management information.	Graeme Simpson, Head of Corporate Services.	No.
<del>Flood Risk Management Group Terms of Reference and Action Plan (Annual).</del>	<del>To undertake an annual review of the Terms of Reference of the Flood Risk Management Group and action plan.</del>	<del>Peter Tonge, Head of Community.</del>	Updated in line with the term of the Council instead.
Council Plan Update 2016/17 – Year Three (Annual).	To consider the Council Plan and make a recommendation to Council.	Graeme Simpson, Head of Corporate Services.	No.
High Level Service Plan Summaries (Annual).	To consider the key activities of each service grouping during 2017/18.	Graeme Simpson, Head of Corporate Services.	No.
ICT Strategy.	To approve the ICT Strategy.	Graeme Simpson, Head of Corporate Services.	No.
<b>Risk Management Strategy.</b>	<b>To approve the Risk Management Strategy.</b>	<b>Graeme Simpson, Head of Corporate Services.</b>	<b>Yes – training to be held on risk management prior to the development of the final strategy.</b>
<b>Planning Enforcement Policy.</b>	<b>Following public consultation, to recommend the Policy to Council for adoption.</b>	<b>Annette Roberts, Head of Development Services.</b>	No.

**PENDING ITEMS**

<b>Agenda Item</b>	<b>Overview of Agenda Item</b>
Confidential Item: Spring Gardens/Oldbury Road Regeneration.	To consider the information provided and agree a way forward.
Confidential Item: MAFF Site.	To consider the way forward for the site.
<b>Workforce Development Strategy.</b>	<b>To approve the Council's Workforce Development Strategy.</b>

## TEWKESBURY BOROUGH COUNCIL

<b>Report to:</b>	Executive Committee
<b>Date of Meeting:</b>	31 January 2018
<b>Subject:</b>	Financial Update – Quarter Three 2017/18 Performance Report
<b>Report of:</b>	Simon Dix, Head of Finance and Asset Management
<b>Corporate Lead:</b>	Rob Weaver, Deputy Chief Executive
<b>Lead Member:</b>	Lead Member for Finance and Asset Management
<b>Number of Appendices:</b>	Three

**Executive Summary:**

The budget for 2017/18 was approved by Council in February 2017 with the reserves being approved at Executive Committee in June 2017. This report is the third quarterly monitoring report of the Council's financial performance for the year.

The report highlights a quarter 3 surplus of £590,640 on the revenue budget and details the expenditure to date against both the capital programme and the approved reserves.

**Recommendation:**

- 1. To consider the financial performance information to Quarter 3 in 2017/18.**
- 2. To approve a set aside of £100,000 from accumulated surpluses to support the development of the A40 infrastructure business case.**

**Reasons for Recommendation:**

The Executive Committee is responsible for recommending the budget to Council and for the management and delivery of the approved budget during the financial year.

The quarterly financial report is to notify Members of any known significant variations to budgets for the current financial year, highlight any key issues, and to inform Members of any corrective action to be taken if required.

**Resource Implications:**

As detailed within the report.

If the budget is in deficit at year end then the Council will have to use reserves to fund the overspend, meaning that these resources are not available to fund other activities or future financial management of the Council's projected medium term budgets. The Council currently has a £450,000 General Fund balance, £330,000 to cover shortfalls in the medium term financial plan and a £250,000 retained business rates reserve.

**Legal Implications:**

None associated with the report.

**Risk Management Implications:**

A financial deficit will result in the utilisation of the limited reserves available to the Council. The financial performance of the Council is monitored on a monthly basis and reported to Members quarterly. Active management of the budget takes place to reduce the projected deficit whilst maintain delivery of services.

**Performance Management Follow-up:**

Budgets will continue to be monitored on a regular basis by budget holders supported by Finance. Quarterly monitoring reports will be presented to Members with the outturn position reported to the Committee in June 2018.

**Environmental Implications:**

None.

**1.0 INTRODUCTION/BACKGROUND**

1.1 This report provides the Quarter 3 (Q3) monitoring position statement for the financial year 2017/18. The purpose of this report is to notify Members of any known significant variations to budgets for the current financial year, highlight any key issues, and to inform Members of any action to be taken if required.

**2.0 REVENUE BUDGET POSITION**

2.1 The financial budget summary for Q3 shows a £590,640 surplus (£315,331–Q2) against the profiled budget. Below is a summary of the expenditure position for the Council split out between the main expenditure types:

<b>2.2 Services expenditure</b>	<b>Full Year Budget</b>	<b>Budget</b>	<b>Actual</b>	<b>Underspend/ (overspend)</b>
	<b>£</b>	<b>£</b>	<b>£</b>	<b>£</b>
Employees	8,644,124	6,299,959	6,214,358	85,601
Premises	521,412	404,908	388,593	16,316
Transport	169,250	125,228	100,833	24,395
Supplies & Services	1,819,164	1,406,805	1,342,324	64,481
Payments to Third Parties	4,957,832	3,853,638	3,769,577	84,061
Transfer Payments - Benefits	19,627,180	0	(86,981)	86,981
Income	(25,890,598)	(3,772,545)	(3,590,462)	(182,083)
Support Services	(17,954)	0	0	0
Capital Charges	992,592	0	0	0
	<b>10,823,002</b>	<b>8,317,993</b>	<b>8,138,241</b>	<b>179,753</b>
<b>Corporate Codes</b>				
Interest costs	57,086	42,815	(74,153)	116,968
Investment Properties	(1,179,467)	(926,317)	(1,025,237)	98,920
Corporate Savings Targets	(60,000)	(45,000)	0	(45,000)
New Homes Bonus	47,300	0	0	0
Business rates income	0	0	(240,000)	240,000
	<b>9,687,921</b>	<b>7,389,491</b>	<b>6,798,851</b>	<b>590,640</b>

- 2.3** The budget position in relation to the Heads of Service responsibility shows an underspend of £179,753 as at the end of December (£115,464 – Q2). As can be seen there are three main areas of savings - employees of £85,601, payments to contractors of £84,061 and the Housing Benefit service of £86,981.
- Employee costs savings are generated mainly through staff vacancies and maternity leave. Services have managed vacancies in the short term with limited use of agency staff and help from current staff to cover work.
- The underspend on payments to contractors is generated from small savings across all services. The Benefits service performance in ensuring that the Council keeps up-to-date on processing claims and changes as well as targeting overpayments means that the Council is recovering more subsidy on its expenditure than was budgeted.
- 2.4** In terms of overspends being reported at the half year stage there are two significant overspends which need to be reported to Members at this stage. Planning income has been consistently below target during Q3 leading to a deficit of £255,662 against budget on the Development service. Garden Waste is also below budget and is as a result of the changes to the charging structure whereby customers are making pro rata payments for this financial year. This was expected and is a one off issue relating to the change to a single renewal date for all customers and the introduction of a sticker system for bin collections.
- 2.5** Attached at Appendix A is a summary of the position for each Head of Service, which shows the current variance against their budget. Where the main types of expenditure headings within the Head of Service's responsibility have a variance over £10,000, a short explanation for the reason for the variance has been provided.
- 2.6** Although the Head of Service's position is underspent, the budget report also recognises the need to achieve savings from the base budget in terms of salaries and procurement savings. These savings targets are currently held on the corporate budget codes on the ledger. No savings are recognised against these plans as they accumulate through the year within service groupings. This has the effect of reducing the underspend on services by £45,000.
- 2.7** Also detailed under corporate budgets is the retained income from the Business Rates Scheme. This is showing a surplus of £240,000. This is a prediction of the year end position although it should be noted that there has been so far very little activity with regards to processing appeals against the new 2017 list. A number of outstanding appeals against the 2017 list have been processed or withdrawn. The Council has set aside a significant provision to cover appeals which is hoped to be sufficient in meeting successful appeals, therefore allowing the Council to benefit from wider increases in business rates income.
- 2.8** The Council also has a target for the acquisition of additional investment property. The Council has bid on properties in 2017 and has completed the purchase of three additional properties at a cost of £13.6m. These new properties will generate nearly £820,000 of gross income per year and, given the low interest rates currently being enjoyed, it is envisaged that they will make a contribution of £291,000 in excess of budget in the current year. It is suggested within the Commercial Investment Strategy that these monies are set aside to pump prime a sinking fund for the management of void costs.
- 2.9** Treasury Management activity has produced a positive variance of £116,968 against budget. Access to low borrowing rates, and the use of more lucrative funds for our cash investments, has resulted in our treasury management activity providing a much better return than expected.
- 2.10** Taking into account the positive position on the corporate accounts, the overall position of the Council at the end of Q3 is a surplus of £590,640.

**2.11** The Council has successfully bid for £4.53 million from the growth deal fund via the LEP to improve the existing Longford roundabout and to add a new roundabout east along the A40 to access the new development site at Innsworth. In order to access the funds, a business case needs to be put forward to the LEP Board for approval. The business case will need to include modelling, designs, financial justification, risks etc. all of which are revenue activities. This work will be contracted to transport consultants to undertake with a delivery timescale of Autumn 2018. The LEP Board will be presented with the business case in early 2019 which upon acceptance will allow the drawdown of the grant monies.

**2.12** It is anticipated that it will cost £100,000 to produce the business case with the work commencing in February 2018. The LEP Board will not finance the development of the business case but the money invested can be recovered from the overall grant once awarded. It is therefore necessary for the Council to forward fund the development of the business case with a 'loan' of £100,000 available from accumulated in-year surpluses.

### **3.0 CAPITAL BUDGET POSITION**

**3.1** Appendix B shows the capital budget position as at Q3. This is currently showing a significant underspend against the profiled budget.

**3.2** The underspend is as a result of not utilising all of the agreed funding on the purchase of commercial investment properties. There is also slippage in timescales on certain projects such as the refurbishment of the council offices and also consistent underspends against expectations on disabled facilities grants.

### **4.0 RESERVES POSITION**

**4.1** Appendix C provides a summary of the current usage of available reserves.

**4.2** Reserves have been set aside from previous years to fund known future costs and the strategic planning decisions on the authority's future operation. The information in the appendix does not take account of reserves which have been committed, but not yet paid.

**4.3** Whilst the Q3 position shows that there remains a significant balance on the reserves, the expectation is that the balances will be spent in the future. Finance has asked for updates from all departments about their plans to ensure that earmarked reserves are either used for their intended purpose, or released back to the general fund.

### **5.0 CONSULTATION**

**5.1** Budget holders have been consulted about the budget outturn for their service areas. The feedback has been incorporated in the report to explain differences between budgets and actual income and expenditure.

### **6.0 RELEVANT COUNCIL POLICIES/STRATEGIES**

**6.1** Budget monitoring is on the approved budget for 2017/18 which has been prepared in line with the Medium Term Financial Strategy.

### **7.0 RELEVANT GOVERNMENT POLICIES**

**7.1** None.

### **8.0 RESOURCE IMPLICATIONS (Human/Property)**

**8.1** None.

**9.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)**

**9.1** None.

**10.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)**

**10.1** None.

**11.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS**

**11.1** None.

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**Background Papers:** None.

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**Appendices:** A – Quarter 3 Revenue Position by Service.  
B – Quarter 3 Capital Position.  
C – Quarter 3 Earmarked Reserves Update.

# AP9 Budget Report

## Appendix A

### Chief Executive

	Full Year Budget	Budget	Actual	Savings / (Deficit)	Budget Variance
	£	£	£	£	%
Employees	241,157	180,599	180,956	(357)	(0.2)
Premises	0	0	0	0	-
Transport	2,898	2,178	1,628	550	25.3
Supplies & Services	4,132	3,052	3,340	(288)	(9.4)
Payments to Third Parties	2,000	2,000	195	1,805	90.3
Support Services	(250,187)	0	0	0	-
Income	0	0	0	0	-
<b>TOTAL</b>	<b>0</b>	<b>187,829</b>	<b>186,119</b>	<b>1,710</b>	<b>0.9</b>

### Community Services

	Full Year Budget	Budget	Actual	Savings / (Deficit)	Budget Variance	
	£	£	£	£	%	
Employees	1,013,123	758,925	734,811	24,114	3.2	1
Premises	2,500	1,876	325	1,551	82.7	
Transport	35,284	26,471	21,770	4,701	17.8	
Supplies & Services	155,744	105,807	82,223	23,584	22.3	2
Payments to Third Parties	4,197,547	3,405,292	3,386,995	18,297	0.5	3
Support Services	445,907	0	0	0	-	
Depreciation	542,291	0	0	0	-	
Income	(1,824,800)	(1,425,605)	(1,433,077)	7,472	(0.5)	
<b>TOTAL</b>	<b>4,567,596</b>	<b>2,872,766</b>	<b>2,793,046</b>	<b>79,720</b>	<b>2.8</b>	

1) Employee savings relate to a number of savings made due to having a vacant licencing officer post which is being partially covered by current establishment, along with general staff turnover, maternity and sickness.

2) The saving on supplies and services is mostly related to the ending of the safe at home initiative, which was the cost of overseeing Disabled Facility Grant (DFG) applications. This is not being charged as part of the capital costs of DFGs.

3) Payments to third parties are showing an underspend due to a saving on the anticipated cost of the end of life costs on the vehicle contract. This was being funded from New Homes Bonus and so savings will be returned to reserves to fund other one off projects. The saving on this is being offset by a £38k projected overspend on the Ubico contract.

### Corporate Services

	Full Year Budget	Budget	Actual	Savings / (Deficit)	Budget Variance	
	£	£	£	£	%	
Employees	1,665,669	1,289,324	1,316,886	(27,562)	(2.1)	4
Premises	0	0	0	0	-	
Transport	16,951	12,781	10,456	2,325	18.2	
Supplies & Services	479,695	365,985	363,877	2,107	0.6	
Payments to Third Parties	111,720	65,969	55,985	9,984	15.1	
Transfer Payments - Benefits Service	19,627,180	0	(86,981)	86,981	-	5
Support Services	(336,319)	0	0	0	-	
Depreciate	24,136	0	0	0	-	
Income	(20,068,485)	(238,508)	(300,263)	61,755	(25.9)	5
<b>TOTAL</b>	<b>1,520,547</b>	<b>1,495,550</b>	<b>1,359,960</b>	<b>135,590</b>	<b>9.1</b>	

4) The employees' budget is overspent at the end of quarter 3 due to some savings from the Revenues and Benefits restructure yet to be realised as a result of minimal impact from the transfer to UC. Position to be reviewed throughout 2018.

5) The overall position is, however, positive due to excellent performance in the Benefits team and some additional income received from Central Government to support the delivery of legislative changes.

### Democratic Services

	Full Year Budget	Budget	Actual	Savings / (Deficit)	Budget Variance	
	£	£	£	£	%	
Employees	247,331	186,836	141,659	45,177	24.2	6
Premises	0	0	390	(390)	-	
Transport	17,888	13,421	10,879	2,542	18.9	
Supplies & Services	449,510	342,417	314,129	28,287	8.3	7
Payments to Third Parties	36,700	20,422	21,177	(755)	(3.7)	
Support Services	913,191	0	0	0	-	
Depreciation	21,021	0	0	0	-	
Income	(500)	(378)	(14,898)	14,520	(3,841.3)	8
<b>TOTAL</b>	<b>1,685,141</b>	<b>562,718</b>	<b>473,337</b>	<b>89,381</b>	<b>15.9</b>	

6) Employees cost are underspent as the additional costs of running elections in year has been less than the savings derived from the vacant post held in democratic services.

7) Small savings in the cost of annual computer licences, election costs and the cost of civic functions have resulted in a underspend across the service of nearly £30k.

8) A new burdens grant from central government has been received in the year which had not been budgeted for.

### Deputy Chief Executive

	Full Year Budget	Budget	Actual	Savings / (Deficit)	Budget Variance
	£	£	£	£	%
Employees	106,036	79,540	79,298	242	0.3
Premises	0	0	0	0	-
Transport	3,440	2,585	1,458	1,127	43.6
Supplies & Services	4,350	3,766	3,328	438	11.6
Support Services	(113,826)	0	0	0	-
Income	0	0	0	0	-

<b>TOTAL</b>	<b>0</b>	<b>85,891</b>	<b>84,085</b>	<b>1,806</b>	<b>2.1</b>
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### Development Services

	Full Year Budget	Budget	Actual	Savings / (Deficit)	Budget Variance	
	£	£	£	£	%	
Employees	1,637,208	1,227,190	1,221,432	5,758	0.5	
Premises	43,230	9,136	10,102	(966)	(10.6)	
Transport	56,072	42,068	36,785	5,283	12.6	
Supplies & Services	165,030	148,286	152,149	(3,863)	(2.6)	
Payments to Third Parties	217,825	169,630	116,439	53,191	31.4	9
Support Services	438,685	0	0	0	-	
Depreciation	20,614	0	0	0	-	
Income	(1,472,081)	(1,074,177)	(818,515)	(255,662)	23.8	10
<b>TOTAL</b>	<b>1,106,583</b>	<b>522,133</b>	<b>718,392</b>	<b>(196,259)</b>	<b>(37.6)</b>	

9) The savings made on payments to third parties are as a result of £21K 2016/17 creditor that wasn't needed and so could be released into this year's budget. In addition, there has been a saving on agency costs relating to planning. This is directly linked to lower income received.

10) Planning income is £266,700 down on what we'd predicted in the budget at Q3. There are some other small income gains that have offset this slightly however it is now highly unlikely that we will meet the full budgeted income for this year.

### Finance and Asset

	Full Year Budget	Budget	Actual	Savings / (Deficit)	Budget Variance	
	£	£	£	£	%	
Employees	2,382,270	1,629,900	1,619,043	10,857	0.7	11
Premises	472,682	393,896	377,776	16,120	4.1	12
Transport	15,142	11,371	7,842	3,529	31.0	
Supplies & Services	474,561	358,830	349,859	8,971	2.5	
Payments to Third Parties	241,680	182,481	186,548	(4,067)	(2.2)	
Support Services	(753,235)	0	0	0	-	
Depreciation	384,530	0	0	0	-	
Income	(1,274,495)	(854,763)	(848,207)	(6,556)	0.8	
<b>TOTAL</b>	<b>1,943,135</b>	<b>1,721,715</b>	<b>1,692,862</b>	<b>28,854</b>	<b>1.7</b>	

11) A number of savings on posts as a result of maternity leave and some employees working reduced hours has resulted in an underspend against budget.

12) A range of small gains at a variety of locations against the costs of business rates, electricity and water has resulted in an underspend.

### One Legal

	Full Year Budget	Budget	Actual	Savings / (Deficit)	Budget Variance	
	£	£	£	£	%	
Employees	1,351,330	947,645	920,273	27,373	2.9	13
Premises	0	0	0	0	-	
Transport	21,575	14,353	10,015	4,338	30.2	
Supplies & Services	83,142	78,663	73,417	5,245	6.7	
Payments to Third Parties	150,460	7,845	2,238	5,607	71.5	
Support Services	(362,170)	0	0	0	-	
Income	(1,244,337)	(179,114)	(175,502)	(3,613)	2.0	
<b>TOTAL</b>	<b>0</b>	<b>869,392</b>	<b>830,441</b>	<b>38,951</b>	<b>4.5</b>	

13) Legal budgets are closely monitored through the JMLG meetings between the three partner organisations of one legal. The only significant variance is on employee costs, which is where extraordinary income has been used to offset employee costs, rather than being shown as a gain on income

## Appendix B - Analysis of Capital Budget

	Q3 Budget Position £	Q3 Actual Position £	(Over) / Under spend £	% Slippage	Comments
Council Land & Buildings	1,730,000	704,389	1,025,611	59	Majority of the expenditure is in relation to starting the refurbishment of the public services centre. This work is progressing with the 2nd floor being completed at the end of January and 1/3rd of the area now being rented commercially. However the rest of the project has slipped from the anticipated start date showing a saving against budget profile but with the ground floor phase commencing at the beginning of February, expenditure is expected to catch up over the next six months.
Vehicles & Equipment	636,299	553,813	82,486	13	The expenditure on vehicles is on budget and now delivered. The variance is primarily due to waste bin purchases. Expenditure is currently behind the budget profile, but it is likely that the budget will be utilised in full by the end of the year.
Capital Investment Fund	16,780,400	13,662,761	3,117,639	0	Officers have successfully concluded £13.6m of investment in the third quarter. A balance of £3.1m remains to be invested.
61 Community Grants	81,126	8,872	72,254	89	At the beginning of the year the expectation was that the majority of the remaining 9 capital grant projects would be underway. This has not happened and 4 schemes have not yet commenced at the end of Q3.
Housing & Business Grants	525,000	259,215	265,785	51	Spend on disabled facilities grants continue to be lower than expected in the budget.
<b>Total</b>	<b>19,752,825</b>	<b>15,189,050</b>	<b>4,563,775</b>	<b>23</b>	

## Appendix C - Revenue Reserves for 17/18

Reserve	Balance 31st March 2017	Spend on Reserves to Quarter 3	Reserve Remaining	Note
<b>Service Reserves</b>				
Asset Management Reserve	521,892	16,563	505,329	
Borough Regeneration Reserve	6,934	-	6,934	
Business Support Reserve	232,299	27,632	204,668	
Business Transformation Reserve	322,070	92,480	229,590	1
Community Support Reserve	127,362	59,470	67,892	2
Development Management Reserve	103,800	44,378	59,422	3
Development Policy Reserve	296,884	70,935	225,949	4
Elections Reserve	63,000	-	63,000	
Flood Support and Protection Reserve	43,731	11,999	31,732	
Health & Leisure development reserve	28,046	16,057	11,989	
Housing & Homeless Reserve	18,160	573	17,587	
IT Reserve	14,726	2,495	12,231	
Organisational Development Reserve	14,458	2,086	12,372	
Risk Management Reserve	7,703	5,450	2,253	
Transport Initiatives Reserves	342,046	52,302	289,744	
Waste & Recycling development Reserve	28,750	1,313	27,438	
	<u>2,171,862</u>	<u>403,733</u>	<u>1,768,128</u>	
<b>Corporate Management Reserves</b>				
Business Rates Reserve	1,491,301	-	1,491,301	
MTFS Equalisation Reserve	<u>1,167,617</u>	<u>-</u>	<u>1,167,617</u>	5
	2,658,918	-	2,658,918	
<b>Totals</b>	<b>£4,830,779</b>	<b>£403,733</b>	<b>£4,427,046</b>	

### Notes to Reserves

- 1 Expenditure incurred on a range of initiatives including General Data Protection Requirements, replacement of income systems and the replacement of on-line forms
- 2 Expenditure against balance of community grants brought forward
- 3 Costs resulting from planning appeals and temporary staff to support major planning studies (externally funded)
- 4 Expenditure relating to the advancement of the Borough Plan and other initiatives
- 5 £837,000 of this reserve is being used to support the base budget in 2017/18 with the balance supporting future years

## TEWKESBURY BOROUGH COUNCIL

<b>Report to:</b>	Executive Committee
<b>Date of Meeting:</b>	31 January 2018
<b>Subject:</b>	Gloucestershire Flood Relief Fund
<b>Report of:</b>	Simon Dix, Head of Finance and Asset Management
<b>Corporate Lead:</b>	Rob Weaver, Deputy Chief Executive
<b>Lead Member:</b>	Lead Member for Clean and Green Environment
<b>Number of Appendices:</b>	None

**Executive Summary:**

The floods of 2007 greatly effected large parts of Tewkesbury Borough and Gloucester City as well as other parts of the county. In the aftermath, substantial amounts of donations were received to support the recovery of the county and in particular residents with flooded properties.

A balance remains within the Trust's bank account and it will be necessary to appoint new Trustees in order to release the funds in line with the original intentions.

**Recommendations:**

**Executive Committee RESOLVES:**

1. That appropriate legal procedures be taken for Trustees to be appointed in respect of the Trust.
2. That a Member be nominated by the Leader of the Council to represent Tewkesbury Borough on the Gloucestershire Flood Relief Fund.
3. That the Chief Executive of Tewkesbury Borough Council from time to time be appointed as a permanent Trustee of the said Fund.

**Reasons for Recommendation:**

To enable the full balance of donations to be deployed in line with the charitable objectives.

**Resource Implications:**

None directly arising from the report.

**Legal Implications:**

As there are no current Trustees, an application to Court under s41 Trustee Act 1925 will be necessary to be appoint new Trustees to the Flood Relief Fund. This will be necessary to wind up the Trust.

Although it is anticipated that the Trust will be wound up in the near future, it would be prudent for a permanent Trustee to be nominated, and the Trust Scheme amended to provide a mechanism whereby the permanent Trustee has a limited power to appoint new Trustees. This would avoid the need for a Court application in the future, should the situation arise again whereby there are no subsisting Member Trustees before the trust funds are fully distributed. Appointing a senior officer by reference to the post (rather than the name of the individual) would mean that successive post holders could fill the role.

**Risk Management Implications:**

None.

**Performance Management Follow-up:**

It is anticipated that a meeting of the Trust and the deployment of funds will occur before the end of the financial year.

**Environmental Implications:**

None.

**1.0 INTRODUCTION AND BACKGROUND**

- 1.1 Following the flood of 2007, a Gloucestershire Flood Relief Fund was established to provide financial help to Gloucestershire residents whose homes had been affected by the flood. The Trust was responsible for the coordination of donations and the allocation of funds in line with the objectives.
- 1.2 The trust allocated around £1.9m of funding during its existence but it has recently come to light that not all accumulated donations have been fully spent. A balance remains within the Trust's bank account which needs to be distributed in line the objectives. It is important to note that all requests for support by the fund were met and this balance is after any applications had been dealt with.

**2.0 REFORMING THE FLOOD RELIEF FUND**

- 2.1 Following the cessation of the Trust's activities in distributing sums to affected households, no instructions from the acting Trustees were left in the event that balances were left within the fund. In normal circumstances, a similar charitable body would have been nominated to receive any remaining funds. Research into the minutes of the meetings of the Trust could not find evidence of any such nomination.
- 2.2 The Trust last met in late 2007 and the membership of the Trust has effectively expired given the passing of 10 years. This means that the Trust itself has no Trustees and therefore cannot appoint new Trustees to act on its behalf.

**2.3** In order to appoint new Trustees an application to Court under s41 Trustee Act 1925 will be necessary. It is suggested that the minimum number of Trustees required are appointed to the Trust in order to expedite the business required. Within the Trust documentation it is clear that the minimum number of Trustees is three and it is therefore recommended that two elected Members are appointed and a senior officer in order to act as a permanent Trustee in order to avoid problems in the future similar to these.

**2.4** Given Tewkesbury Borough Council and Gloucester City Council's involvement in the last fund as administrator and treasurer it has been suggested that the Members appointment be made from these Councils. Accordingly, it is proposed that the Leader of the Council be asked to nominate a Member to fill this role.

### **3.0 OTHER OPTIONS CONSIDERED**

**3.1** None.

### **4.0 CONSULTATION**

**4.1** Chief Financial Officers of all Gloucestershire authorities have been briefed on the position of the Trust.

### **5.0 RELEVANT COUNCIL POLICIES/STRATEGIES**

**5.1** None.

### **6.0 RELEVANT GOVERNMENT POLICIES**

**6.1** None.

### **7.0 RESOURCE IMPLICATIONS (Human/Property)**

**7.1** None.

### **8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)**

**8.1** None.

### **9.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)**

**9.1** None.

### **10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS**

**10.1** None.

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**Background Papers:** None.

**Contact Officer:** Simon Dix, Head of Finance and Asset Management  
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**Appendices:** None.

## TEWKESBURY BOROUGH COUNCIL

<b>Report to:</b>	Executive Committee
<b>Date of Meeting:</b>	31 January 2018
<b>Subject:</b>	Council Tax – Empty Homes Premium
<b>Report of:</b>	Graeme Simpson, Head of Corporate Services
<b>Corporate Lead:</b>	Mike Dawson, Chief Executive
<b>Lead Member:</b>	Lead Member for Finance and Asset Management
<b>Number of Appendices:</b>	None

<b>Executive Summary:</b>	The purpose of this report is to recommend the introduction of a Council Tax Empty Homes Premium of 50% effective from 1 April 2018. It will apply to properties that have been unoccupied and substantially unfurnished for more than two years.
<b>Recommendation:</b>	<b>To RECOMMEND TO COUNCIL that a Council Tax Empty Homes Premium of 50% is implemented from 1 April 2018 in respect of properties that have been unoccupied and substantially unfurnished for more than two years.</b>
<b>Reasons for Recommendation:</b>	To implement a Council Tax Empty Homes Premium.

<b>Resource Implications:</b>	It is estimated that introducing an Empty Homes Premium will result in additional Council Tax income of £66,255.59. Tewkesbury Borough Council will retain approximately £4,637.89 of this with Gloucestershire County Council and Gloucestershire Police Crime Commissioner benefiting from the rest. If this strategy causes more long term empty properties to be brought back into use it will also have a beneficial impact on the level of New Homes Bonus we are able to retain with an average payment of £1,591 per property.
<b>Legal Implications:</b>	Section 12 of the Local Government Finance Act 2012 inserted a new Section 11B into the Local Government Finance Act 1992 allowing billing authorities, in relation to a dwelling which has been unoccupied and substantially unfurnished for over two years, to charge a premium 50% of the Council Tax which would have been payable if the dwelling were occupied by two adults and no discounts were applicable.
<b>Risk Management Implications:</b>	It may become difficult to collect the increased Council Tax due, but all available remedies will be used to mitigate this risk.

**Performance Management Follow-up:**

The impact of these changes will be closely monitored and will be reported back to Members as part of a wider review of Council Tax discounts scheduled to take place in 2018 for implementation in the 2019-2020 financial year.

**Environmental Implications:**

None.

**1.0 INTRODUCTION/BACKGROUND**

**1.1** Members will be aware of the key changes affecting local government finance from 1 April 2013. Section 12 of the Local Government Finance Act 2012 amended Section 11B of the Local Government Finance Act 1992 to allow local authorities in England to set a Council Tax rate for long term empty properties of up to 150% of the normal liability. A 'long-term empty property' must have been unoccupied and substantially unfurnished for at least two years. This has become known as 'Empty Homes Premium'.

**2.0 BACKGROUND**

**2.1** Prior to April 2013 billing authorities could charge up to a maximum of 100% Council Tax on dwellings that had been empty for more than two years. From April 2013 billing authorities were given powers to charge a premium of up to 50% of the Council Tax payable in these circumstances. At the November 2017 Budget the Chancellor announced that the government was proposing to increase the amount from 50% to 100%, but this will need primary legislation to implement which is not expected until April 2019 at the earliest.

**2.2** Prior to legislating, government consulted on the circumstances in which the 50% premium would not be applicable. The three circumstances were:

1. A dwelling which is the sole or main residence of a member of the armed forces who is absent from the property as a result of such service.
2. An annexe deemed unoccupied because it is being treated by the occupier of the main dwelling as part of that main dwelling.
3. A dwelling which is genuinely on the market for sale or letting.

**2.3** Government subsequently legislated for the first two circumstances, but decided not to do so in the case of a dwelling which is genuinely for sale or for letting. It is still believed, however, that dwellings in such circumstances should not be subject to a premium and they issued guidance to assist authorities in their decision-making.

- 2.4** The guidance (Council Tax empty homes premium: guidance for properties for sale and letting) was issued in May 2013 and states:

*This guidance paper should not be treated as an interpretation of the legislation or as statutory guidance. Billing authorities are free to make their own decisions when administering the premium.*

*The government expects billing authorities to consider the reasons why properties are unoccupied and unfurnished, including whether they are available for sale or rent, and decide whether they want such properties to be included in their determination. When considering the reasons an authority may want to take account of the following:*

- *On average, how long have properties in their area been available for sale or rent before completion/occupation.*
- *What is the average price/rent in the local area?*

- 2.5** The premium may be applied when a property has been empty for two years irrespective of how long its current owner has owned it. It is possible, therefore, for an individual to buy a property which has already been empty for two years and be liable for the premium immediately. This scenario may occur if, for instance, the purchaser does not occupy the property immediately as they wish to extend or renovate the property. If the property is occupied for a period of six weeks or less it is regarded as not having been occupied for the purposes of the two year period. Occupancy of a long term empty property for more than six weeks 'resets the clock' for this purpose.

- 2.6** The Council Tax (Prescribed Classes of Dwellings) (England) Regulations 2003 (as amended) specify that the premium cannot apply to homes that are empty due to the owner living in armed forces accommodation for job-related purposes or annexes being used as part of a main property.

- 2.7** A certain level of empty homes is inevitable; however, long term empty properties are more likely to deteriorate and may result in associated anti-social behaviour in an area. There are a variety of reasons why properties remain empty, but it is important to try and encourage homeowners to bring empty properties back into use particularly with the current pressure on finding housing for residents. There are currently 88 properties which have been unoccupied and unfurnished for more than two years and therefore would be subject to an Empty Homes Premium. If we were to charge Empty Homes Premium this would bring in additional income of £66,255.59 of which we would keep approximately 7% or £4,637.89. The remaining additional income will benefit Gloucestershire County Council and Gloucestershire PCC. We would also expect to improve the New Homes Bonus position through long term empty properties being brought back into use based on an approximate figure of £1,591 per property.

- 2.8** At present in Gloucestershire, only Stroud District Council and Cotswold District Council charge Empty Homes Premium although it is being introduced by Cheltenham Borough Council from April 2018. On a national level the latest available figures show that 287 out of 326 billing authorities charge Empty Homes Premium.

### **3.0 OTHER OPTIONS CONSIDERED**

- 3.1** Members could choose not to introduce an Empty Homes Premium, but this would not provide any incentive for owners to bring properties back into use.

#### **4.0 CONSULTATION**

4.1 There is no statutory requirement to consult on these proposals; however, the Revenues team will be contacting all Council Tax payers likely to be subject to Empty Homes Premium prior to annual bills being issued in March 2018.

#### **5.0 RELEVANT COUNCIL POLICIES/STRATEGIES**

5.1 Housing Strategy Action Plan 2017-2021 which was approved at Executive Committee on 3 January 2018.

#### **6.0 RELEVANT GOVERNMENT POLICIES**

6.1 Legislation was drafted with an express intention to use Empty Homes Premium as a tool to support the encouragement of bringing empty properties back into use.

#### **7.0 RESOURCE IMPLICATIONS (Human/Property)**

7.1 None directly associated with this report other than officer time.

#### **8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)**

8.1 None.

#### **9.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)**

9.1 None.

#### **10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS**

10.1 None.

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**Background Papers:** None.

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**Appendices:** None.

## TEWKESBURY BOROUGH COUNCIL

<b>Report to:</b>	Executive
<b>Date of Meeting:</b>	31 January 2018
<b>Subject:</b>	Planning Enforcement Plan
<b>Report of:</b>	Annette Roberts, Head of Development Services
<b>Corporate Lead:</b>	Rob Weaver, Deputy Chief Executive
<b>Lead Member:</b>	Lead Member for Built Environment
<b>Number of Appendices:</b>	Two

**Executive Summary:**

Paragraph 207 of the National Planning Policy Framework states that local planning authorities should consider publishing a Local Enforcement Plan setting out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.

During the past six months, a full review of the Council’s Planning Enforcement service has been undertaken and a number of operational changes are now being, or are about to be, implemented. As part of this, a Planning Enforcement Plan has been drafted, setting out the Council’s approach to delivering the service. This is a customer facing document providing clear and succinct ‘plain English’ information about planning enforcement, and setting out the level of service that customers can expect to receive.

The Overview and Scrutiny Committee considered the draft Planning Enforcement Plan at its meeting on 9 January 2018. The Executive Committee is asked to endorse the comments made by the Overview and Scrutiny Committee and to approve the draft Planning Enforcement Plan for public consultation.

**Recommendation:**

**To ENDORSE the comments of the Overview and Scrutiny Committee and to APPROVE the draft Planning Enforcement Plan, attached at Appendix 2, for public consultation.**

**Reasons for Recommendation:**

To agree the Planning Enforcement Plan for public consultation.

**Resource Implications:**

Resource implications are Officer time to conduct the consultation, review responses and make any amendments as appropriate.

**Legal Implications:**

The preparation and adoption of a Planning Enforcement Plan is not a statutory requirement, but is guidance issued by the government in the National Planning Policy Framework, considered as a material consideration in planning decisions.

**Risk Management Implications:**

While there is no statutory requirement to prepare a Planning Enforcement Plan it is considered good practice, and provides justification and support for enforcement decisions. These decisions often have significant implications for the subject of enforcement, or those persons or communities affected by it, and therefore are often open to considerable scrutiny. The Planning Enforcement Plan provides a framework to justify decisions made, and defend against challenges against the Council.

**Performance Management Follow-up:**

Subject to the approval of the Planning Enforcement Plan for public consultation, and following a review of the representations made, a final version of the Planning Enforcement Plan will be reported back to Executive with a view to adoption.

**Environmental Implications:**

There are no direct environmental implications of this plan, although from an operational viewpoint there will be benefits in moving from a paper based to an electronic document management system.

**1.0 INTRODUCTION/BACKGROUND**

- 1.1** In May 2017 a newly created Senior Planning and Enforcement Officer post was recruited, to provide additional support to the Planning Enforcement team, beginning with a review of the Council's Planning Enforcement service.
- 1.2** The Planning Enforcement service tends to pick up the position at the end of the development process when expectations can be high, and sometimes achieving desirable outcomes very difficult.
- 1.3** A number of areas for improvement or refinement have been identified, which can be summed up follows:
1. The need for a structured framework within which all decisions are made.
  2. Greater use of accessible IT to enable interested parties to find out more about the service or individual cases.
  3. Need for greater reporting and publicity for the work (and achievements) of the service.
  4. Better record keeping.
  5. Better and more use of formal and legal powers available.
  6. Additional support for Enforcement Officers to achieve all of the above the above.

## **2.0 DRAFT PLANNING ENFORCEMENT PLAN**

**2.1** The issues identified have, or are being, addressed by a number of operational changes to the service, which are principally identified within a protocol drawn up by, and for, Planning Enforcement Officers. This acts as a day-to-day procedural manual.

**2.2** Where the service relates to the team's interaction with complainants, those the subject of complaints, or other interested parties, these are set out in the draft Planning Enforcement Plan. As well as being the team's service standard document, the Planning Enforcement Plan also sets out in 'plain English' to the general public the role others can play in helping the team fulfil its service promises.

**2.3** The Overview and Scrutiny Committee considered the draft Planning Enforcement Plan at its meeting on 9 January 2018. A number of comments were made during the debate; a summary of those comments and the Officer response is attached at Appendix 1 and Appendix 2 incorporates the changes made as a result. The Executive Committee is asked to endorse the comments made by the Overview and Scrutiny Committee and to approve the draft Planning Enforcement Plan for public consultation.

## **3.0 OTHER OPTIONS CONSIDERED**

**3.1** None.

## **4.0 CONSULTATION**

**4.1** Following Executive Committee the draft Planning Enforcement Plan will be published for a six week consultation. It will be placed on the Council's planning webpages, publicised through local media, and sent to Parish Councils for consideration. Following the consultation period, a response consultation report will be produced and any appropriate amendments made to the plan. The final draft of the plan will then be reported to the Executive Committee and Council.

## **5.0 RELEVANT COUNCIL POLICIES/STRATEGIES**

**5.1** Planning Enforcement Protocol.

## **6.0 RELEVANT GOVERNMENT POLICIES**

**6.1** National Planning Policy Framework – Paragraph 207.  
National Planning Practice Guidance.

## **7.0 RESOURCE IMPLICATIONS (Human/Property)**

**7.1** Resource implication on Officer time to conduct the consultation, review responses and make amendments as appropriate.

## **8.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)**

**8.1** There are no direct environmental implications of this plan, although from an operational viewpoint there will be benefits in moving from a paper-based to an electronic document management system.

- 9.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)**
- 9.1** The provisions of the Plan promote better value for money by remodelling the service to one that is more responsive, focused and operationally efficient. This also better defends the Council against cost awards by providing a demonstrable justification for its decisions.
- 9.2** The Plan identifies a commitment to open government, treating all fairly, and making its decisions transparent and accessible through improvements in the use of IT, and better reporting of the work of the service.
- 10.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS**
- 10.1** None.

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**Background Papers:** None.

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**Appendices:**

- 1 – Overview and Scrutiny Committee comments and Officer response.
- 2 - Draft Planning Enforcement Plan incorporating the comments made by Overview and Scrutiny Committee.

### Overview and Scrutiny Committee Comments – 9 January 2018

	O&S COMMENT	RESPONSE / ACTION
1.	<p>Changes needed to the Enforcement Plan to reflect in particular:</p> <ul style="list-style-type: none"> <li>- That the Council, as enforcing body, can assist but not give advice to those subject to an investigation – independent support must be sought in such cases.</li> <li>- That breach of condition and failure to build to the approved plans is not acceptable – the Planning Enforcement Plan needs to identify how such matters are brought to the Council's attention, and dealt with, and then followed up.</li> </ul>	<p>Changes made to plan to reflect these comments.</p> <p>Meeting arranged with Building Control to discuss closer working and identification of on-site commencements</p>
2.	<p>The Plan may not be easy to follow for members of public and those not used to the planning system – a flowchart would be useful to visually explain how enforcement matters are dealt with.</p>	<p>Flowchart created to explain how the Council handles enforcement cases, and what formal action is undertaken.</p>
3.	<p>Concerns over various aspects of the team's performance, including response times and communication.</p>	<p>Matters raised with Planning Enforcement Team. Planning Enforcement Plan and Officer protocol (case management system) should address this by introducing changes to working practices that include requirement to respond and update within set time periods.</p>
4.	<p>Introduce performance indicators to measure performance.</p>	<p>Some of these measures are already in the Planning Enforcement Plan, a series of others (e.g. number of investigations) have been identified and will be monitored and presented as part of a monthly Performance Report to Planning Committee. Members may wish to suggest others as the report evolves over time.</p> <p>The Overview and Scrutiny Committee will scrutinise the effectiveness of the Plan once it has been in place for a 12 month period.</p>

# **Tewkesbury Borough Council**

## **Planning Enforcement Plan (Draft for Consultation)**

**22<sup>nd</sup> January 2018**

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## **1.0 INTRODUCTION**

The planning system is designed to regulate development and use of land and buildings in the public interest. Enforcing breaches of planning control is an important and necessary part of the planning system. Without effective enforcement, confidence in the Council's ability to protect public amenity and the built and natural environment is quickly undermined.

This commitment to planning enforcement is set out in the Government's National Planning Policy Framework, by Paragraph 207:

*“Effective enforcement is important as a means of maintaining public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. Local planning authorities should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where it is appropriate to do so.”*

The Government has published further advice on planning enforcement within its National Planning Policy Guidance:

<https://www.gov.uk/guidance/ensuring-effective-enforcement>

The Council recognises the importance of planning enforcement within the Borough to protect amenity, safeguard its built and natural environment, and uphold local planning policy in the quickest and most effective way.

In doing so, the Council aims to provide a consistent and comprehensive approach to planning enforcement based on legislative requirements, government guidance, legal judgements and good practice, which through their collective interpretation shape how decisions are made.

This service is provided within the Council's Development Services team, and consists of two Planning Enforcement Officers, with support from the Council's Senior Planning and

Enforcement Officer. The Planning Enforcement team works with a number of other officers within the Council or other public agencies.

The most frequent breaches reported relate to residential properties, although the Council can investigate breaches relating to all types of development and uses of land.

As well as responding to unauthorised development, the Planning Enforcement team also enforces against other related breaches under separate controls, including unauthorised advertisements, works affecting listed buildings and other heritage assets, protected trees and untidy land or buildings. Within this document these are collectively referred to as breaches, and unless otherwise stated, this term refers to the wider enforcement role of the team.

The Council has published further guidance on its planning function, including some of the options outlined in this Plan, at the following link:

<https://www.tewkesbury.gov.uk/planning/>

When receiving an enquiry, the Council will have regard to the most effective and timely powers available to investigate and where necessary pursue further actions to achieve its desired outcome. The Council has other powers of enforcement in relation to other services such as environmental health, licensing and building control. Our investigations are often co-ordinated with other services so that enquiries can be referred and action carried out under the most appropriate legislation.

The purpose of this Plan is to explain how the Council carries out its planning enforcement activities. It sets out what those making enquiries, or the subject of these enquiries, should expect and outlines how the Council undertakes planning investigations. **A simple flowchart has been appended to this document to give a visual guide as to how enforcement cases are handled and how formal action is taken, and should be read in conjunction with the Enforcement Plan.** Please note that it is important to remember that this document should be used as a guide only, and may apply differently according to the particular characteristics and location of the development undertaken or proposed. You should always consider seeking independent advice.

Definitions of some of the technical planning terms used in this document are provided in the following glossary:

<https://www.planningportal.co.uk/directory/4/glossary/category/7/categoryInfo/3>

## **2.0 WHAT IS A BREACH OF PLANNING CONTROL?**

Development carried out without planning permission is often referred to as a breach of planning control. A breach of planning control is defined in the Town and Country Planning Act 1990 as *'the carrying out of a development without the required planning permission, or failure to comply with any condition or limitation subject to which planning permission has been granted'*.

Development is defined in the Town and Country Planning Act 1990 as *"the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land"*

The following are examples of breaches that would be investigated by the Planning Enforcement team.

- The unauthorised erection of a building/structure (including outbuildings, fences, satellite dishes)
- A *'material'* change of in the use of a property/land.
- **Development starting before a 'pre-commencement' condition has been complied with, particularly one relating to the submission of further details for consideration by planning officers.**
- **Development not in accordance with the approved plans of planning permissions.**
- Failure to comply fully with the conditions attached to a planning permission, which could sometimes render the whole permission invalid and therefore works unauthorised. Carrying out works to a listed building without listed building consent.
- Unauthorised demolition in a conservation area.
- Engineering operations, such as raising ground levels or earth bunds

- Unauthorised works to trees protected by a Tree Preservation Order (TPO) or in a conservation area.
- Failure to properly maintain land or buildings so that it affects the amenity of the area.
- Displaying a sign or advertisement without advertisement consent.

The following are **not** usually breaches that the Planning Enforcement team would investigate or have powers to address:

- Operating a business from home where the residential use remains the primary use and there is no adverse impact on residential amenity.
- Boundary, land ownership or trespass disputes, including those issues relating to party walls.
- Breaches of restrictions imposed by deeds and covenants (civil matter).
- Obstruction of a highway or right of way.
- Clearing land of undergrowth, bushes and trees provided they are not subject to planning protection.
- Parking of a caravan within the curtilage of a residential property as long as it is incidental to the enjoyment of the property, and is not being lived in permanently and separately from the main house.
- Temporary structures/fencing associated with building works
- Where planning permission or other consents are not required (see Section 4 below)

### **3.0 WHEN IS PERMISSION REQUIRED?**

Planning permission and/or other consents are not always required for certain works or uses for reasons including:

- They are not considered to be 'Development' - as defined by s55 of the Town and Country Planning Act 1990, as amended
- Some works are considered 'de minimus' where they are of insignificant size or scale.

- Some works and uses are 'Permitted Development' as defined by the Town and Country Planning (General Permitted Development) Order 2015, as amended. Please note that some permitted development rights may be removed by a condition placed on a planning permission e.g. no fences to the front of the house to retain an open aspect to an estate development.
- Some signs are not considered by advertisements, as defined by the Town and Country Planning (Control of Advertisements) (England) Regulations, as amended.
- General Permitted Development) Order 2015
- Some advertisements have 'Deemed Consent', as defined by the Town and Country Planning (Control of Advertisements) (England) Regulations, as amended.
- General Permitted Development) Order 2015.
- Some changes of use are not considered 'material', having no significant impact on amenity.
- Some breaches are deemed to be lawful if no action is taken after a specified passage of time, being 4 years for substantial completion of building works, 4 years for change of use of a building to a single dwelling house, or 10 years for other breaches. However, if there has been a deliberate attempt to conceal a breach of planning control, the Council may still be able to take enforcement action beyond the specified period by obtaining an order from the Magistrates Court.

Development is lawful where planning permission has been given, but only where the works or use have been undertaken in accordance with that permission, including all conditions attached to that consent. Failure to comply with a condition may render the whole permission invalid.

The above examples depend on a large number of factors including type of operation, size, height and uses and the rules often vary according to the different location and individual circumstances. A number of useful guides are available at through the government's planning portal:

[https://www.planningportal.co.uk/info/200130/common\\_projects](https://www.planningportal.co.uk/info/200130/common_projects)

[https://www.planningportal.co.uk/info/200130/common\\_projects/9/change\\_of\\_use](https://www.planningportal.co.uk/info/200130/common_projects/9/change_of_use)

The Council will provide advice as appropriate, however because of its enforcing role in these matters, must remain impartial. You are therefore advised to seek independent advice should you require further information relating to your own particular case, in order to avoiding committing a breach of planning or other regulations, and being subject to enforcement action.

Should you wish to have a legal determination as whether any use or operations, actual or proposed, are lawful then you can apply to the Council for a Certificate of Lawfulness

[https://www.planningportal.co.uk/info/200126/applications/60/consent\\_types/9](https://www.planningportal.co.uk/info/200126/applications/60/consent_types/9)

If works are classed as 'permitted development' or otherwise lawful, and therefore do not need planning permission, the council would always advise that property owners consult with their neighbours and other interested parties to let them know what you are planning to do.

#### **4.0 HOW DO I REPORT A SUSPECTED BREACH?**

The assistance of the general public is crucial to planning enforcement. Due to the amount of development, both authorised and unauthorised, it is extremely difficult for the Council to identify all possible breaches of planning control. The council relies on the general public's vigilance in identifying potential breaches of planning control. Many enforcement investigations commence following an enquiry from the general public.

The council will respond to all suspected breaches of planning control, except anonymous reports, unless they are of a particularly serious nature, requiring immediate attention.

Enquiries can be made by completing our on-line "Planning infringement or unauthorised development report form":

[https://tewkesbury-self.achieveservice.com/service/Planning\\_infringement\\_or\\_unauthorised\\_development](https://tewkesbury-self.achieveservice.com/service/Planning_infringement_or_unauthorised_development)

The more you can help us the easier it will be for us to respond more quickly. When making an enquiry, please provide us with the following information, so the Council can obtain a full picture of the situation:

- A clear description of the alleged breach
- Why you think this is a breach of planning
- A description of the 'harm' being caused e.g. noise, traffic, smells.
- The date the activity started, is it happening now, is it getting worse?
- A specific site address (if it is a field, describe the surrounding area to help identify the exact site).
- The name and contact details of the site owner/occupier/builder/agent, where known
- Your name and contact details.
- Any other information you think would be helpful

All enquiries are dealt with in the strictest confidence and details of those making enquiries will not be made known without their agreement. However, the substance of the enquiries themselves is not confidential. In some cases it may be necessary to rely on evidence from those making enquiries in order to take action and you will need to consider whether you are willing to actively assist the Council by collecting evidence and acting as a witness at a planning appeal or in court. Please be aware that the Council cannot prevent someone correctly guessing who made the enquiry.

## **5.0 - WHAT YOU CAN EXPECT FROM US WHEN YOU MAKE AN ENQUIRY**

The Council will endeavour to provide the following service to you:

- The Council will assign relative priority to all enquiries, as set out in section 5 of this Enforcement Plan, in order to focus on most urgent matters first, and make best use of resources. The Council aims to investigate, resolve or otherwise conclude all enforcement enquiries as soon as it possibly can.

- Where the enquiry does not relate to planning, either wholly or in part, the Council will refer the matter to the relevant Council department, with your details, and ask them to keep you updated. Where the matter should be dealt with by another organisation than the Council, we will advise you. The Council will retain and investigate any part of the enquiry relating to planning, working together with colleagues as appropriate.
- The Council aims to acknowledge all enquiries within 48 hours of receipt, naming the assigned officer undertaking the investigation, and their contact details.
- Where existing investigations require monitoring outside of normal working hours (e.g. breach of condition relating to weekend construction works), officers will endeavour to work flexible hours.
- Where an allegation involves activities on land, you should not undertake surveillance on the occupier, but might update the Council on any continuing breaches as you notice them.
- The Council will inform all parties of the outcome of any investigation, with reasons **within 5 days of the outcome being decided.**

## **6.0 WHAT ARE THE COUNCIL'S PRIORITIES FOR ACTION?**

It is not possible to investigate every enquiry with equal priority and intensity. Our resource is directed to breaches that cause the greatest harm to the environment or to residential amenity. To allow quicker and more effective focus on the most serious matters, particularly during peak demand on the service, the Council will prioritise its planning enforcement work as follows:

***CATEGORY A - Development causing, or likely to cause, irreparable harm or damage. Investigation to take place as soon as possible, and within 24 hours. This will include:***

- Development causing or likely to cause serious harm to the public, e.g. involving hazardous substances.
- Works to listed buildings (demolition/alteration/disrepair)
- Works affecting sites of (likely) archaeological importance.
- Demolition in a conservation area
- Works causing immediate/irreparable harm to protected ecology, including trees covered by a Tree Preservation Order or in a Conservation Area.

**CATEGORY B - *Unless prompt action is taken, there is a material risk of further harm being caused which could be reduced or prevented by early intervention.***

***Investigation to commence within 5 working days. This will include:***

- Allegations of significant and ongoing harm to amenity
- Development which would be immune from enforcement within six months.
- Unreasonable noise and disturbance caused by failure to comply with conditions controlling the operation of development sites
- Unauthorised works under way but not substantially complete
- Breaches of condition or non-compliance with approved plans that are integral to the acceptability of the scheme and permission given

**CATEGORY C - *Unless action is taken, there is a risk of material harm to the environment or undue harm to residential amenity. Investigation to commence within 10 working days. This will include:***

- Building works likely to be contrary to that set out in the development plan or other material planning guidance.
- Developments which are contrary to established countryside constraint policies
- Other unauthorised activities and use of land causing harm to residential amenity
- Flyposting

**CATEGORY D - Breaches of planning control causing limited material disturbance to local residents or harm to the environment, which do not come within any of the higher categories, and where a delay would not prejudice the Council's ability to resolve the matter. Investigation to take place as soon as resources allow, but The Council aim to commence within 15 working days. This will include:**

- Small scale structures, including sheds and other outbuildings, fences and satellite dishes
- Unauthorised signs and advertisements
- Untidy land and buildings
- High hedges
- Unauthorised shopfronts
- Breaches of condition/non-compliance with approved plans causing no serious harm to amenity.

## **7.0 WHAT YOU CAN EXPECT WHEN YOU ARE THE SUBJECT OF AN ENQUIRY**

- The Council recognises the anxiety that is caused by finding out someone has made an enquiry about alleged development or activity on your land or property. Accordingly the Council will treat you fairly, not pre-judge any allegation made against you, and give you the opportunity to respond and explain.
- The Council will advise you as soon as possible whether or not it considers a breach has occurred, and if so, what the breach is and what your options are.
- If you dispute that a breach has or is taking place, you have the right to apply for a Lawful Development Certificate to determine the matter.
- Any unauthorised works you undertake are at your own risk, and may be subject to demolition or alteration, including those taken after you have been notified of any breach.

- Where a breach has been identified, The Council will seek to work with you and any other responsible person(s) to negotiate an outcome suitable to all parties. The Council may decide not to require action be taken to remedy the whole of a breach of planning control. This is known as “under enforcement”. The matter will only be deemed concluded once any works or changes to activity agreed as part of negotiations with the Council have been carried out
- Negotiations will not be allowed to delay the consideration of enforcement action where the breach of control causes serious harm to amenity.
- You have the right to make a retrospective planning application to ‘regularise’ the development, however, the Council will advise you if it thinks consent is unlikely to be given. Making you aware of this option is without prejudice to any decision on an application. Please note that, where deliberate or intentional unauthorised development has taken place, including following the Council making the applicant aware of the breach, it may count against the application.
- The Council may decline to determine a planning application where an enforcement notice has already been served and proposals relate to the identified breach.
- Where retrospective applications are made, the Council will keep the enforcement matter under review until a decision has been made, any (where approved) applicable conditions are complied with, or (where refused) any remedial actions are undertaken.
- It is the responsibility of the landowner/developer to ensure all other requisite consents are in place.
- The Council will clearly identify its requirements and give reasonable time and opportunity for them to be undertaken. Should you not respond, decide not to work with the Council, provide us with misleading information, or unreasonably and unnecessarily delay any agreed or requisite actions then the Council will have no option but to consider the use of formal powers.

- The Council will inform all interested parties of the outcome of any investigation, with reasons, **within 5 days of the outcome being decided.**

## **8.0 WHAT DOES A PLANNING INVESTIGATION INVOLVE?**

### ***Determining the facts***

The priority in any enforcement case is to ascertain the facts of the matter, including the nature and degree of any alleged breach. The Council will investigate enquiries objectively and with an open mind, and all claims will remain unfounded until such time a breach is witnessed and evidenced. The Council has the following powers to seek further information, if necessary:

- Interview under formal caution – Where it is suspected that an offence has taken place
- s330 Notice – to establish ownership and other interests in the land and property
- Planning Contravention Notice – requiring further information about activities and/or works on land or buildings.

There is no right of appeal against these Notices, and failure to respond fully and accurately, or provide misleading information, is a criminal offence.

### ***'Site' visit***

Planning Enforcement officers have a legal Right of Entry to land, without the owner's permission, where a breach of planning control is suspected. The exception is for the inside of domestic properties, where 24 hours prior notice must be given. It will be considered an offence if anyone wilfully obstructs any officer trying to freely enter the land. Visits may be undertaken without prior notice, particularly where the enquiry relates to the use of land.

The Council is committed to ensuring that its officers are able to carry out their work safely and without fear or obstruction. Where appropriate, the Council will take legal action to prevent and respond to abuse, harassment or assaults on its officers, by members of the public, and animals within their control. Officers whereabouts are known at all times and emergency contact arrangements are in place for immediate response should any danger present itself.

### ***Assessment***

From the established facts the Council will determine whether or not a breach has occurred, the degree of harm caused, and what outcome the Council seeks as a proportionate response, in the public interest. Each case will be considered on its own merits, and required outcomes or actions may differ in any two cases even if the same breach has occurred.

Where powers other than planning are available and more effective, then the matter may be referred to or approached jointly with other Council departments or agencies.

### ***Expediency***

Enforcement action is at the discretion of the Council and will only be taken where it is expedient to do so. There is no right of appeal against a decision not to take planning enforcement action.

The question is whether the breach of control would unacceptably affect amenity or the use of land or buildings, meriting protection in the public interest. To help decide this the Council would consider whether it was likely that planning permission would have been granted for the development had it been the subject of a planning application. If the development is considered to accord with adopted policy, the Council would normally be expected to grant planning permission unless other material considerations, e.g. government policy or other guidance indicate otherwise.

Enforcement action should be commensurate with the breach of control to which it relates. It will normally be inappropriate to take formal enforcement action against a minor

or technical breach of control which causes no harm to amenity. This is known as the 'proportionality' test.

## **9.0 OUTCOME OF THE INVESTIGATION**

There are various possible outcomes of a planning enforcement investigation:

**No breach of planning control has been identified:** The works or use of the land may be demonstrably lawful, or no robust evidence of a planning breach has been established following thorough investigation.

**Certificate of Lawfulness issued:** Following a successful application to the Council, in respect of the works or use under investigation

**Retrospective planning application to regularise the breach:** Where the subject of a planning breach has exercised their right to make an application, that application has been approved, and all conditions complied with, the breach is deemed to have been regularised.

**There is a breach of control but it is not expedient and proportionate to pursue:** Section 8 of this Plan identifies some of the circumstances when the Council might not at that time take enforcement action against an identified breach of control. The Council will, however, make the land owner aware of the breach and give them the opportunity to rectify the matter. Any outstanding breach will be recorded as a 'contravention', and may be viewable on any future land search, including when the land or property is being sold.

**Compliance with the Council's requirements:** Actions required to remedy the breach of control, or other agreed alternative actions, are carried out in full and to the satisfaction of the Council, including in certain circumstances, by the Council itself.

**Formal enforcement action:** If the matter cannot be resolved to the Council's satisfaction, or there is a likelihood of further breaches of control, the Council has the powers to take formal enforcement action. The nature of the breach will dictate what enforcement action the council considers expedient and proportionate to pursue.

## **10.0 FORMAL ENFORCEMENT ACTION AND POWERS**

Where a breach is proven, the degree of damage or harm caused is demonstrably unacceptable, and it is expedient and possible to do so, then the Council is committed to taking a firm line to make those responsible accountable for their actions and for 'making good' any damage or harm caused.

Formal powers will also be considered to best avoid a breach taking place, where it is imminently suspected.

Under planning legislation, the Council has the power to issue a number of Notices, usually on all interests in the land, and not just those directly responsible for committing a breach. Failure to comply fully with a Notice or Order could be considered a criminal offence.

**Enforcement/Listed Building Notice** - An Enforcement Notice will specify the reason(s) why it has been served, the steps required to remedy the breach, and the time period for compliance. The Notice carries a right of appeal. Compliance with an Enforcement Notice will not discharge it; its provisions will remain in force and will be valid should the unauthorised use or specified development re-occur. Enforcement Notices will appear on the Council's Planning Enforcement Register, and Local Land Charges Register, until such time as its requirements are met.

**Temporary Stop Notice** - Where a breach of planning control is causing serious harm to public amenity and/or the built, natural or heritage environment, and where immediate action is required to stop this harm, the Council will issue a Temporary Stop Notice. It will identify what works are to cease, and lasts for 28 days. This Notice will normally be accompanied by an Enforcement Notice, which comes into effect when the Temporary Stop Notice expires. Notices will appear on the Council's Planning Enforcement Register, and Local Land Charges Register, until such time as its requirements are met

**Breach of Condition Notice** - Where the breach of planning control relates to non-compliance with a condition(s) or limitation(s) on a planning permission, including where

permitted development limitations have been exceeded, the Council can issue a Breach of Condition Notice. The Notice will specify the steps required to comply with the condition(s) or limitation(s), and the time period for compliance. There is no right of appeal against this Notice. Notices will appear on the Council's Planning Enforcement Register, and Local Land Charges Register, until such time as its requirements are met.

**Section 215 Notice (Untidy Land Notice)** - Where the appearance or condition of land and buildings is adversely affecting the amenity of the neighbourhood, the Council can issue a s215 Notice. The Notice will specify the steps required to remedy the condition of the land or buildings and the time period for compliance. The right of appeal against a s215 Notice is directly to the Magistrates Court. The Notice may be revealed on a Land Search.

**Enforcement Order** - Where the Local Planning Authority believes there has been a 'concealed' breach that would otherwise be immune from enforcement action due to the passage of time, it may apply for an Enforcement Order. The Order will set out the steps required to remedy the breach, and the timescale in which to do so. Orders will appear on the Council's Planning Enforcement Register, and Local Land Charges Register, until such time as its requirements are met.

**S225 (Display of advertisement Notices)** – The display of posters and placards, including for the purposes of 'flyposting' are deemed a criminal offence and must be removed within 48 hours of the Local Planning Authority requiring you to do so. Other signs and advertisements are addressed by a series of Notices (depending on the nature of the sign/advertisement) collectively known as s225 Notices. Notices will specify the steps required to comply with its requirements and the time period to do so.

**Hedgerow Replacement Notice** – Where it appears that a protected hedgerow has been removed in contravention of The Hedgerow Regulations 1997, the Council may serve a Hedgerow Replacement Notice including specific instructions for the replanting of a hedgerow, including timescales. The flora specified in the noticed is required to be maintained for a period of up to 30 years after the Notice has been served. Hedgerow Replacement Notices are effective immediately on service, and usually include a

compliance date requiring specified actions to be undertaken before the end of the next available planting season. The right of appeal against a Hedgerow Replacement Notice is directly to the Secretary of State.

**Tree Replacement Notice** – A landowner has a duty to replace a tree which is removed or caused to die, in contravention of a Tree Protection Order (TPO). Where the duty is not complied with, local authorities have powers under section 207 of the Town and Country Act 1990, to issue Tree Replacement Notices (TRNs). These powers are also exercised in a Conservation Area in contravention of section 211 of the 1990 Act (i.e. without giving the council six weeks' notice) and in circumstances when a condition to plant a replacement tree, on a consent to fell a tree under a TPO, is not complied with. The right of appeal against a Tree Replacement Notice is to The Planning Inspectorate. Serving a TRN does not preclude the Council from taking legal action on those responsible for removing or causing a protected tree to die.

**Direct Action (Works in Default)** - Where a Notice has not been complied with, the Council has powers to itself undertake the works required by that Notice. The Council also has powers to undertake action in other circumstances, without a Notice being served. The cost of doing so, including a fee for officer and project management time, would be placed as a charge against the land until such time as fully paid. The Council would give the owner of the land an opportunity to undertake works themselves before exercising this option. Removing the breach does not preclude the Council from prosecuting those responsible, where it is appropriate to do so. Further, the Council will consider continuing proceedings even when a matter has been resolved prior to court attendance.

**Injunction** – The Council may apply to the High or County Court for an injunction to restrain any actual or expected breach of control. This sanction is immediate, and is aimed at avoiding serious breaches before any (further) harm is done, and/or addressing those breaches of control where other powers have not been effective, or where persistent breaches arise. Failure to comply with the requirements of an Injunction will be considered as a Contempt of Court, and may result in a custodial sentence.

**Prosecution** – Unauthorised development itself is not usually an offence, however the following breaches of control might be considered to be:

- Failure to comply with the requirements of any Notice identified in this Plan
- Damage to Listed Buildings or other heritage assets
- Removal of or damage to Trees covered by a Tree Protection Order, all trees within a Conservation Area, or other protected environmental assets
- The unauthorised display of some signs and advertisements
- Wilful obstruction of, or other offences against, a Council officer or appointed representative in the course of his/her duties.
- False or misleading information provided by the recipient of a s330 Notice or a Planning Contravention Notice

For some offences, the Council may offer a ‘simple caution’ to the responsible parti(es), however should the caution not be accepted the Council reserves the right to prosecute. Proceedings may continue even if the breach is latterly resolved, although this would be recognised. The Council will apply for costs from the defendant in all successful court proceedings. Where the Council suspects that any information provided to the Court by the defendant is false or misleading, including completed means test forms, it will refer the matter to the County Fraud Investigation team for further consideration.

**Proceeds of Crime Act** - Where significant financial gain has or is being accrued as a result of a breach of planning regulations, an application may also be made to the Court for recovery of assets, alongside prosecution. The Council would work with a Financial Investigator to identify assets and use powers available to recover these, under the provisions of the Proceeds of Crime Act 2002.

## **11.0 INFORMATION MANAGEMENT**

The Council will request, manage and share its information responsibly, and at all times in line with current and emerging General Data Protection Regulations. Requests for information relating to planning enforcement work will be considered in line with these

regulations, including any exemptions laid down under other legislation such as the Data Protection Act.

The Council keeps a register of all Enforcement, Breach of Condition, Stop Notices, and Enforcement Orders, providing basic key details, which can be found at the following link: <https://www.tewkesbury.gov.uk/planning>

A copy of all these Notices can also be found on line through the Planning Portal, at the following link: <http://publicaccess.tewkesbury.gov.uk/online-applications/>. Alternatively, a copy can be made available at the Council Offices, on prior request. The Portal also provides summary details of other enforcement investigations.

The Council will work with appropriate media to publicise its work and positive outcomes, to highlight the consequences of failing to comply with planning regulations, to deter others from knowingly doing so.

A report will be presented to Tewkesbury Borough Council Planning Committee every month identifying those matters where formal enforcement action has been taken, with an update on progress, as well as outlining general performance and raising any other issues of interest. Officers may also from time to time present reports to committee seeking resolution on particular matters where direction is required. These reports can be found within the Planning Committee agenda and papers, at the following link: <http://minutes.tewkesbury.gov.uk/mgCommitteeDetails.aspx?ID=249>

## **12.0 FAIRNESS AND EQUALITY**

The Council is committed to ensuring that:

- All persons are treated equally, regardless of their 'status'
- Communications with all those involved are in a fair, clear and courteous manner.
- Communications will be in plain English or in the appropriate language or method.
- Any special needs of those involved are met as far as possible, (for example by providing translation services where necessary).
- Help, information and advice will be given where needed.

- Where there are rights of appeal against formal action, advice on the appeal mechanism will be provided.

In carrying out its enforcement activity the council will take into account the interests of all customers, including the general public, business owners, employees and will endeavour to support economic development wherever possible, except where there is significant harm to amenity.

### **13.0 CONCLUSION**

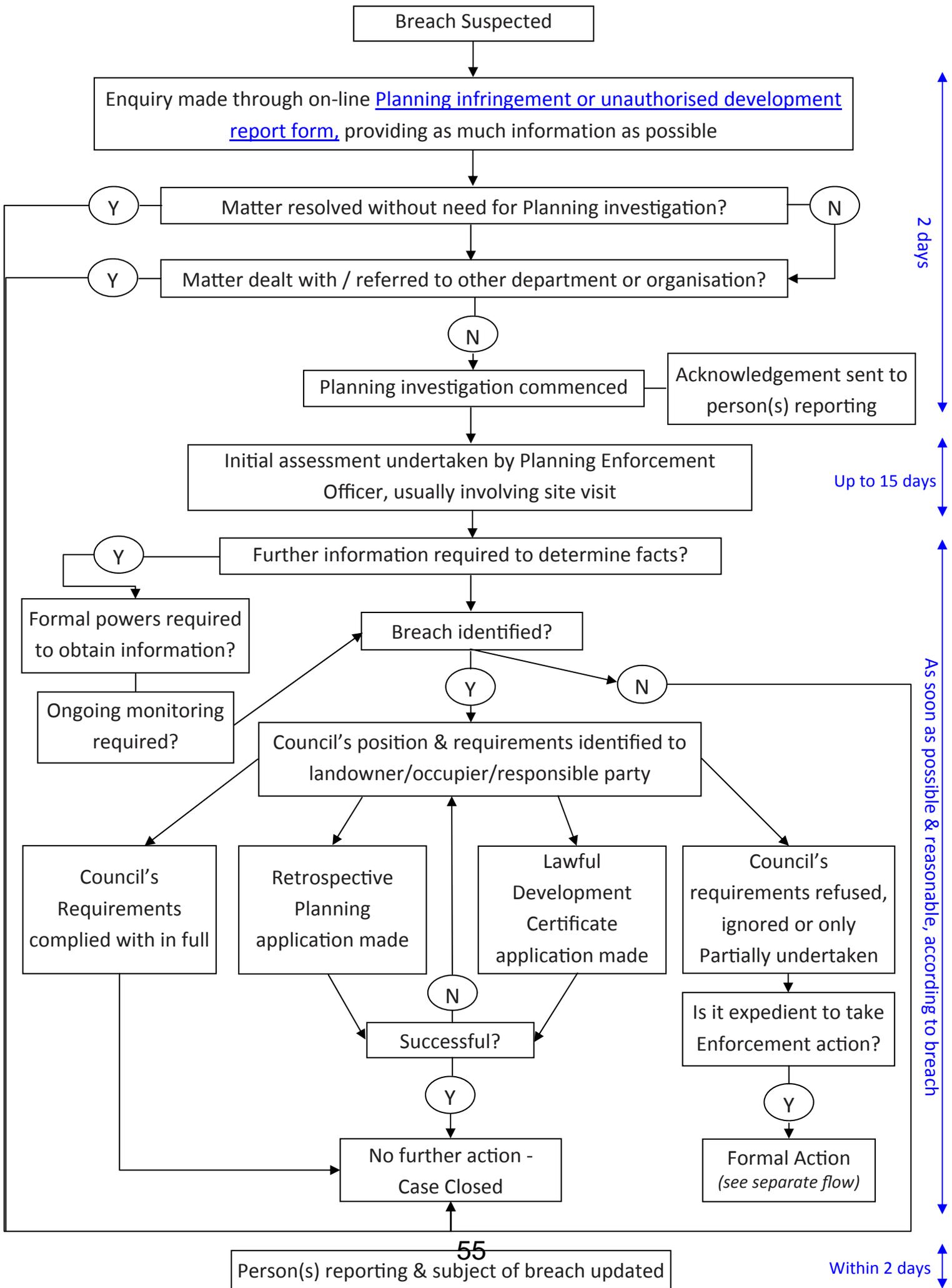
The latest version of this Enforcement Plan can be found at the following location - <https://www.tewkesbury.gov.uk/planning> - the Plan will be reviewed as and when necessary, either due to changes in the law or any other circumstances which may affect its contents.

The Plan sets out the standards that the Council aspires to in responding to reports of breaches of planning and other related controls. The time taken to determine each case will vary depending on the site, the type of breach, and any actions necessary to reach the desired outcome. It also relies in some cases on professional advice and support from other colleagues, including outside of the Council. Decisions are made in the context of regularly changing legislation, guidance, and case law. An enforcement investigation can be a lengthy and complex process. However, the Council is committed to reaching a conclusion/outcome as soon as reasonably possible.

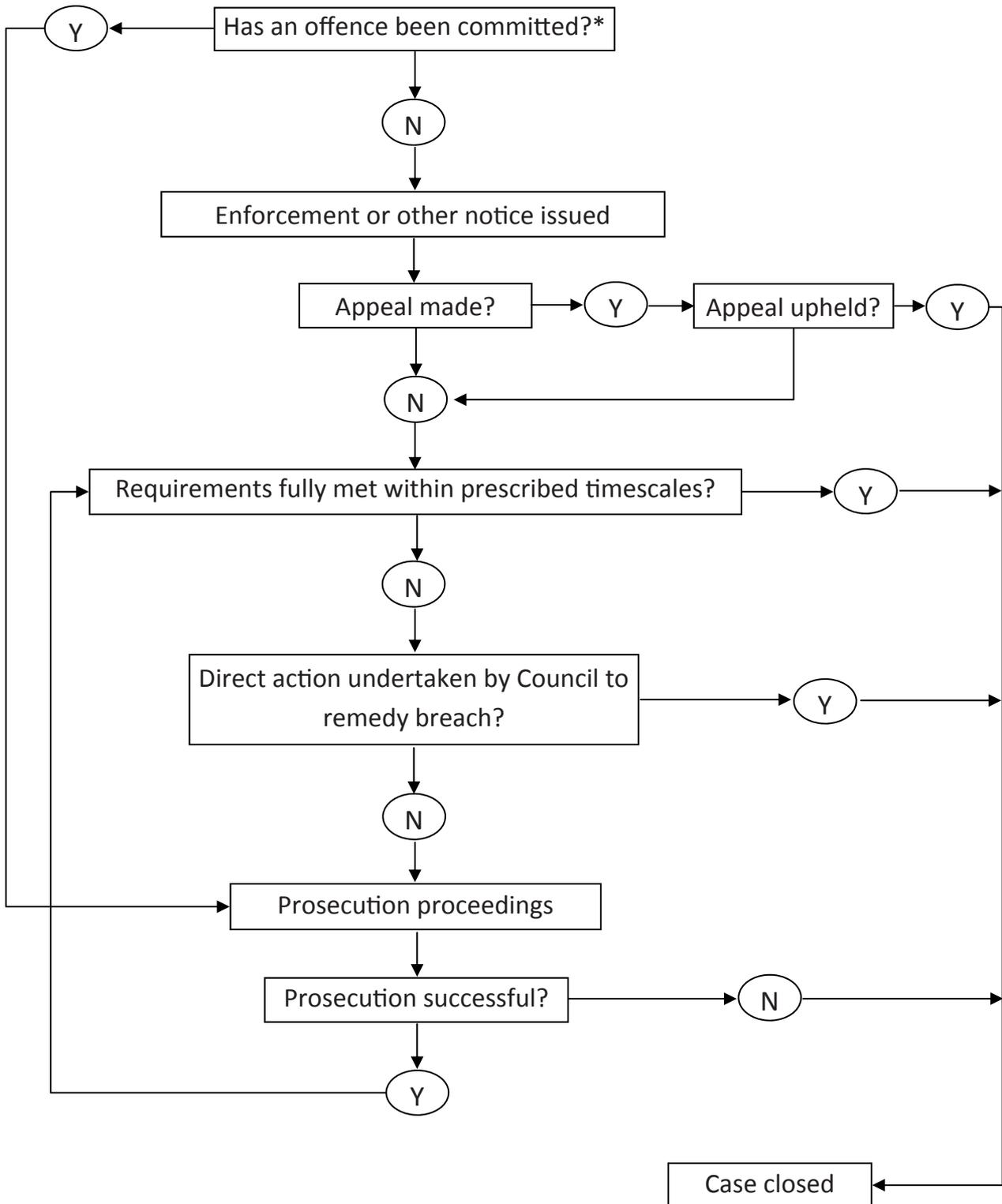
The Council welcomes feedback on our performance, and an opportunity to comment is available by contacting [andy.birchley@tewkesbury.gov.uk](mailto:andy.birchley@tewkesbury.gov.uk)

The Council are committed to providing an effective and efficient planning enforcement service. However, should you not be satisfied with the handling of your enquiry, in the first instance please contact the Council's Development Manager. If you remain dissatisfied, the Council has a formal complaints procedure which can be found on the council's website at: <http://tewkesbury.gov.uk/index.aspx?articleid=1897>

# Annex 1—HOW ENFORCEMENT ENQUIRIES ARE HANDLED



## Annex 2—FORMAL ENFORCEMENT ACTION DECIDED



\* A breach of planning control is not a criminal offence, however failure to comply with an Enforcement Notice is. Some actions, eg damage to a listed building are criminal offences without need to serve a Notice—see Section 10 of the Planning Enforcement Plan

## TEWKESBURY BOROUGH COUNCIL

<b>Report to:</b>	Executive Committee
<b>Date of Meeting:</b>	31 January 2018
<b>Subject:</b>	Flood and Water Management Supplementary Planning Document
<b>Report of:</b>	Annette Roberts, Head of Development Services
<b>Corporate Lead:</b>	Rob Weaver, Deputy Chief Executive
<b>Lead Member:</b>	Lead Member for Built Environment
<b>Number of Appendices:</b>	Two

**Executive Summary:**

In November 2014, Council approved the adoption of a Flood and Water Management Supplementary Planning Document (SPD). Since adoption, however, there have been significant updates to national guidance surrounding flood and water management and in particular to climate change projections. A review of the SPD has therefore been undertaken to take into account the latest guidance and an updated SPD has been prepared. Public consultation on a draft revised SPD was undertaken in September to November 2017 and a final version of the SPD has been completed. This is attached at Appendix 1 to this report. This report seeks the adoption of the SPD as a material consideration in the determination of planning applications.

**Recommendation:**

- 1. To RECOMMEND TO COUNCIL that the Flood and Water Management Supplementary Planning Document be ADOPTED as set out in Appendix 1.**
- 2. To delegate authority to the Head of Development Services to make any necessary minor amendments to the Supplementary Planning Document as considered appropriate prior to it being published.**

**Reasons for Recommendation:**

To approve for adoption the Flood and Water Management Supplementary Planning Document.

**Resource Implications:**

Resource implication on Officer time to make any minor amendments as appropriate and attending to post adoption requirements.

**Legal Implications:**

The preparation of an SPD is not a statutory requirement, but a decision for each local planning authority based upon demands for further information to assist in the delivery of sustainable development. Paragraph 153 of the National Planning Policy Framework provides that supplementary planning documents should be used where they can help applicants make successful applications or aid infrastructure delivery, and should not be used to add unnecessarily to the financial burdens on development.

An SPD must contain a reasoned justification of the policies contained within it, must not conflict with the adopted development plan and have regard to national policies and advice contained in guidance issued by the Secretary of State.

Once adopted, the SPD would be a material consideration in the determination of planning applications. A Planning Authority can adopt an SPD either as originally prepared or as modified to take account of any representations made in relation to the SPD or any other matter they think is relevant.

As soon as reasonably practicable after the adoption of a SPD the local planning authority must publish an adoption statement, which, amongst other things, must specify the date of adoption and any modifications made.

**Risk Management Implications:**

There is no statutory requirement to prepare SPDs. However, it is considered to be important that Tewkesbury Borough has appropriate planning policies for flood and water management to ensure that development does not exacerbate flood risk and opportunities for betterment are sought.

**Performance Management Follow-up:**

Subject to the adoption of the SPD, the effectiveness of the SPD and the policies and guidance contained within will be monitored by the Flood Risk Management Group.

**Environmental Implications:**

The SPD contains further detail and advice in relation to the JCS and emerging Tewkesbury Borough Plan policies on environmental issues such as flood risk, water management, pollution and biodiversity.

**1.0 INTRODUCTION/BACKGROUND**

- 1.1** In November 2014, Council approved the adoption of a Flood and Water Management Supplementary Planning Document (SPD). The final version of the SPD, published in December 2014, has since been used as a material consideration in determining planning applications.
- 1.2** This SPD was established to provide a guide to assist applicants in making better planning applications; to aid infrastructure delivery; and to help the general public and other stakeholders to gain a better understanding of the Council's commitment to minimising flood risk. It is to be read in conjunction with other national and local planning policies and guidance, such as the National Planning Policy Framework and the Joint Core Strategy.

- 1.3** Since adoption, however, there have been significant updates to national guidance surrounding flood and water management. This includes revisions to policy and guidance provided in the National Planning Policy Framework (NPPF) and National Planning Practice Guidance (NPPG), changes to recommendations by the Environment Agency, and updated guidance on best practice. Key changes have included the Environment Agency requirements for taking into account of climate change and updated Construction Industry Research and Information Association (CIRIA) guidance on Sustainable Drainage Systems (SuDS). These changes have meant it is necessary to update the SPD to reflect the most recent practice to ensure it remains relevant and effective.
- 1.4** A review of the SPD has been undertaken to take into account the latest guidance and an updated SPD has been prepared and was consulted on in September 2017 for six weeks. The format of the SPD itself has largely stayed the same and the document contains the following sections:
1. Introduction and Objectives.
  2. Setting the Local Context.
  3. Legislative and Policy Background.
  4. The Importance of Pre-Application Advice.
  5. Flood Risk and Site Selection.
  6. Managing and Mitigating Flood Risk.
  7. Sustainable Drainage Systems.
  8. Water Management, Recycling, Supply and Pollution Control.
  9. Water Management Statements.
  10. Biodiversity.
- 1.5** The purpose of the updated SPD is to drive forward development that will help deliver innovative, adaptive and integrated flood risk management solutions that can also maximise social, environmental and economic objectives. It is focused on the very best of practices as such a location deserves; to deliver effective and more sustainable solutions that can meet the challenges presented by our changing environment. The updated SPD is more detailed document that aims to provide more in-depth guidance and achieve a higher standard of water and flood risk management. It provides an update on the legislative and policy background, primarily around the NPPF and NPPG which most notably includes changing guidance around the approach to climate change. As such, a key change included in the SPD is a requirement for all major development to provide a detailed flood risk assessment which includes a 70% allowance added to peak river flows, to account for climate change. The SPD provides a precautionary approach to assessing flood risk on potential development sites as is fitting for a place such as the Borough of Tewkesbury, given the substantial risk of flooding it suffers.
- 1.6** The SPD also now encompasses a comprehensive guidance on the application of SuDS, referring the best practice guidance from the CIRIA SuDS Manual. It provides guidelines on topics such as SuDS design principles, place-making, surface water management, water reuse and maintenance.

## **2.0 CONSULTATION RESPONSES RECEIVED**

**2.1** The draft SPD was published for a 6 week consultation in September to November 2017. Following the consultation period, a response report (Appendix 2) has been produced and any appropriate amendments made to the SPD.

**2.2** A total of 17 responses were received, and the main issues raised were that the technical requirements were more onerous than national guidance; that it was felt it could bring a financial burden to development, contrary to what the NPPF states regarding a SPD; and the length and complexity of the document. However the majority of responses were positive and welcomed the purpose of the document. These issues have been considered and appropriate amendments have been made to the SPD.

## **3.0 RELEVANT COUNCIL POLICIES/STRATEGIES**

**3.1** Tewkesbury Borough Local Plan to 2011.  
Joint Core Strategy.  
Emerging Tewkesbury Borough Plan (2011-2031).

## **4.0 RELEVANT GOVERNMENT POLICIES**

**4.1** National Planning Policy Framework.  
National Planning Practice Guidance.

## **5.0 RESOURCE IMPLICATIONS (Human/Property)**

**5.1** Resource implication on Officer time to make any minor amendments as appropriate and attending to post adoption requirements.

## **6.0 SUSTAINABILITY IMPLICATIONS (Social/Community Safety/Cultural/ Economic/ Environment)**

**6.1** The preparation of the Flood and Water Management SPD provides an opportunity for greater flood risk management that could have a positive impact in terms of helping to bring forward more sustainable forms of development.

## **7.0 IMPACT UPON (Value For Money/Equalities/E-Government/Human Rights/Health And Safety)**

**7.1** None.

## **8.0 RELATED DECISIONS AND ANY OTHER RELEVANT FACTS**

**8.1** None.

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**Background Papers:** None.

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**Appendices:** 1 – Flood and Water Management Supplementary Planning Document.  
2 – Response Report.

# Flood and Water Management

## Supplementary Planning Document

### Appendix 1





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## CHAPTER 1 - INTRODUCTION AND OBJECTIVES

- 1.1 The Council aims for the best outcomes for society as a whole. In the UK, there is no legal right to any particular standard of protection from flooding. However there are high public expectations of protection with heightened sensitivity to the threat of flooding.
- 1.2 Flood events have had a detrimental effect on the social, economic and environmental wellbeing of the country. Parts of Tewkesbury Borough in particular have suffered from the effects of flooding in recent times, largely due to its proximity to the Severn and Avon Rivers. This highlights the need for comprehensive, integrated and forward-thinking approaches to managing flood risks.
- 1.3 All forms of flooding and their impact on the natural and built environment are material planning considerations that are taken into account when determining planning applications. Tewkesbury Borough Council expects an integrated approach to flood risk and water cycle management (including rainwater, storm water, sewage, ground water, surface water and recycled water) to secure a range of social, economic and environmental benefits. Consequently, there is a need for a comprehensive approach to dealing with flood risk and the aim of Tewkesbury Borough Council is to ensure that this matter is properly considered at the very earliest, and all subsequent, stages of the planning process.
- 1.4 Every application for planning approval will be individually assessed on its own merit and this document will be a material consideration when considering planning applications. It should be read in conjunction with national and local planning policies and guidance (see Chapter 3 below). In accordance with these; Tewkesbury Borough Council will always seek opportunities to reduce the overall level of flood risk in the area and beyond. It will also seek to maximise amenity, biodiversity and water quality benefits, as well as those opportunities and benefits which can be obtained from effective flood and water management.
- 1.5 The aim of this SPD is to provide guidance on the approach that should be taken to manage flood risk and the water environment as part of new development proposals. The SPD highlights the documents which will be required to accompany planning applications, including:
  - Sequential Test, and where appropriate Exception Test, reports

- Site Specific Flood Risk Assessments (FRA's) and Drainage Strategies (incorporating an appropriate approach to surface water drainage including suitability evidence)

1.6 The key flood and water management objectives of Tewkesbury Borough Council are summarised as follows:-

### **Key Objectives**

- 1. To steer new development to areas with the lowest probability of flooding.**
- 2. To ensure that new development does not increase the risk of flooding either on a site or cumulatively elsewhere; and to always seek betterment over the bare minimum requirements, wherever possible.**
- 3. To require the inclusion of effectively designed Sustainable Drainage Systems (SuDS) within new developments which mimic natural drainage as closely as possible, with the provision for their long-term maintenance, in order to sustainably mitigate the risk of flooding.**
- 4. To ensure that development incorporates appropriate water management techniques which improves the existing hydrological conditions and maximises the opportunities and benefits of betterment of water quantity, water quality, biodiversity and amenity.**
- 5. To ensure on-site storage capacity for surface water attenuation for storm events up to the 1% probability event (1 in 100 year) including allowance for climate change.**
- 6. Encourage the use of water efficient and recycling devices within new developments.**

1.7 The policy framework is provided by the Joint Core Strategy (JCS) and the emerging Tewkesbury Borough Plan, which includes policies relating to flood risk and water management. Policy INF2 of the emerging JCS specifically relates to flood and water

management issues. This SPD provides additional information to supplement this emerging policy, as well as those in the emerging Tewkesbury Borough Plan and the existing ‘saved’ policies contained within the Tewkesbury Borough Local Plan to 2011. Early use of this document by applicants in the design process is therefore essential.

**How to Use This Supplementary Planning Document.**

1.8 To ensure that Tewkesbury Borough has a consistent and appropriate approach to flood risk and water management, this SPD should be used by:-

- Developers and applicants when considering sites for development.
- Developers and applicants when preparing the brief for their design team to ensure drainage and water management systems are sustainably designed.
- Consultants when carrying out site-specific flood risk assessments.
- Design teams preparing master plans, landscape and surface water drainage schemes and assessments.
- Development management officers and their specialist consultees when determining delegated planning applications, selecting appropriate planning conditions, making recommendations to committees and drawing up section 106 obligations that include contributions for SuDS.
- Other interested parties (e.g. local members) who wish to better understand the interaction between development, flooding and drainage issues.
- Developers and applicants in designing future maintenance regimen for the life time of the development

1.9 This SPD is set within the context of a water flood risk management hierarchy to help developers and decision-makers understand flood and water management and to embed it in decision-making at all levels of the planning process.

1.10 The flood risk management hierarchy.

Assess		Avoid		Substitute		Control		Mitigate
Appropriate flood risk assessment	▶	Apply the sequential test to the site location	▶	Apply the sequential approach at site level	▶	E.g. SuDS design, flood defences, etc.	▶	E.g. flood resilient construction

- 1.11 This SPD addresses the flood and water management issues associated with development within the Tewkesbury Borough context. It should however be understood that the design of drainage systems and water features is dependent on a number of constraints such as existing ground conditions, including site contamination levels. This SPD does not provide detailed information in relation to groundwater contamination or remediation measures.
- 1.12 Neither does this SPD provide a comprehensive guide on all other development related issues. There is a wide range of other guidance available as part of the national planning policy, and from various sources, for other matters.

## CHAPTER 2 - SETTING THE LOCAL CONTEXT

- 2.1 Tewkesbury Borough is heavily influenced by the Severn and Avon Rivers. These rivers can pose a major flood risk, especially in the vicinity where the two watercourses meet at Tewkesbury town. A considerable amount of land to the western side of the Borough comprises the functional flood plain and the majority of the borough area ultimately drains into the Severn. Flooding from surface water is also a problem as drainage is closely linked to river levels. With the largely impermeable geology and generally gentle topography of the Borough exacerbating flood risk (as well as general sources; further information on soils and geology can be found in the ‘[Sustainable Drainage Systems for Local Development Framework FINAL REPORT - Volume 3](#)’ produced for the JCS).
- 2.2 Tewkesbury Borough has suffered from numerous severe flooding events in its history, one of the most notable of which was in the summer of 2007.



The effects of global climate change are likely to result in more occurrences of extreme weather events and resultant flooding in the future. With the need for significant levels of new housing and employment development within the Borough, as identified through the Joint Core Strategy, it is imperative that issues associated with water management are identified and subsequently tackled if existing

### Case Study

The summer of 2007 was one of the wettest on record.

Following a very dry April, Gloucestershire experienced heavy rainfall in June. This overloaded the county's drainage systems through a combination of the influx of surface water and very high water levels in main rivers and brooks and lead to some localised flooding across the county.

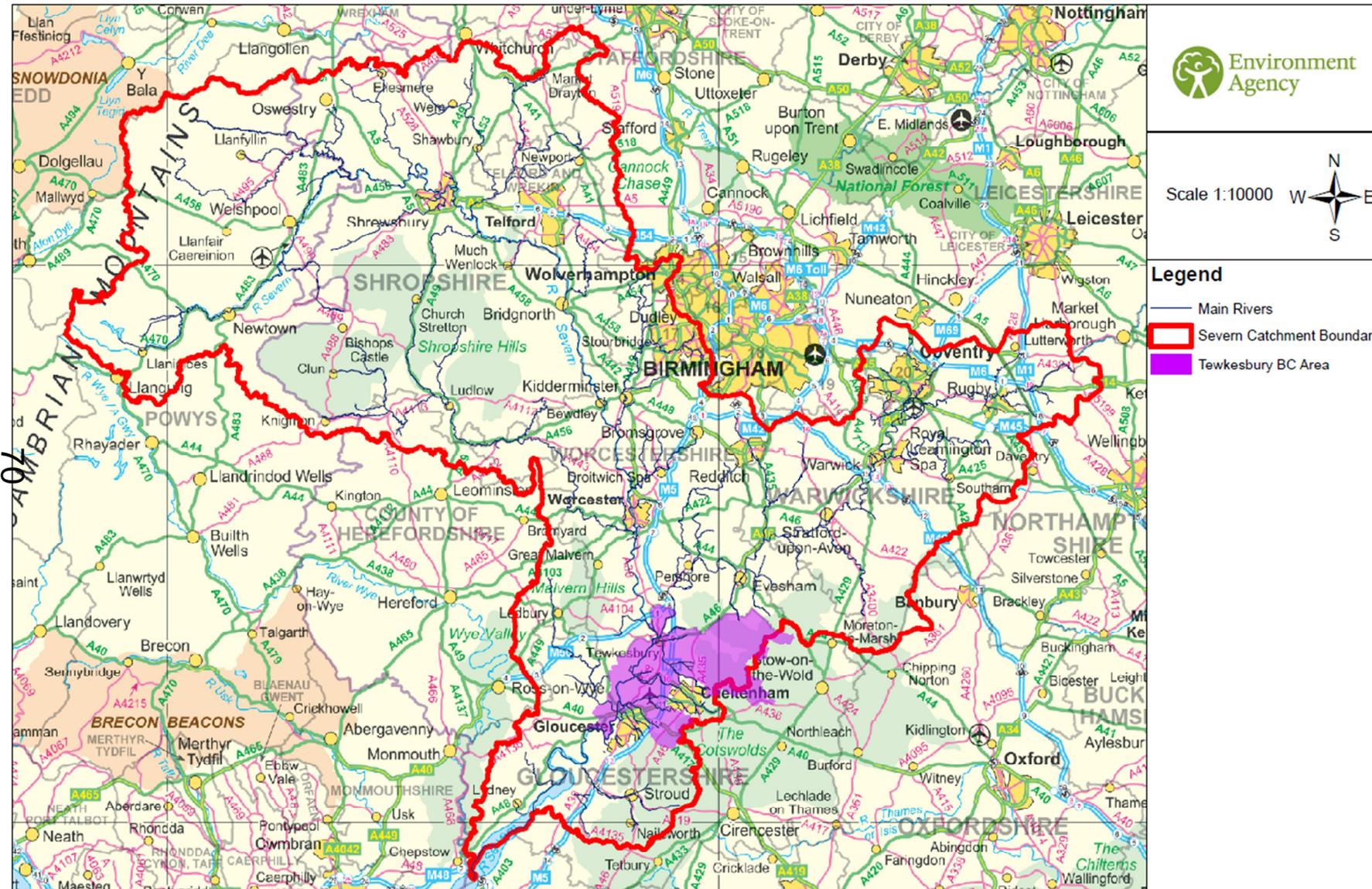
During July however the rains were even heavier. On 20th July, two months' worth of rain fell in just 14 hours. This ultimately resulted in two emergencies; widespread flooding and water shortages. The water shortage occurred due to the Severn Trent Water Treatment Works in Tewkesbury being contaminated with flood water.

With flood water reaching depths of over two metres in some places, across Gloucestershire over half of all homes and 7,500 businesses were without any mains water for up to 12 days and without drinking water for 17 days. Electricity was lost to 48,000 homes for two days. Within Tewkesbury borough over 1800 homes were directly affected by the floods.

problems are not to be made worse, along with the associated negative social, environmental and economic impacts. Key issues to be tackled include: the location and design of existing and future development; flood risk management; design and maintenance of flood risk management infrastructure; future water resource needs; water supply and sewerage.

- 2.3 Tewkesbury Borough Council will always seek to manage, and reduce flood risk through the development management process.
- 2.4 As flood risk is determined by activity within the wider hydrological catchment, the consideration of flood risk should not be limited to the Local Authority area alone. Risks to and from neighbouring local authority areas should also be considered where appropriate.
- 2.5 To give this context; the Borough is located in one of the largest river catchments, as described in the following catchment map.

# River Severn Catchment



Scale 1:10000

- Legend**
- Main Rivers
  - Severn Catchment Boundary
  - Tewkesbury BC Area

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## CHAPTER 3 - LEGISLATIVE AND POLICY BACKGROUND

- 3.1 There are a number of legislative and policy considerations that have been taken into account in the preparation of this SPD, and which must also be taken into account when submitting a planning application. These considerations are summarised as:

### LEGISLATION

#### 3.2 European Legislation

##### The Floods Directive

- 3.2.1 **The EU Floods Directive - 2007/60/EC** came into force due to a need for European Union countries (member states) to better understand and gather accurate data about the risks from surface water flooding. In the UK the Directive came into force via the Flood Risk Regulations 2009 which in turn sets the requirement for Preliminary Flood Risk Assessments (PFRA) to be produced by all unitary and county councils.

##### The Water Framework Directive

- 3.2.2 **The Water Framework Directive - 2000/60/EC (WFD)** was enacted into UK law in December 2003. This legislation requires member states to make plans to protect and improve the water environment. In summary, the Directive aims to protect and prevent the deterioration of aquatic ecosystems; conserve habitats and species that depend directly on water; reduce the release of individual pollutants that present a significant threat to the aquatic environment; reduce the pollution of groundwater and prevent or limit the entry of pollutants; and help reduce the effects of floods and droughts.

#### 3.3 National legislation

##### The Flood and Water Management Act (FWMA) 2010

- 3.3.1 **The Flood and Water Management Act 2010** (FWMA) has brought about significant legislative changes to the management of flood risk and water. Gloucestershire County Council (GCC) has been established as a Lead Local Flood Authority (LLFA) with responsibility for managing local flood risk from surface runoff, ordinary watercourses and groundwater in the area. GCC has a responsibility to produce a Local Flood Risk

Management Strategy, and they also have powers and duties to issue consents for works on ordinary watercourses and undertake enforcement activities.

- 3.3.2 The FWMA and subsequent 2014 House of Commons Written Statement (HCWS161) seek to secure Sustainable Drainage Systems (SuDS) by agreeing new approaches to the management of drainage systems. This new approach seeks to deliver SuDS by strengthening of current planning policy. It makes clear that the Government's expectation is that SuDS are to be provided in new developments.

## **PLANNING POLICY**

### **3.4 National Planning Policy Framework (NPPF)**

- 3.4.1 In March 2012 Government published the **National Planning Policy Framework (NPPF)** which sets out Government planning policy in England. The framework replaced many of the previous Planning Policy Guidance (PPG) or Planning Policy Statements (PPS), including PPS25: Development and Flood Risk. However, the accompanying planning practice guidance to the NPPF retains key elements of PPS25 and its associated Practice Guide.

- 3.4.2 At the heart of the NPPF is the presumption in favour of sustainable development, which is described as 'a golden thread running through both plan-making and decision-taking.' Sustainable development comprises three



dimensions; economic, social and environmental and these should not be treated in isolation as they are mutually dependent. To achieve sustainable development, economic, social and environmental gains should be sought simultaneously through the planning system.

- 3.4.3 Flood risk and water management falls within Section 10: 'Meeting the challenge of climate change, flooding and coastal change' and one of the core planning principles of the framework is that planning should take full account of flood risk. Furthermore, the framework sets out the government's intention that planning authorities should adopt proactive strategies to mitigate and adapt to climate change.

- 3.4.4 Solely as a starting point, the flood risk assessment climate change allowance guidance on the gov.uk website can be reviewed. Extracts from which are included below:

**Table 1 peak river flow allowances by river basin district (use 1961 to 1990 baseline)**

River basin district	Allowance category	Total potential change anticipated for the '2020s' (2015 to 2039)	Total potential change anticipated for the '2050s' (2040 to 2069)	Total potential change anticipated for the '2080s' (2070 to 2115)
Thames	Upper end	25%	35%	70%
	Higher central	15%	25%	35%
	Central	10%	15%	25%
Severn	Upper end	25%	40%	70%
	Higher central	15%	25%	35%
	Central	10%	20%	25%

**Using peak river flow allowances for flood risk assessments**

Consider the appropriate flood risk vulnerability classification to decide which allowances apply to your development or plan. This will help you understand the range of impact. The higher central, central, and upper end allowances are in table 1. Whilst the majority of the Borough is within the Severn River Basin District there is a small area to the east of the Borough within the Thames District. Please refer to the EA’s River Basin District Map to identify the relevant district for your site.

Table 2 shows anticipated changes in extreme rainfall intensity in small and urban catchments. For flood risk assessments and strategic flood risk assessments, assess both the central and upper end allowances to understand the range of impact.

**Table 2 peak rainfall intensity allowance in small and urban catchments (use 1961 to 1990 baseline)**

Applies across all of England	Total potential change anticipated for the '2020s' (2015 to 2039)	Total potential change anticipated for the '2050s' (2040 to 2069)	Total potential change anticipated for the '2080s' (2070 to 2115)
Upper end	10%	20%	40%
Central	5%	10%	20%

**Table 3 sea level allowance for each epoch in millimetres (mm) per year with cumulative sea level rise for each epoch in brackets (use 1990 baseline)**

<u>Area of England</u>	<b>1990 to 2025</b>	<b>2026 to 2055</b>	<b>2056 to 2085</b>	<b>2086 to 2115</b>	<b>Cumulative rise 1990 to 2115 / metres (m)</b>
South West	3.5 (122.5 mm)	8 (240 mm)	11.5 (345 mm)	14.5 (435 mm)	1.14 m

For further guidance on the application of climate changes allowances please refer to the EA’s local area advice on Climate Change Allowances for Planning at APPENDIX V of this document.

Whilst the majority of Tewkesbury Borough Council area is not directly affected by Tidal flooding, the increase in sea level may have an impact on parts of the Borough and will therefore need to be taken into account.

The NPPF and its associated **Planning Practice Guidance** is an important consideration in the decision making process.

3.4.5 The framework indicates that local plans and planning applications should both ensure that flood risk, including surface water flooding, is not increased as a result of development and that development proposals should only be permitted in areas at risk of flooding, where it can be demonstrated that:

- a site specific flood risk assessment has been undertaken which follows the Sequential Test, and if required, passes the Exception Test;
  - within the site, the most vulnerable development is located in areas of lowest flood risk unless there are overriding reasons to prefer a different location;
  - development is appropriately flood resilient and resistant, including safe access and escape routes where required;
  - that any residual risk can be safely managed, including by emergency planning; and
  - the site gives priority to the use of sustainable drainage systems.
- The framework also indicates that local plans should use opportunities offered by new developments to reduce flood risk elsewhere.

3.4.6 Sustainable Drainage Systems: Written Ministerial Statement

On 18<sup>th</sup> December 2014, a ministerial statement was made by the Secretary of State for Communities and Local Government (Mr Eric Pickles). The statement has placed an expectation on local planning policies and decisions on planning applications relating to major development to ensure that SuDS are put in place for management of runoff, unless

demonstrated to be inappropriate. The statement made reference to revised planning guidance to support local planning authorities in implementing the changes and on 23<sup>rd</sup> March 2015, the Department for Environment Food and Rural Affairs (Defra) published the “Non Statutory Technical Standards for Sustainable Drainage Systems”

### 3.5 Local Planning Policy

#### The Tewkesbury Borough Local Plan to 2011 - March 2006

- 3.5.1 **The Tewkesbury Borough Local Plan to 2011** was adopted in March 2006. In accordance with paragraph 215 of the NPPF, due weight should be given to relevant ‘saved’ policies in the local plan according to their degree of consistency with this framework (the closer the policies in the plan to the policies in the framework, the greater the weight that may be given). Planning law makes it clear that planning applications should be determined in accordance with the development plan, unless material considerations indicate otherwise. The local plan therefore remains the starting point for decision making.

#### The emerging Joint Core Strategy

- 3.5.6 **The adopted Joint Core Strategy (JCS)** is a strategic development plan document that has been prepared through a partnership between Gloucester City Council, Cheltenham Borough Council and Tewkesbury Borough Council. The JCS provides a co-ordinated strategic plan for this joint administrative area during the period up to 2031. The JCS has an extensive and up to date evidence base, including Strategic Flood Risk Assessments which provide a detailed assessment of multiple flood sources for specific broad locations within the JCS area.

#### The emerging Tewkesbury Borough Plan

- 3.5.7 Whilst the JCS provides the strategic level policies for development in the area, this will be supplemented at individual district level by locally specific plans. In Tewkesbury Borough, the council has begun preparation of the **Tewkesbury Borough Plan**, which is at a relatively early stage of preparation at the time of the publication of this SPD.

## CHAPTER 4 - THE IMPORTANCE OF PRE-APPLICATION ADVICE

- 4.1 The Council encourages early discussions in relation to development proposals. Developers are strongly advised to use the Council's **pre-planning application advice service** to discuss any potential issues that may arise from development proposals. There is also an expectation that developers seek early engagement with local communities and relevant organisations on their development proposals.
- 4.2 Seeking pre-application advice may help applicants to address issues such as:
- Whether the proposed development is acceptable in principle and thus warranting further investigations in respect of flooding and drainage
  - Whether a Flood Risk Assessment (FRA) needs to be submitted and, if so, what is the required scope of the assessment?
  - Confirmation of whether the Sequential and/or Exceptions Tests need to be applied, and advice on how to undertake the tests appropriately;
  - Advice on the most appropriate form of sustainable drainage measures for a site;
  - Whether there are any known contamination issues on the site which could affect site design and layout and the types of SuDS used?
  - Agreeing the discharge points for site drainage with the LPA and relevant RMA;
  - Obtain any relevant data needed in order to prepare the site specific FRA and drainage strategy.
- 4.3 The Council will, if necessary, seek the technical advice and views of the following Flood Risk Management Authorities (FRMA) when providing pre-application advice to applicants and determining subsequent planning applications:-

### Environment Agency

- 4.4 **The Environment Agency** (EA) is a public body that has responsibilities for protecting and enhancing the environment as a whole and contributing to the government's aim of achieving sustainable development. The EA are a statutory consultee and provide bespoke advice on certain planning applications in Flood Zones 2 and 3 and on sites in Flood Zone 1 which have critical drainage problems (as notified to the local planning authority by the Environment Agency). The EA do however apply standing advice to a wide range of development proposals. For the EA's local level consultation filter, flood risk matrix and

standing advice please refer to APPENDIX V. The consultation filter should be used to identify when the EA should be consulted and the flood risk matrix to identify when standing advice applies and which standing advice note to refer to. In providing pre-application advice the Council will refer to the EA's standing advice where applicable. It should be noted however that the EA operate charges for providing bespoke pre-application advice (i.e. in situations where standing advice does not apply) and in such circumstances the Council is unable to consult the EA as part of its own pre-application advice service. Applicants are therefore expected to obtain pre-application advice from the EA on a separate basis.

Water and sewerage undertakers

- 4.5 **Severn Trent Water** (STW) and **Thames Water** (TW) have the responsibility to maintain foul, surface and combined public sewers in Tewkesbury Borough so that they can effectively drain the area. They ensure that the public sewer system has the capacity to accept flows from new developments. To provide the necessary capacity they may require planning conditions to be imposed on planning permissions requiring the delay of any connection to the sewerage system until the additional capacity to accommodate the development is provided. Depending on location; STW or TW will be a statutory consultee on future developments.

Lead Local Flood Authority (Gloucestershire County Council)

- 4.6 The 2010 FWMA establishes **Gloucestershire County Council** as Lead Local Flood Authority (LLFA). As Lead Local Flood Authority, it has responsibility for managing local flood risk from surface runoff, ordinary watercourses and groundwater in the area and is a statutory consultee. Gloucestershire County Council is also the Local Highway Authority, and in this regard it is responsible for road construction and highway drainage consents.

Lower Severn Internal Drainage Board (IDB)

- 4.7 IDBs are local public authorities that manage water levels. They are an integral part of managing flood risk and land drainage within areas of special drainage need in England and Wales. IDBs have permissive powers to undertake work to provide water level management within their Internal Drainage District. They undertake works to reduce flood risk to people and property and manage water levels for local needs. Much of their work involves the maintenance of rivers, drainage channels, outfalls and pumping stations, facilitating drainage of new developments and advising on planning applications. They also have statutory duties with regard to the environment and recreation when exercising their

permissive powers. IDBs input into the planning system by facilitating the drainage of new and existing developments within their districts and advising on planning applications; however they are not a statutory consultee to the planning process.

#### **Planning Application Requirements**

- 4.8 Pre-application advice will help applicants to understand the issues relating to their proposal by the time a planning application is submitted. However, it is also important that all the correct information is submitted to ensure applications can be validated and determined efficiently. The Council's **validation checklists** set out the requirements for submission. In addition; all relevant checklists from the suite provided in Appendix B of The SuDS Manual (CIRIA, C753) are to be utilised.

## CHAPTER 5 - FLOOD RISK AND SITE SELECTION

### 5.1 Introduction

5.1.1 Development in areas at risk of flooding should be avoided. Flood risk includes risk from all sources of flooding, including from:

- rivers (fluvial)
- tidal and coastal flooding;
- rainfall surface water (pluvial);
- overwhelmed sewers and drainage systems;
- groundwater; and
- From reservoirs, canals and lakes.

Where development is necessary, it should be safe and should not increase flood risk elsewhere.

5.1.2 Flood risk is an expression of the combination of the flood probability (how likely the event will happen) and the magnitude of the potential consequences (the impact such as economic, social or environmental damage) of the flood event.

5.1.3 The likelihood or risk of flooding can be expressed in two ways:

**Chance of flooding:** As a percentage chance of flooding each year. For example, for Flood Zone 3b there may be a 5% annual probability of this area flooding

**Return period:** This term is used to express the frequency of flood events. It refers to the estimated average time interval between events of a given magnitude. For example, for Flood Zone 3b the return period could be expressed as 1 in 20 year

5.1.4 There is however a move away from using return periods as an expression of flood risk as this approach does not accurately express the risk of flooding. For example, it is misleading to say that a 1 in 100 year flood will only occur once in every hundred years. This suggests that if it occurs in one year then it should not be expected to reoccur again for another 100 years; however this is not the case. The percentage chance of flooding each year, often referred to as **annual probability**, is now the preferred method of expressing flood risk.

5.1.5 Fluvial flooding is divided into flood zones based on the risk of flooding:

Figure 5.1: Fluvial Flood Risk Zones

Flood Zone	Definition
<b>Zone 1</b> - Low Probability	Land having a less than a 0.1% annual probability of river or sea flooding. (Shown as 'clear' on the Flood Map - all land outside Zones 2 and 3)
<b>Zone 2</b> - Medium Probability	Land having between a 1% and a 0.1% annual probability of river flooding; or Land having between a 0.5% and a 0.1% annual probability of sea flooding. (Land shown in light blue on the Flood Map)
<b>Zone 3a</b> - High Probability	Land having a 1% or greater annual probability of river flooding; or Land having a 0.5% or greater annual probability of sea flooding. (Land shown in dark blue on the Flood Map)
<b>Zone 3b</b> - The Functional Floodplain	This zone comprises land where water has to flow or be stored in times of flood. LPAs should identify in their Strategic Flood Risk Assessments areas of functional floodplain and its boundaries accordingly, in agreement with the EA. (Not separately distinguished from Zone 3a on the Flood Map)

5.1.6 Maps showing Flood Zones are available on the gov.uk website. Flood Zones refer to the area affected by flooding from fluvial or tidal sources only, ignoring the presence of defences, for differing probabilities as defined in Table 1 of sub-section 25 within the Flood and Coastal Change section of the National Planning Practice Guidance (NPPG). These areas are shown upon the Environment Agency's Flood Map for Planning. It should be noted that the EA's flood map is indicative only and does not cover the entire Borough. For example; flood risk associated with smaller watercourses with a catchment of less than 3 km<sup>2</sup> do not necessarily feature on the EA flood map. This does not however mean

that there is not a risk of flooding associated with these watercourses. Therefore; individual site specific hydraulic modelling may well be required in to establish the flood risk on a site.

5.1.7 To cope with the potential risks from forecasts of climate change (warmer summers, wetter winters and increased river flows, storm surge, wave climate, predicted 1.14m cumulative rise in sea levels in the South West of England by 2115) and to ensure that new development is safe for its lifetime, the Government has emphasised that development in areas at risk of flooding should be avoided by directing development away from the highest risk areas. Where development is necessary it should be made safe without increasing flood risk elsewhere. Please see the DEFRA/ EA technical report '[Flood Risk Assessment Guidance for New Development - FD2320/TR2](#)' for further information on what is considered a danger to people.

5.1.8 All proposals should therefore follow a Sequential Approach to flood risk. This means relevant development will be directed to the areas at the lowest risk of flooding at a strategic, local and site-scale level. It will be necessary to consider flooding from all sources: the sea (tidal), rivers (fluvial), surface water (pluvial) and ground water, and a possible combination of all of these. Further detail on the Sequential Test is provided below.

5.1.9 The 'design flood'; which is defined as the **fluvial flood level likely to occur with a 1% annual probability**, or 0.5% tidal, plus climate change allowance, should be used to inform the sequential approach, including appropriate location of built development; consideration of flood risk impacts, mitigation/enhancement and ensure 'safe' development.

## 5.2 Site Vulnerability

5.2.1 The general approach to flood risk and planning is to ensure that where possible, development is located in the areas of lowest flood risk and this approach can be applied at various levels i.e. strategic scale, individual site scale and building scale to ensure the most vulnerable uses are located in the area of lowest flood risk

5.2.2 Therefore it is necessary to identify how 'vulnerable' the proposed development is using the vulnerability classification set out in Table 2 of the [Planning Practice Guidance](#). This is important because different types of development are acceptable in different flood risk

situations. In simple terms, the more vulnerable the development type is, the more important it is to locate it in areas of the lowest possible flood risk. The table in the [Planning Practice Guidance](#) sets out in more detail what types of development can be located in which flood zone and categorises the developments into the following areas.

- Essential Infrastructure
- Highly Vulnerable
- More Vulnerable
- Less Vulnerable
- Water Compatible Development.

### 5.3 The Sequential Test

5.3.1 The aim of the Sequential Test is to steer new development to areas with the lowest probability of flooding with the Environment Agency's 'flood zone' maps normally being the starting point for any assessment. Development should not be permitted if there are reasonably available sites in areas with a lower probability of flooding. The sequential approach is to be used in areas known to be at risk from flooding.

5.3.2 The overall aim is to steer new development to Flood Zone 1. Where there are no reasonably available sites in Flood Zone 1, Tewkesbury Borough Council will take into account the flood risk vulnerability of land uses and consider reasonably available sites in Flood Zone 2 where flood risk is minimal, applying the Exception Test if required. Only where there are no reasonably available sites in Flood Zones 1 or 2 should the suitability of sites in Flood Zone 3 be considered, taking into account the flood risk vulnerability of land uses and applying the Exception Test if required. In applying the sequential test to major developments Tewkesbury Borough Council will require the developer to provide information and if deemed necessary, request additional up to date modelling to demonstrate that the application takes account of changes both in climate change requirements and any actual recorded flooding events since the original Environment Agency modelling was carried out.

5.3.3 The sequential approach should also be applied within the application site itself by locating the most vulnerable elements of the development in the lowest flood risk areas in the first instance. The use of flood risk areas (i.e. Flood Zones 2, 3a and 3b) for recreation, amenity and environmental purposes can provide an effective means of flood risk management as well as providing connected green spaces with consequent social and

environmental benefits. Sequential test guidance can be found at <https://www.gov.uk/guidance/flood-risk-assessment-the-sequential-test-for-applicants>.

5.3.4 The Sequential Test does not need to be applied for:

- Individual developments on sites which have been allocated in development plans, as the Sequential Test process has already been undertaken (unless the Flood Zones for the site have changed);
- Minor development or change of use (except for a change of use to a caravan, camping or chalet site, or to a mobile home or park home site); or
- Sites located wholly in Flood Zone 1

5.3.5 The definition of minor development for the purposes of the Sequential Test is:

- Minor non-residential extensions: industrial/commercial/leisure etc. extensions with a footprint less than 250 square metres;
- Alterations: development that does not increase the size of buildings e.g. alterations to external appearance;
- Householder development: for example sheds, garages, games rooms etc. within the curtilage of the existing dwelling, in addition to physical extensions to the existing dwelling itself. This definition excludes any proposed development that would create a separate dwelling within the curtilage of the existing dwelling e.g. subdivision of houses into flats.

5.3.6 All sources of flood risk should be considered when assessing the need for the Sequential Test as well as undertaking the test.

5.3.7 The PPG requires a pragmatic approach to the Sequential Test and site availability and suggests that it might be impractical to suggest there are more suitable alternative sites in some circumstances. For example, it may be that proposals are submitted which involve the redevelopment of heritage assets where the benefits that would arise from bringing the buildings back into use cannot be provided by development on an alternative site.

5.3.8 The following sets out how applicants should undertake the Sequential Test for assessment by the LPA. This would normally take the form of the submission of a report commensurate in size to the scale of development proposed.

- The Applicant should agree with the LPA the geographical area over which the test is to be applied. This will normally be based on the circumstances and requirements of the proposed development in question. For example, where a large scale strategic

housing development is proposed it will normally be appropriate to consider the Borough as a whole; however, where a small scale housing development meeting local needs is proposed the geographical area may be more refined and based on that local area. Furthermore, there may be situations where the functional requirements and objectives of the proposed development justify a refined catchment area (e.g. the catchment area for a school, community facilities and development within a regeneration zone).

- The relevant policies of the local plan should be the starting point to understand areas of local need. For uses that have a sub-regional, regional or national impact it may be appropriate to expand the area beyond the LPA boundary.
- The developer should identify and list reasonably available sites that meet the functional requirements of the application in question and are considered reasonably available and would be given planning permission for the proposed use. The Council's Strategic Assessment of Land Availability (SALA) provides a source of information on sites in the Borough that are available for development. It must however be noted that the identification of a potential site within the SALA does not imply that it is deliverable and developable and the council would grant planning permission for development. All alternative sites must still be in conformity with the Adopted Development Plan, the National Planning Policy Framework and its associated National Planning Practice Guidance. Other sources of alternative sites may include unimplemented site allocations within an adopted Development Plan Document and unimplemented planning permissions (although permissions that are likely to be implemented are not considered to be reasonably available).
- The Developer should obtain the necessary flood risk information for all the sites. This should be from all available sources including but not limited to the EA's Flood Zones maps, the EA's Areas Susceptible to Surface Water Flooding Maps, the SFRAs, and the British Geological Society Areas Susceptible to Groundwater Flooding Maps together with any other local flood risk knowledge.
- The Developer should apply the Sequential Test and compare the flood risk from all sources for the reasonably available sites to the original sites flood risk as set out in the site specific FRA to demonstrate if there are any reasonably available sites that have a lower flood risk, state how they compare regarding flood risk and any reasons why they are unsuitable or not available within the report.

- If the site is not within Flood Zone 1 are there any reasonably available sites in the area with a lower probability of flooding that would be appropriate to the type of development or land use proposed. If no, this does not mean that the proposed development is acceptable in flood risk terms as it may be necessary to apply the exception test as part of the site specific flood risk assessment.
- Reasonably available does not mean that the sites must be in the same ownership. Instead the Council will view reasonably available sites as those that are both ‘deliverable’ and ‘developable’ as defined by the NPPF (Para.47, footnotes 11-12). The Council does not necessarily accept however that to be ‘deliverable’ for the purposes of the Sequential Test an alternative site must have a realistic prospect of housing being delivered on it within the first five years. Instead, determining whether an alternative site is deliverable should be based on the likely delivery trajectory of the proposed development in question (for example where a very large, complex development is proposed and it is unlikely that the site would deliver within the first five years, it is inappropriate to only consider alternative sites that can deliver within five years). Furthermore, for non-residential developments delivery timeframes may not be as important a consideration. The deliverability of alternative sites will therefore be considered on a case by case basis. In addition, reasonably available sites should:
  1. Lie within the agreed area of search; *and*
  2. Can accommodate the general requirements of the development; *and*
  3. Are, in principle, in conformity with the Adopted Development Plan, the National Planning Policy Framework and its associated National Planning Practice Guidance.

5.3.9 In considering whether an alternative site can accommodate the general requirements of the development the Council will expect a flexible approach to be employed. For example, where appropriate, applicants will be required to consider disaggregating proposals where two or more alternative sites with a similar combined capacity have been identified.

## 5.4 The Exception Test

5.4.1 If, following application of the Sequential Test, it is not possible for the development to be located in zones with a lower probability of flooding, the Exception Test can be applied if required (see Table 3 Flood Risk Vulnerability and flood zone compatibility PPG). For the Exception Test to be passed:

- it must be demonstrated that the development provides wider sustainability benefits (including social, economic and environmental benefits) to the community that outweigh flood risk, informed by a Strategic Flood Risk Assessment; and
- a site-specific flood risk assessment must demonstrate that the development will be safe for its lifetime taking account of the vulnerability of its users, without increasing flood risk elsewhere, and, where possible, will reduce flood risk overall.

5.4.2 The Exception Test applies to planning applications and the allocation of land through the development plan process. Both elements of the exceptions test must be satisfied.

## 5.5 The Joint Core Strategy Strategic Flood Risk Assessment

5.5.1 To complement the Environment Agency's flood zone maps, Gloucestershire County Council prepared a **Strategic Flood Risk Assessment (SFRA) Level 1** for the County in September 2008. This assessed all forms of flood risk: fluvial (rivers), tidal (sea), surface water, groundwater, sewers, reservoirs and canals.

5.5.2 To provide further information, two **SFRA Level 2** reports were published in October 2011 and April 2013. It must be noted that currently the SFRA do not take account of the revised allowances for climate change. An additional SFRA Level 2 report on specific sites will also be published as part of the emerging Tewkesbury Borough Plan. These involve a more detailed review of flood risk at identified broad locations, based on the risk identified in the Level 1 SFRA. Areas with the lowest flood risk (Flood Zone 1) were not subject to the Level 2 SFRA.

5.5.3 If developers wish to refer to the Level 2 SFRA then they should provide detailed evidence, by reviewing the hydraulic modelling that forms the basis of the data, to show why the SFRA outlines should supersede the Flood Map for Planning outlines. As the Flood Map for Planning is regularly reviewed and updated in comparison; this approach would

adhere to the principle of the best available data approach. This, along with the Environment Agency's flood maps and the site specific FRA, provide the information necessary to apply the Sequential Test and Exception Test in the development management process by helping to identify sites that may or may not be suitable for development.

## **5.6 Site Suitability and Flood Risk Considerations for Planning Applications and Site Specific Flood Risk Assessments (FRA)**

5.6.1 Developers proposing development or a change of use to a more vulnerable class in areas of flood risk from any source or with critical drainage problems (as notified to the local planning authority by the Environment Agency) or which could create flood risk for others or are more than 1 hectare in size are responsible for:

- Demonstrating that the proposed development is consistent with national and local planning policy.
- Undertaking appropriate consultation with the flood risk management authorities (Section 4)
- Providing a site-specific Flood Risk Assessment (FRA), as part of the planning process, which meets the requirements of this Section, and those set out by the relevant flood risk management authority.
- Integrating measures into the proposals design that reduce flood risk to the development and elsewhere, by incorporating appropriate flood risk management measures (Chapter 9) including the use of Sustainable Drainage Systems (SuDS) (Chapter 6)
- Ensuring that any necessary flood risk management measures are sufficiently funded to ensure that the site can be developed, occupied and maintained safely throughout its proposed lifetime. (Section 6.15)

5.6.2 The Council will refuse to validate applications for sites in Flood Zones 2 and 3 where no FRA is submitted.

5.6.3 The following section sets out the points that need to be taken into consideration when determining a site's suitability for development due to flood risk. All requirements are consistent with the NPPF and PPG with local requirements explained further.

Assessment

- 5.6.4 Applicants must consider allocations within the local Development Plan. If the site has been allocated in the Development Plan for the same land use type/vulnerability classification that is now being proposed, then an assessment of flood risk, at a strategic level, has already been undertaken. This will have included assessing the site, against other alternative sites, as part of the sequential approach to flood risk. A site's allocation in the Development Plan for the same land use/vulnerability does not however preclude it from requiring a site specific FRA, only from the application of the Sequential Test.
- 5.6.5 It must be demonstrated that the flood risk information contained within the SFRA and associated sequential test assessment accompanying the local plan/development plan (where applicable) is still appropriate for use. It must be clarified whether the flood zoning of a site changed after adoption of the relevant part of the local plan or if there is any updated climate change allowances or a recorded flood. In this case Tewkesbury Borough Council will require the developer to provide evidence that the changes have been taken into account and, for a Major Development, the Developer will need to provide an updated Flood Risk Assessment using updated modelling to redefine the flood zones.
- 5.6.6 Where the site has not been allocated in the local plan or the flood zone classification has changed since adoption of the plan (i.e. it is a windfall or non-allocated site), a detailed flood risk assessment including the sequential test and, where appropriate, the exception test will need to be undertaken following the overarching principles of the sequential approach. Details of the sequential and exception test are specified above at 5.3 and 5.4.
- 5.6.7 Applicants should indicate their site boundary on a plan and, if applicable, the boundary of any allocated site and provide evidence of any checks to see if there is any updated Flood Risk information after the preparation of the relevant SFRA.
- 5.6.8 Where the drainage system discharges to a surface water body that can accommodate uncontrolled free discharge without any impact on the flood risk (e.g. the sea or a large estuary) the peak flow and volume control standards need not apply.
- 5.6.9 For 'major' development (as defined within The Town and Country Planning Development Management Procedure (England) Order 2015) a detailed FRA is to provide an appropriate assessment (hydraulic model) of the 1% annual probability flood event, with 70% allowance added to 'peak river flows' to account for climate change. This is as per set out in Environment Agency guidance as the 'Upper' allowance for the Severn river basin district in their 'Adapting to Climate Change' document.

5.6.10 For non-major development; the preference is to undertake the same approach as for major development. However in the absence of modelled climate change information, it may be reasonable to utilise an alternative approach (see APPENDIX V).

5.6.11 Have other sources of significant flood risk from sources other than fluvial or tidal, such as pluvial (surface water, as demonstrated either by the LLFA surface water management plan or physical photographic evidence of previous events), groundwater, reservoirs, sewers, etc. been considered (see Sequential Test details at 5.3)?



## 5.7 What an FRA Should Contain

5.7.1 A brief FRA is all that is normally required for small-scale proposals such as householder development and other minor extensions (<250m<sup>2</sup>) in Flood Zones 2 and 3. The FRA (which must be submitted along with supporting evidence, as part of a planning application) for such developments must, as a minimum, be based on the most up to date EA guidance for Minor Development in Flood Zone 2 and 3. In addition, it needs to take into account the most up to date SPD requirements and advice on climate change (see APPENDIX V for local Environment Agency Guidance on both these points). However, for other types of development a more detailed FRA will be required. Obtaining pre-application advice from the Council will assist in determining the level of detail required for a FRA.

5.7.2 For more complex development schemes, an FRA will be required to include a detailed sustainable drainage scheme to mitigate the site. Any suggestion that preferred SuDS techniques for a particular site are unviable or unduly onerous, by virtue of factors such as extraordinarily high development costs or significant harm to heritage assets must be robustly evidenced. The [Environment Agency](#) has published further guidance setting out what an FRA should contain and [English Heritage](#) has published guidance on the consideration of heritage assets within flood mitigation schemes.

5.7.3 FRAs should be proportionate to the risk and appropriate to the scale, nature and location of the development. A FRA should always be undertaken as **early as possible** in the planning process to avoid abortive work raising landowner expectations where land is unsuitable for development.

5.7.4 FRAs should:

- a) Consider and quantify the **different types of flooding** whether from natural or human sources (e.g. canals, dam breaches and reservoir breaches) and including joint and cumulative effects. The LPA will expect links to be made to the management of surface water as described in Chapters 6 and 7. Information to assist with the identification of surface water and groundwater flood risk is available from the LLFA, the EA and the LPA. Applicants should also assess the risk of foul sewage flooding as part of the FRA. STW/TW as sewerage undertaker can provide relevant information to the applicant to inform preparation of FRAs.
- b) Consider the effects of a range of flooding events including the **impacts of extreme events** on people, property, the natural and historic environments and river processes.
- c) Consider the **vulnerability of occupiers and users** of the development, taking account of the Sequential and Exception Tests and the vulnerability classification, and include arrangements for safe access (Please see the Defra/EA technical report '[Flood Risk Assessment Guidance for New Development - FD2320/TR2](#)' for further information on what is considered a danger to people).
- d) Identify relevant **flood risk reduction measures** for all sources of flood risk not just for the site but elsewhere i.e. downstream existing flooding problems.
- e) Consider both the potential adverse and beneficial **effects of flood risk management infrastructure** including raised defences, flow channels, flood storage areas and other artificial features together with the consequences of their failure.
- f) Include assessment of the remaining **residual risk** after risk reduction measures have been taken into account and demonstrate that this risk is acceptable for the particular development or land use. Further guidance on this is given in Chapter 9.
- g) Be supported by appropriate **evidence data** and information, including historical information on previous events. All topographical survey data submitted with applications must be presented as an accurate height Above Ordnance Datum, Newlyn (mAOD)
- h) Consider the risk of **flooding arising from the proposed development** in addition to the **risk of flooding to development on the site**. This includes considering how the ability of water to soak into the ground may change after development. This would mean the preparation of surface water drainage proposals. This includes all flow routes including flood flow paths or ordinary watercourses flowing onto the development site and therefore needing to be taken account of.

- i) Take a ‘**whole system**’ holistic approach to drainage to ensure site discharge does not cause problems further along in the drainage sub-catchment and can be safely catered for downstream and upstream of the site.
- j) Take the appropriate **impacts of climate change** into account for the lifetime of the development including the proposed vulnerability classification.
- k) The FRA must clearly demonstrate that the **Sequential Test** and **Exception Test**, where required, have been passed.
- l) A surface water drainage strategy contains the proposals for the surface water drainage of the development. Such a strategy should include initial proposals that are sufficient to demonstrate a scheme can be delivered that will adequately drain the proposed development whilst not increasing flood risk elsewhere as part of the FRA.
- m) If an outline application is to be submitted for a major development, then an outline surface water drainage strategy must be submitted as part of the FRA, outlining initial proposals and quantifying the conceptual surface water management for the site as a whole. This should detail any strategic features, including their size and location. A detailed surface water drainage strategy must subsequently be submitted and approved for the whole site and, with each reserved matters application that comes forward, it must be demonstrated that the surface water drainage strategy is still appropriate and how the reserved matters application complies with the outline and detailed whole site surface water drainage strategy’s.

### **Surface Water Drainage Strategy**

5.7.5 Developers should prepare the surface water drainage strategy as part of the FRA, ensuring consistency between the surface water flood risk and any initial drainage proposals. It is recommended that a surface water drainage strategy is based on the following principles:

- a) Work up your drainage strategy in tandem with your site layout and highway designs. This will help avoid abortive work in any one area. Use Chapters 6, 7 and 9 to ensure that the following have been considered:
  - a.1. The submission requirements, including any supporting investigations
  - a.2. Sustainable drainage design principles
  - a.3. Interception, infiltration, flow rate runoff control, volumetric runoff control, and exceedance flow management
  - a.4. Site discharge location and attenuation provision
  - a.5. Water quality treatment, habitat provision and biodiversity

- a.6. Health and safety, access and amenity
  - a.7. Use the correct climate change allowances for the development based on its lifetime.
  - a.8. Ensure that the required management and maintenance of all site features has been clearly set out as part of the drainage strategy. Get initial agreements in place to cover management funding for the lifetime of the development.
  - b) Check that the quality of the water environment (and therefore WFD issues) has been specifically considered as part of all of the flood and drainage measures proposed. Is development of the site likely to cause detriment to the WFD status of a water body? Have opportunities been taken to enhance the water environment?
- 5.7.5 Where there are proposals which include changing the discharge of surface water flows between catchments, planning permission will be expected to be refused unless copies of Legal Easements from the new point of discharge to the original point of discharge to the original watercourse are provided to the Planning Authority as part of any planning submission. Whilst there may be some significant contrast between riparian rights and nuisance, the boundaries between the two are not always clearly defined. Therefore; the aim is to ensure that if a development changes the drainage characteristics of the location that the necessary endorsements are in place from potentially affected third party landowners.
- 5.7.6 The design will aim to ensure that any attenuation facility has a normal Flood Hazard Rating (FHR) of less than 1.25, with a maximum depth of 1.2m and banks no steeper than a 1 in 4 slope (exceptions could be considered for very small scale/depths of slope). Where it is demonstrated that meeting these standards would be unfeasible the design of attenuation facilities must reduce risks as far as possible through the implementation of significant multiple health and safety mitigation design measures e.g. position siting and lighting, edge gradient above and below the water line, barrier planting (which doesn't obstruct visibility of the water from the surrounding area), depth profile of water with dry and wet 'benches', signs etc. This is predominantly aimed at accessible SuDS or the edges of regional ponds. Large regional ponds may have greater water depths and subsequently higher FHRs.
- 5.7.7 The design shall ensure that the attenuation storage requirement is assessed against a 1% annual probability flood event plus 70% allowance for climate change on the receiving watercourse. In addition; that run-off is restricted to the existing 1/1 green-field rate for

the 1/1 event and the **Mean Annual Flood Flow ( $Q_{bar}$ )** green-field rate for all events above the 1/1 and up to the 1% event. Due to the significant flooding issues within the Borough developers are encouraged to apply a **70%** allowance for climate change as part of a precautionary approach for extreme rainfall events. This approach is to ensure that sufficient run-off is retained on site for extreme events to protect the receiving water course in times of flooding. However, as a minimum, the Council will expect a **40%** allowance to be made as per Environment Agency guidance for the 'upper estimate' in their 'Adapting to Climate Change' document. The preferred method of calculation is by the Revitalised Rainfall-runoff model Version 2 (ReFH2) using design rainfall hyetographs derived from the FEH13 Depth Duration Frequency (DDF) rainfall model. Other hydrological models may be acceptable but a comparison with ReFH2 and FEH13 should be provided.

- 5.7.8 For Development Sites where either there is recent photographic evidence, or if the Surface Water Management Plan shows the presence of pluvial flooding, the Development will need to compensate for the pluvial flood volume lost by providing additional flow and storage capacity within the developments surface water drainage system and attenuation storage. In a large-scale development or an allocation, the compensatory storage would need to be comprehensive, contiguous and protected from development.
- 5.7.9 The detailed design of development should seek to reduce the risks of flooding for any existing development and land in or around the application site as part of the new development and deal with flooding in a comprehensive manner for the whole of the site.
- 5.7.10 Within an application site, where there is reason to believe that overland flow could occur into the site, then provision shall be made to accommodate those flows within the site layout. The design of the site must also ensure that flows resulting from these overland flows are managed in exceedance routes that minimise the risks to people and property and avoids creating hazards to pedestrian and vehicular access and egress routes.
- 5.7.11 Critical duration events for watercourses and rivers can typically range from around 4 hours for small catchments, up to 3 days for the large rivers such as the River Severn. Therefore, it is plausible that the critical duration event for the development site could coincide with major flows in rivers, with subsequent hydraulic consequences. Where there is this 'dependency' then the relevant return period needs to be applied to both the site drainage system and the relevant watercourse, to ascertain what the implications are for the site system. Where the impact is considered to be significant; more

detailed examination of the interconnection needs to be undertaken. The combination of return periods should undergo joint probability analysis, in order to refine the site design.

## CHAPTER 6 - SUSTAINABLE DRAINAGE SYSTEMS (SuDS)

- 6.1 SuDS are surface water drainage systems which manage water runoff in a more sustainable way than traditional drainage, through managing flow rates and protecting water quality. All developments regardless of scale and constraints should seek to incorporate SuDS and in virtually all cases it will be a requirement. It is incorrect to assume that ground conditions preclude their use, as there are a variety of solutions available depending on the location and needs of a development - SuDS are not difficult, just different. SuDS are intended to replicate, as closely as possible, the natural drainage from a site before development takes place.
- 6.2 SuDS offer significant advantages over traditional piped drainage systems in reducing flood risk, by reducing the quantity of surface water run-off from a site and the speed at which it reaches water courses, promoting groundwater recharge and improving water quality and amenity. The range of SuDS techniques available means that a SuDS approach in some form will be applicable to almost any development, to maximise the opportunities and benefits obtainable from surface water management.
- 6.3 Please note that reference is made to ‘SuDS’ throughout this chapter, rather than ‘surface water drainage’ as the National Planning Policy Framework (NPPF), Planning Practice Guidance (PPG) and adopted and emerging Local Planning policies require a SuDS solution to surface water management for new development. Many of the general principles within this chapter can also be applied to traditional surface water drainage and so this chapter needs to be complied with on all development sites and the provision of SuDS maximised. Even on very constrained sites SuDS can be implemented in one form or another.
- 6.4 **WHAT IS REQUIRED?**
- 6.4.1 For all Greenfield sites, developers must attenuate run-off so that the flow to the receiving waterbody is restricted as per 5.7.7 above. The climate change allowance must be added to the post-development run-off rate and volume calculations only.
- 6.4.2 For brownfield sites, in all instances innovative SuDS design solutions will be supported in principle and opportunities to improve runoff rates and reduce flood risk will be sought, with a minimum discharge reduction of 40% expected. SuDS techniques should reduce the proven current instantaneous runoff rate to the 1/1 green-field rate for the 1/1 event and the **Mean Annual Flood Flow ( $Q_{bar}$ )** green-field rate for all events above the 1/1 and up to

the 1% event, and a minimum 40% allowance for climate change in line with 5.7.7 above. If this is demonstrated to the satisfaction of the local planning authority to be completely unviable, for example due to the constraints and complexity of the site, then , an approach of ‘as close as reasonably possible’ may be accepted.

- 6.4.3 In all cases; the preferred method of hydrological assessment is by the ReFH2 model, using design rainfall hyetographs derived from the FEH13 DDF rainfall model. Other hydrological models may be acceptable but a comparison with ReFH2 and FEH13 should be provided.
- 6.4.4 Where the drainage system discharges to a surface water body that can accommodate uncontrolled surface water discharges without any impact on flood risk from that surface water body (e.g. the sea or a large estuary) the peak flow/volume control standards need not apply.
- 6.5 There are a variety of SuDS techniques and further guidance should be sought via The SuDS Manual (CIRIA, C753). The use of ‘open to surface’ SuDS management train techniques is preferred, as opposed to piped or tanked solutions which offer nothing in terms of water quality, biodiversity, amenity, have increased future maintenance requirements and are typically more expensive to implement. In addition, any innovative solutions will be welcomed and supported in principle.

- 6.5.1 One or more of the following ‘open to surface’ options should be considered first. This list is not exhaustive and further guidance can be found in the SuDS Manual (CIRIA C735). If these methods are discounted, robust evidence as to why this is the case should be demonstrated as part of any submission.

### **Surface SuDS Elements**

**Permeable surfaces:** Surfaces that allow inflow of rainwater into the underlying construction or soil; such as gravel, permeable hard surfacing, permeable block paving, porous tarmac and porous concrete. The storage can be created within the sub-base of these surfaces given careful selection of the stone fill or use of plastic box systems. They are also very effective at removing a wide range of pollutants and may also permit infiltration.

**Green roofs:** A vegetated roof which provides retention, attenuation and treatment of rainwater, and promotes evaporation and local biodiversity.

**Brown roofs:** Similar to green roofs, but the permeable layer is made from crushed material which provides a good void ratio and does not contain any contaminants.

**Rainwater harvesting:** A system that collects rainwater from where it falls rather than allowing it to drain away. It includes water that is collected within the boundaries of a property, from roofs and surrounding surfaces and can reduce the risk of flash flooding. Rainwater harvesting systems are not included in the calculation of attenuation storage provision due the fact that they may be full at the start of a storm event.

**Filter trenches/ drains:** Linear drains consisting of trenches filled with a permeable material, often with a perforated pipe in the base of the trench to assist drainage, to store and conduct water. They may also permit infiltration.

**Filter strips:** Vegetated areas of gently sloping ground designed to drain water evenly off impermeable areas and to filter out silt and other particulates.

**Sand Filters:** Structural controls designed to treat surface water by passing runoff through a filter bed of sand. Temporary storage can be provided by ponding above the filter layer and they can be used where high pollutant removal is required.

**Swales:** Shallow vegetated channels that conduct and can retain water in larger storm events. The vegetation filters out particulate matter in the flow thus providing treatment and improving water quality. They may also permit infiltration.

**Basins:** Ponds and wetland areas that may be utilised for surface runoff storage.

**Bio-retention areas:** Vegetated areas designed to collect and retain runoff and permit settlement of suspended solids and biological removal of pollutants before discharge via a piped system or infiltration to the ground.

- 6.5.2 The following below ground techniques are recognised, but the developer must demonstrate how the siltation risk is to be reduced and how silt can be removed from the drainage element safely and economically. Design life data, maintenance and replacement information must also be provided. In general; priority is given to the use of ‘open to surface’ SuDS management train techniques, as opposed to piped or tanked solutions which offer nothing in terms of water quality, biodiversity, amenity, have increased future maintenance requirements and are typically more expensive to implement.

### **Sub-Surface SuDS Elements**

The most commonly found sub-surface elements of a sustainable drainage system are set out below. It should be noted that these solutions should only be considered when all other surface/open to air techniques have been robustly demonstrated not to be suitable.

**Geocellular/Modular Storage:** Sub-surface storage structure that has a very high void ratio and thus occupies a reduced space compared to other options, e.g. stone filled trenches. They can also be used as a very effective infiltration technique where ground conditions are suitable.

**Pipes and accessories:** A series of conduits and their accessories, normally laid underground, that convey surface water to a suitable location for treatment or disposal.

**Pre-treatment devices:** These remove silt, sediment and debris to prevent downstream clogging and provide pollutant capture from runoff. These devices require regular maintenance to work efficiently. e.g. sediment sumps and catch basin inserts.

**Large diameter pipes, culverts or tanks:** Provide a volume of below ground storage which should be large enough to allow for unrestricted future maintenance and cleaning.

6.6 Prior to submitting a planning application an applicant should discuss with the Council's Development Management team what SuDS techniques would be most appropriate and how they should be applied on a site. Some SuDS techniques are not appropriate on sites with particular ground conditions. The Local Highways Authority should be contacted to discuss suitable/adoptable SuDS solutions for the surfacing of estate roads.

## 6.7 **SuDS DESIGN PRINCIPLES**

6.7.1 It is strongly advised to consult The SuDS Manual (CIRIA, C753) Part C for guidance on the approach which is expected. In particular; Chapter 7 - The SuDS Design Process and Appendix C - Design Example.

### **Design in SuDS from the start.**

6.7.2 Considering SuDS during the preliminary stages of site design provides the opportunity to incorporate features that are appropriate to the local context and character of an area. Integrated design to achieve multi-functional benefits is inherent to the site master planning and layout process; therefore it is most efficient and cost effective to design SuDS schemes into a site as early as possible. When drainage is accounted for from the beginning of the design process, it provides opportunity for the built up areas to be designed in-line with the topography, rather than to fit the drainage around the site at a later stage which is much less effective.

6.7.3 Land uses that have different pollution potential can also be clustered and phased so that management trains can be designed most effectively. The result of early inclusion of SuDS is a more effective and efficient layout which will avoid the need for abortive work and changes at a later stage which can escalate costs.

6.7.4 The better the SuDS design the more options for adoption that might be available to a development. For example, contrary to popular belief permeable/porous surfaces are *not* solely infiltration systems, do *not* have onerous maintenance requirements, *can* accommodate heavier traffic (including construction traffic) and *are* adoptable by Highways Authorities. The stages described below gives one example of how a design can integrate SuDS spatially through the evolution of a master planning exercise:

**Stage 1 - Examine site topography and geology**

Aim to mimic the natural drainage systems and processes as far as possible. Identify key natural flow paths, existing waterbodies, discharge points and potential infiltration areas to understand opportunities and constraints

**Stage 2 - Create a spatial framework for SuDS**

Minimise runoff by rationalising large paved areas and maximising permeable surfaces. Consider likely space needs for site control SuDS based on character of development and the proposed degree of source control. Use flow paths and possible infiltration or storage areas to inform development layout.

**Stage 3 - Look for multi-functional spaces**

Consider how SuDS features can be co-located with green infrastructure, open space and public realm areas to create multi-functional spaces. SuDS can be designed to be valuable amenity and ecological features.

**Stage 4 - Integrate the street network with SuDS**

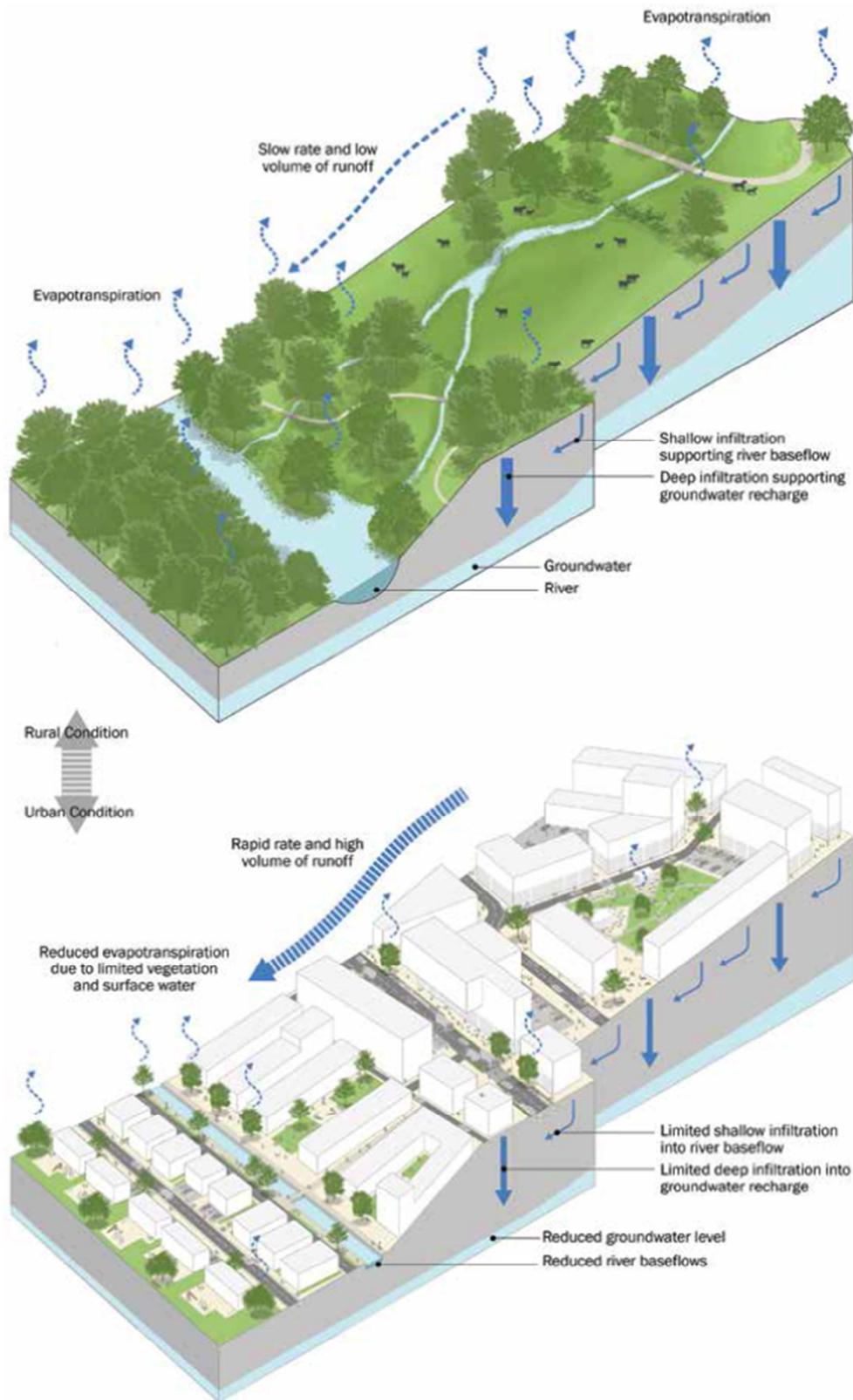
Structure the street network to complement and manage flow pathways. Integrate SuDS features into street cross-sections, ensuring street widths are adequate. SuDS should be used to enhance the streetscape providing amenity and multi-functionality by integrating with other street features including tree planting, traffic calming, parking bays, verges and central reservations.

**Stage 5 - Cluster land uses to manage pollution**

The number, size and type of SuDS selected will be affected by land uses and the corresponding pollution risk. Potential polluters, e.g. industrial development should have their own isolated SuDS network. Integrate a series of SuDS features that will provide water treatment throughout the networks, responding to the level of pollution risk. Clustering should be considered alongside other mixed use ambitions.

- 6.8.1 The topography of an undeveloped site provides a good indication of natural flow routes and can therefore assist in defining appropriate and efficient flow routes through a developed site without relying on additional infrastructure. The most effective and cost efficient designs make use of the local topography, increase landscape permeability, and reduce the amount of surface water flowing off site as much as possible. Allowing surface water runoff to follow the natural physical geography requires less soil movement and can eliminate the need for additional underground piping and pumping of water. Where the site is suitable for infiltration, opportunities to discharge water to the ground should be taken to mimic natural infiltration and recharge groundwater aquifers.
- 6.8.2 It must be demonstrated by the applicant that the site can continue to drain when receiving waterbodies are in flood conditions. Irrespective of any agreed runoff rates, source control methods must be implemented across sites to provide effective pre-treatment of surface water. This must be demonstrated as part of the proposal.
- 6.8.3 Figure 6.1 shows the differences in drainage patterns between natural landscapes and built-up areas. Mimicking the natural landscapes in urban areas is the best strategy to mitigate flood risk and improve water quality.

Figure 6.1: Difference between natural and urban drainage



Source: Woods Ballard, B., et al (2015) The SuDS Manual, CIRIA, C753

**The SuDS Management Train**

6.8.7 The SuDS Management Train concept (sometimes called the treatment train) is fundamental to designing a successful SuDS scheme and provides a hierarchy of drainage techniques for improving quality and quantity. It should always be sought to manage runoff at source (i.e. close to where the rain falls). If required; remaining flows should be then transferred using preferred above-ground conveyance systems (e.g. swales, rills etc.) to further treatment or storage components.

**Water reuse first**

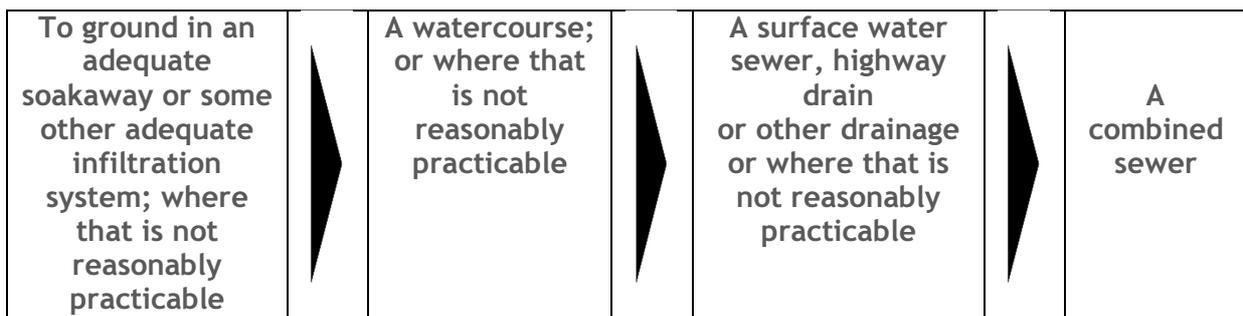
6.8.8 Reusing water whenever possible is important to improving the country’s water resilience, and reducing pressures on precious water supplies. Recycled rainwater and surface water runoff can be used for non-potable purposes, such as toilet flushing and irrigation. Surface water runoff from roofs, streets or public areas can also be collected and treated using SuDS features, such as rain gardens, before storing it for surrounding buildings to reuse.

**Follow the drainage Hierarchy**

6.8.9 It is a Building Regulations and NPPG requirement that the discharge hierarchy in Figure 6.2 is used when considering proposals.

**Figure 6.2: Surface water drainage hierarchy**

Rainwater shall discharge to the following, listed in order of priority



Note: in all instances adequate storm water storage will need to be provided in order to meet the relevant infiltration or discharge rates and volumes (see Section 6.4).

**Use infiltration where suitable.**

6.8.10 The potential for infiltration measures on a site should be considered at the outset. Full evaluation and very careful consideration of the acceptability of infiltration drainage

should be given as there are a number of constraints in its use, particularly in relation to potable water sources (e.g. drinking water) or land contamination issues.

- 6.8.11 It is strongly recommended that further guidance is sought in The SuDS Manual (CIRIA, C753) Chapter 25 - Infiltration: Design Method.

**Keep surface water on the surface**

- 6.8.14 In some areas the presence of low permeability clay soils means that infiltration systems are not viable. Whilst low permeability soils are often cited as a reason for not including SuDS however, this is not acceptable as other SuDS solutions do exist. Although soakaways and other infiltration methods may not be suitable, many other methods such as under drained permeable/porous surfaces, swales, ponds and wetlands should be prioritised, selected and designed accordingly. It is also possible to allow some water to soak into the ground (for example out of the bottom of an unlined swale), even if drainage design calculations do not allow for it.

- 6.8.15 Design and layout should seek to manage and convey surface water above-ground, avoiding the use of underground piping as far as possible. This is particularly pertinent in the flatter landscape areas or areas of high groundwater. Managing surface water runoff at the surface has many multiple benefits such as

- Avoiding concentration and acceleration of surface water into waterways which causes downstream erosion;
- Integrating removal of pollutants by filtering water during conveyance;
- Reducing construction and maintenance requirements and costs;
- Creating habitats;
- Contributing to public amenity by better quality urban and landscape design;
- Increasing residents' awareness of water management; and
- Detecting blockages and obstructions more easily, not when they have become critical and more difficult and expensive to remedy.



### **Place-making through SuDS design**

- 6.8.16 When using traditional surface water management systems, water is hidden in pipes underground. By bringing water management to the surface using SuDS, there is an opportunity to enliven public spaces and streetscapes. The presence of water features within the urban environment can promote a strong sense of place, bring an urban space to life and create unique spaces that can be enjoyed by all. SuDS features such as ponds, wetlands, pools, fountains and planted rills which can be purely aesthetic or interactive in nature, can be integrated into the public realm and open spaces to enrich the area with green infrastructure. Note that interactive SuDS should include an appropriate level of natural pre-treatment upstream before coming into human contact, such as in the case of water play areas. Designing for water quality is discussed further in Section 7.

### **Landscape-led approach**

- 6.8.17 The selection of SuDS types and the creation of the SuDS network should both respond to and contribute to the surrounding built and natural landscape. A landscape-led approach uses SuDS as a mechanism to create strong green infrastructure networks and is important to increase connectivity to the wider ecosystem and landscape. Effective integration will also require carefully researched and selected plants, which work to improve the local green infrastructure and enhance biodiversity. Also selection of hardscape materials used in SuDS construction, such as concrete, brickwork, wood, aggregate and paving, should consider the surrounding landscape and urban character and be developed alongside the overall urban design vision. Using a landscape led approach will improve the amenity value of SuDS for local residents, and provide water management and design benefits.

### **Minimise embodied carbon in SuDS**

- 6.8.18 One of the advantages of SuDS is their ability to improve the natural environment. It is important that environment improvements from SuDS are not reduced by incorporating high carbon solutions. The excessive use of concrete and other aggregates with high levels of embodied energy is discouraged. Eliminating energy consuming water pumps whenever possible is also encouraged. Vegetated SuDS components can have a positive impact by storing carbon as they grow, through a process known as carbon sequestration.

### **Minimise waste in SuDS**

- 6.8.19 When undertaking the maintenance of SuDS, waste will be generated. This will be predominantly grass and other vegetation, and may be managed on site in wildlife piles. There is still a requirement to comply with all relevant waste management legislation and

ensure waste is taken to an appropriately licensed site. This is even more pertinent when waste is disposed off-site. Management of SuDS on industrial sites will need to ensure hazardous waste is disposed of separately.

#### **Design for wildlife and biodiversity**

- 6.8.20 SuDS can provide the ideal opportunity to bring urban wetlands and other wildlife-friendly green spaces into towns and cities. They can be linked with existing habitats to create blue and green corridors whilst providing an amenity and education resource for the community.
- 6.8.21 Where possible, existing habitats should be retained and incorporated into the landscape design. SuDS features are likely to have greater species diversity if existing habitats are within dispersal distance for plants, invertebrates and amphibians. It should however be noted that existing wetlands should not be incorporated into SuDS unless there is a guaranteed supply of clean water.
- 6.8.22 An aim should be to create new habitats based on the ecological context and conditions of the site. Habitats and species objectives that contribute to local, regional and national biodiversity targets should be prioritised. Specific guidance on maximising the biodiversity potential of SuDS can be found in the Royal Society for the Protection of Birds (RSPB) publication, 'Maximising the Potential for People and Wildlife'.

#### **Design for easy maintenance and access**

- 6.8.23 When designing SuDS it is crucial to consider throughout the process how features will be maintained and accessed, who is ultimately responsible for the lifetime of the development, and the likely costs involved. Embedding foresight into every stage of the design process will produce a more effective, better maintained SuDS scheme upon completion. Design should also consider Construction Design and Management (CDM) Regulations from the outset to ensure that access is provided for maintenance and that health and safety measures are adhered to. Those responsible for SuDS across a development must be provided with an operation and maintenance manual by the designer and this could be part of the documentation provided under CDM. Aspects that should be included within the operation and maintenance manual are shown in Table 6.1:

**Table 6.1: What to Include in the Operation and Maintenance Manual**

- Location of all SuDS components on site
- Brief summary of the design intent, how the SuDS components work, their purpose and potential performance risks
- Depth of silt that will trigger maintenance
- Visual indicators that will trigger maintenance
- Depth of oil in separators etc. that will trigger maintenance
- Maintenance requirements (i.e. maintenance plan) and a maintenance record proforma
- Explanation of the objectives of the maintenance proposed and potential implications of not meeting those objectives
- Identification of areas where certain activities are prohibited (e.g. stockpiling materials on pervious surfaces)
- An action plan for dealing with accidental spillages of pollutants
- Advice on what to do if alterations are to be made to a development or if service companies need to undertake excavations or similar works that could affect SuDS
- Details of whom to contact in the event that pollution is seen in the system or if it is not working properly

Source: The SuDS Manual (CIRIA, C753): Chapter 32

### **Design SuDS for brownfield sites**

- 6.8.24 Previously developed land (brownfield sites) should not be seen as a barrier to using SuDS. When developing on brownfield sites, existing drainage infrastructure should be documented and mapped to determine what can be reused as part of the SuDS scheme.
- 6.8.25 The use of shallow surface features can often be a benefit in brownfield sites as they limit excavations into contaminated soils. The impact of the proposed SuDS features on any contamination and vice versa needs to be carefully assessed by an experienced professional. The presence of contamination in the ground may limit the use of certain features (e.g. soakaways) or require liners below ponds, basins and permeable pavements. However, it will never prevent the use of all SuDS features and a suitable system can be designed. The separation of surface water drainage and foul drainage should be a priority in these areas.

### **Consider flood extents in SuDS design**

6.8.26 The natural floodplain must be protected and considered in the design of SuDS. Where SuDS are proposed in a fluvial or tidal floodplain (Flood Zones 3a or 3b) the features may fill during a flood event and would therefore not have capacity to hold the rainfall runoff from the site as originally intended. Large areas of Tewkesbury Borough, where land is low lying, are in the floodplain, and a pragmatic approach to SuDS design needs to be taken where flood risk is carefully considered. However, the presence of a floodplain should not explicitly exclude the integration of SuDS features for day-to-day water management provided the SuDS do not contribute towards stormwater storage requirements. Above ground SuDS should not be included in areas where water regularly flows or is stored

### **Design open spaces to incorporate SuDS**

6.8.27 Open spaces are an asset to the community and to the environment and form an important component of a wider green infrastructure network. A network of woodland, recreational and open spaces, whether green or paved, will be essential for well-designed developments. Open spaces can provide space for SuDS features to provide attenuation and treatment of surface water runoff. Good design will seek ways to integrate SuDS with the rest of the open space and to make SuDS features multifunctional. In these areas, there is a need to concentrate on design and amenity value, recreational use, and fit with surrounding landscape. Examples of multi-functional uses in open spaces include temporary storage areas doubling as playing fields or recreation areas, hard landscape attenuation doubling as water features and public art, bio-retention areas doubling as landscaped garden areas, wetlands and ponds doubling as amenity and habitat areas, and bio-retention planters linking with open space divisions or seating areas. Within open spaces, SuDS design will also need to consider:

- The interaction with the public - safety, education, and controlled access via boardwalks or similar structures;
- Areas of the ground that are likely to be seasonally wet should not be used for formal recreation and play space such as sports pitches;
- An appropriate balance between visual amenity and water treatment needs to be achieved - while amenity value is of increased importance, it should not impinge on SuDS treatment and water management;
- Situating SuDS away from floodplains that might impact on SuDS treatment and floodplain storage and conveyance;

- Ecological needs - existing vegetation of biodiversity value should be retained whenever possible, and land stability taken into account.
- Opportunities to reuse and recycle surface water for irrigation or other purposes.
- Consideration should be given to safety issues with regard to water ponding/storage in or near play areas.

6.8.28 Where Tewkesbury Borough Council will adopt SuDS in public open spaces, they must still be able to function and be accessible as useable open space for the majority of the time for them to be included within the open space calculations.

#### **Design streets to incorporate SuDS**

6.8.29 Within a catchment, streets and roads are a significant source of surface water runoff and pollutants. Streets are often used as a conveyance of surface water drainage from adjoining sites via underground pipes, and in a SuDS network they are likely to also be key conveyance routes for example through the use of roadside swales. Therefore there is a prime opportunity in streetscapes to integrate SuDS features that capture, treat and attenuate surface runoff. Improving upon traditional drainage, streetscapes can include bio-retention technology (e.g. rain gardens) with appropriate conveyance such as swales or under-drained hard landscape SuDS features, to minimise the need for traditional piping. A number of standard streetscape features can include SuDS and become multifunctional, including permeable/porous storage surfaces, verges, tree pits, traffic calming islands and parking dividers. Further guidance can be found in The SuDS Manual (CIRIA, C753) in particular Chapter 9: Designing for Roads and Highways.

#### **Design SuDS to match the density of developments**

6.8.31 Limited space is often cited as a reason for not including SuDS, which is not acceptable as it is still possible to use SuDS in high density developments. Ideally, initial layout should consider how source control and localised SuDS features can be sized and located to provide adequate attenuation and treatment of runoff from high density areas. For example; permeable/porous paving can provide multi-functional spaces with low cost storage without land-take to deliver safe, level, puddle-free, shared surfaces for all. Source control measures like green roofs and rainwater harvesting are strategies to reduce runoff. Additionally, building downpipes can be altered or disconnected to feed into gardens, soakaways or permeable paving. In high density courtyards and streets there is also potential for example to incorporate bio-retention features and planted rills.

### **Design SuDS for flat sites**

- 6.8.32 Drainage is particularly important on flat sites that do not have the opportunity to take advantage of gravity. Hydraulically efficient kerbs should be designed to channel water directly onto above ground SuDS, before draining to underground storage, or a piped network. Alternatively, roadside swales located within the road verge with flush kerbs can enable surface water to discharge directly into the swale, where it is pre-treated before discharging to a SuDS feature downstream, such as a retention pond, rain garden, or wetland. By keeping water on the surface as much as possible, deep downstream management features can be avoided. Deep features are undesirable due to increased excavation, the potential need for unnecessary pumping and the requirement for mitigation measures.

### **Design industrial and agricultural sites to incorporate SuDS**

- 6.8.34 Industrial and agricultural sites often have larger volumes of water discharge with higher levels of pollutants, and as such they require special attention. The best pollution prevention strategy is to prevent pollutants entering the surface water system in the first place. Each site should be designed based on the risk posed for each activity taking place but should always follow a hierarchical approach of Avoid, Minimise, Prevent, Capture. The approach to be used for design on all sites (but which is particularly prevalent for sites with potentially elevated pollution hazards) is that found in The SuDS Manual (CIRIA, C753) Chapters 4 and 26

### **Design standards and designing for exceedance**

- 6.9.1 The drainage system must be designed so that (unless an area is designated to hold and/or convey water as part of the design) flooding does not occur on any part of the site for a 3.33% (1 in 30) annual rainfall event, or in any part of a building during a 1% (1 in 100) annual rainfall event, plus the allowance for climate change as described in 6.4.1 above. The design of the site must also ensure that flows resulting from rainfall in excess of this rainfall event are managed in exceedance routes that minimise the risks to people and property and avoids creating hazards to access and egress routes. Guidance on how to apply this can be found in 'Designing for Exceedance in Urban Drainage: Good Practice' (CIRIA, C635).

### **Designing for water quality**

- 6.10.1 SuDS have a considerable advantage over traditional drainage as a well-designed system will provide a level of treatment to surface water runoff before it is discharged into the

receiving water body. It does this through a number of processes including filtration, settlement, and uptake by plants. For example; permeable paving is very effective at removing a wide range of pollutants from runoff, so improving water quality. The pollutants may either remain on the surface or be flushed into the underlying pavement layers, where many are filtered and trapped and degrade over time.

- 6.10.2 To protect the water quality of receiving waters, runoff from a site should be of an acceptable water quality to help ensure current and/or future water quality objectives are not compromised. As there can be a wide range and level of contaminants contained within surface water runoff, water quality needs to be managed using a risk-based approach, facilitated by the SuDS Management Train. This refers to a variety of SuDS components in a series that provide treatment processes to deliver a gradual improvement in water quality as water moves through the system.
- 6.10.3 The size and number of treatment stages required is based on the level of pollution entering into the system. For example, industrial sites will contain a higher level of pollutants within surface water runoff than from a small residential road. Please refer to The SuDS Manual (CIRIA, C753) Chapters 4 and 26 for further detail on designing SuDS for water quality.

#### **Designing a safe environment**

- 6.11.1 The planning, design, construction and management of SuDS come under the requirements of the Construction, Design and Management (CDM) Regulations (2015). All SuDS schemes should be a safe environment that can be accessed and enjoyed by residents and visitors. The use of fencing and barriers should not be the approach to making SuDS features safe, particularly in residential developments. Well-designed SuDS should include features that are no more hazardous than those found in the existing traditional urban landscape. Further information can be found in The SuDS Manual (CIRIA, C753) and the RoSPA publication Safety at Inland Water Sites.

#### **Developing a surface water drainage strategy**

##### **Masterplanning**

- 6.12.1 For larger developments a masterplan will be necessary. It is at this stage the SuDS layout (taking into account flow routes, topography, geology and green space) and proposed maintenance of the system should be determined whilst ensuring a safe design and mitigation of flood risk (see Figure 6.1). Seeking advice at the earliest opportunity from the relevant FRMAs will help avoid any costly issues or redesigns at a later stage. Effective

master planning should ensure a robust, viable and cost-effective scheme from the outset, where objectives of the development are informed by the SuDS scheme and vice versa.

### **Outline planning application**

- 6.13.1 When an outline planning application is required the applicant should include an outline drainage strategy with the planning application. It should include enough design information that demonstrates the conceptual surface water drainage design across the site. The assessment submitted should outline the existing surface water run-off rates from the site and an indication of post development run-off rates with associated storm water storage requirements. SuDS should have been appropriately considered, taking into account site specific drainage requirements and constraints, and incorporated effectively into the overall masterplan. The relevant checklists from the suite provided in Appendix B of The SuDS Manual (CIRIA, C753) are to be followed to ensure the correct information is included within the drainage strategy.

### **Full planning application or reserved matters application**

- 6.13.2 Many developments move straight to a full planning application following pre-application discussions with the relevant FRMAs. At this stage applicants will also be expected to submit a detailed surface water drainage strategy with the planning application. Whilst most topics will have been covered to some degree in the outline drainage strategy (if applicable) the applicant will be expected to provide more detail at this stage. The strategy should demonstrate that opportunities to integrate SuDS have been maximised and where obstacles to their use do persist this should be fully justified within the report. Where proposing to discharge into a third party asset (such as a watercourse or public sewer), appropriate permissions and required consents should have been discussed with the asset owner and legal easements may need to be provided.

- 6.13.3 The key information a surface water drainage strategy must contain includes:
- How the proposed surface water scheme has been determined following the drainage hierarchy;
  - Pre-development runoff rates;
  - Post development runoff rates with associated storm water storage calculations
  - Discharge location(s);
  - Drainage calculations to support the design of the system;
  - Drawings of the proposed surface water drainage scheme including sub catchment breakdown where applicable;

- Surface water and sustainable drainage systems
- Maintenance and management plan of surface water drainage system (for the lifetime of the development) including details of future adoption;
- Completed drainage pro-forma - the applicant must ensure that the surface water strategy contains the appropriate level of information in relation to the points covered in the pro-forma.

6.13.4 Note that the size and complexity of the site will determine how much information is included within the surface water drainage strategy. However using and submitting all relevant checklists from the suite provided in Appendix B of The SuDS Manual (CIRIA, C753) will ensure the right matters are covered with the appropriate level of detail.

#### **Approval of SuDS**

6.14.1 SuDS are approved as part of the planning application for a development. It is the LPAs responsibility to ensure that the design submitted as part of either an outline or full planning application is robust and contains adequate detail to ensure that the SuDS are appropriate for the development and will be adequately maintained throughout their lifetime. The LPA may also seek expert advice from the LLFA as part of this process. For major developments national guidance for SuDS can be found in the NPPF and NPPG.

#### **Adoption and maintenance of SuDS**

6.15.1 It is recommended that a statutory organisation takes on the role of maintaining the SuDS as this should more readily guarantee maintenance of the drainage system in perpetuity. However where this is not possible, alternative bodies such as private management companies may also be considered able to maintain SuDS, provided that a suitable management plan has been submitted to and agreed with the LPA. This could take the form of a simple operation and maintenance manual - what is the maintenance regime; what techniques will be employed, how often it will be undertaken, how it will be recorded, who will be responsible etc. Statutory organisations may include organisations such as the local authority, Severn Trent Water, Thames Water, the Lower Severn IDB and Parish Councils. For SuDS serving the highway these should be discussed with the Highways Authority at Gloucestershire County Council (GCC) to ensure suitability for adoption.

6.15.2 Open space provision within development sites is a normal planning requirement and offers suitable landscaped areas for the inclusion of a wide range of SuDS features (e.g. ponds, basins and swales). These features can enhance the nature conservation and

amenity value of the site, although a primary consideration should be the effectiveness and maintenance of the SuDS. Where the Council is adopting the open space provision, this could therefore include adoption of the SuDS features within the open space.

## **CHAPTER 7 - WATER MANAGEMENT, RECYCLING, SUPPLY AND POLLUTION CONTROL**

### **7.1 WATER SUPPLY AND INFRASTRUCTURE**

#### **Water Supply**

- 7.1.1 Groundwater resources are a vital component of potable water supplies; once polluted, the damage can be irrevocable. They can also have an impact on sites of wildlife significance. Development proposals that significantly threaten this resource will not be permitted. Development proposals will, where appropriate, need to demonstrate that they can be implemented without detriment to the quality or quantity of existing water and the wider environment. Tewkesbury Borough Council will have regard to current Environment Agency guidance on the protection of groundwater.

#### **Foul Drainage**

- 7.1.2 When preparing sewerage proposals for any development, the first presumption will be to provide a system of foul drainage discharging into a public sewer. This should be achieved in consultation with the statutory sewerage undertaker for the area. Only if, taking into account the cost and/or practicability (such as location and distance), it can be shown to the satisfaction of the local planning authority that connection to a public sewer is not feasible, a package sewage treatment plant incorporating a combination of treatment processes will be considered. The plant should offer full treatment (including secondary and if necessary tertiary treatment) with discharges meeting the General Binding Rules and any other conditions set by the Environment Agency where applicable. Proposals for package treatment plants should also set out clearly the responsibility and means of operation and maintenance to ensure that the discharge consent is not likely to be infringed in the life of the plant. Such provision may be adopted by the statutory sewerage undertaker under section 104 of the Water Industry Act 1991, subject to certain criteria being met. STW/TW are likely to be issuing guidance on adoption of treatment plants in the near future.

- 7.1.3 Only if it can be clearly demonstrated that the sewerage and sewage disposal methods referred to above are not feasible, will a system incorporating septic tank(s) be considered.
- 7.1.4 Applications for planning permission should be supported by an assessment of the proposed use of septic tank or small sewage treatment plant, to confirm that there will be no adverse effects. This assessment should focus on the likely effects on the environment, amenity and public health. It should include a thorough examination of the impact of disposal of the final effluent, whether discharged to a watercourse or disposed of by soakage into the ground. An Environmental Permit maybe required from the Environment Agency for certain types of non-mains drainage. Further guidance on this is available from the Environment Agency advice document '[Guidance for the registration of small sewage effluent discharges](#)'.

#### **Development adjacent to watercourses**

- 7.1.5 Any riverside developments should leave a minimum **8 metre** wide undeveloped buffer strip from top of bank, to preserve the river and its floodplain as an enhancement feature and to allow for routine maintenance. Such developments should also have a maintenance strategy for clearing and maintaining the channel, and any structures such as trash screens and bridges. Development proposals should also consider opportunities to undertake river restoration and enhancement to make space for water.

#### **Maintenance of existing structures and flood storage areas**

- 7.1.6 Existing flood water storage areas should be maintained and safeguarded from development. New development should also be designed not to prohibit the maintenance and functioning of structures required for flood risk management purposes.

## **7.2 WATER RECYCLING**

- 7.2.1 Water recycling is a key component of integrated water cycle management. The safe implementation of water recycling can help to reduce inputs of nutrients and other contaminants to surface waters, conserve drinking water and provide economic and social benefits to communities. It can also reduce demand for water provided by water companies during periods of drought. SuDS need to take into account the possibilities of re-using and recycling surface water in as many ways as feasible.

7.2.2 The aim in Tewkesbury Borough is to encourage and support water recycling that is safe, environmentally sustainable and cost-effective by encouraging the use of rainwater harvesting and grey water recycling methods in new development, where practical and feasible. These methods are only effective outside floodplains. Applicants should give consideration to the following measures.

### 7.2.3 Rainwater Harvesting

This is typically described as being water collected from roofs via traditional guttering, through down pipes to an underground tank. This water is then delivered on demand by an in-tank submersible pump direct to toilets, washing machines and outside tap use. It is estimated more than 50% of mains water can be substituted by rainwater in this way. Rainwater harvesting can be incorporated on development sites for uses such as car washing, watering gardens and topping up ponds or wetland habitats.

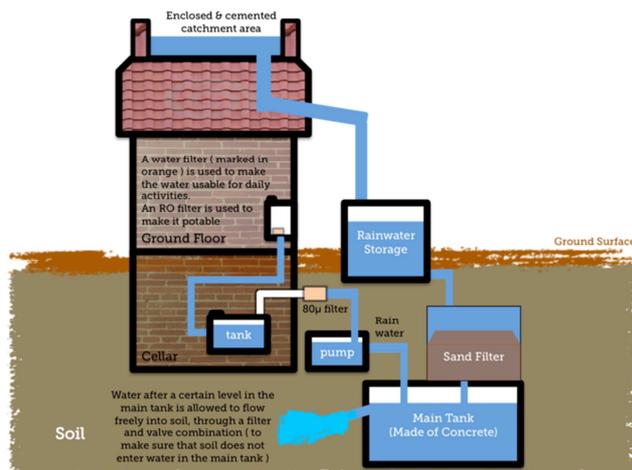


Fig 2: Rainwater Harvesting System

### 7.2.4 Greywater Recycling

This is typically defined as being water from the bath, shower and wash hand basin. The ideal situation for grey water is in living accommodation where sufficient amounts are generated daily for reuse in toilets, the washing machine and any outside tap. Greywater recycling systems can be incorporated on development sites for non-potable uses such as for flushing toilets.

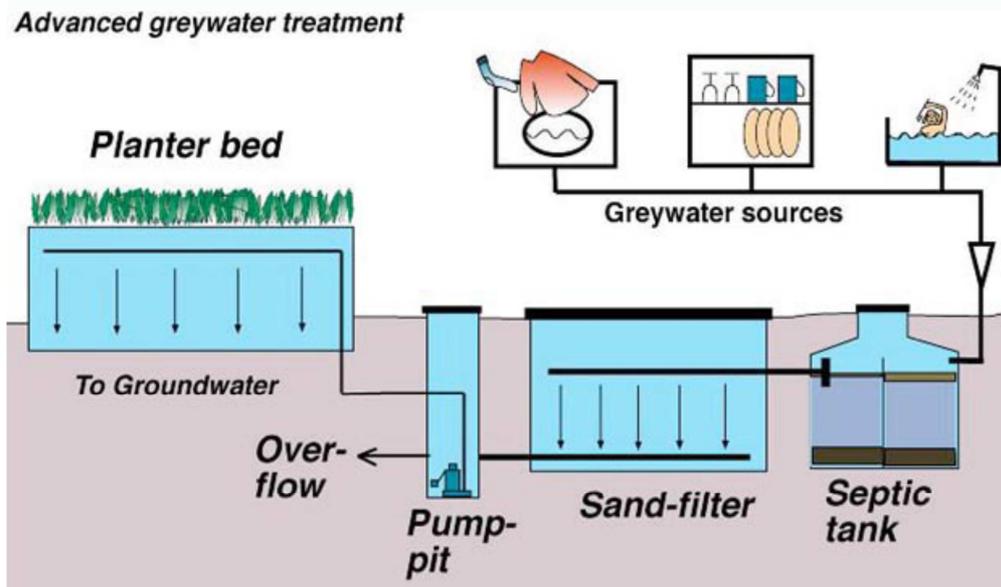


Fig 3: Advanced Greywater Treatment System

#### Methods and Maintenance of Rainwater Harvesting and Greywater Recycling Systems

- 7.2.5 Consideration should be given to the use of more efficient domestic and non-domestic appliances, such as low flush or compost toilets, waterless urinals, reduced flow rates for showers, low-flow or spray taps and water meters with pulsed output (levels of water use should be consistent with 'very good' standards for BREEAM technical standard on new build wherever possible).
- 7.2.6 In addition, water recycling measures should be considered when designing any landscaping scheme for residential or non-residential development. Such measures could include working with existing natural vegetation, selecting drought-resistant plants or low water use landscaping / gardens and using automatic drip irrigation systems.
- 7.2.7 Applicants should also consider the installation of water meters to link water habits to a charging structure, thus encouraging occupants to consider their individual wastage. Further information and illustrations on water conservation methods and techniques can be found at **APPENDIX IV**.
- 7.2.8 The facilities for both rainwater harvesting and grey water re-use require maintenance to ensure their effectiveness and to prevent deterioration of water quality. Future maintenance arrangements should be addressed in the earliest project planning stages and subsequently be documented in the Operation and Maintenance Manual.

### **7.3 WATER QUALITY AND POLLUTION CONTROL**

- 7.3.1 Paragraph 109 of the National Planning Policy Framework states that the planning system should contribute to and enhance the natural and local environment by preventing both new and existing development from contributing to or being put at unacceptable risk from, or being adversely affected by unacceptable levels of water pollution. The Council will seek to ensure that new developments achieve this objective.
- 7.3.2 Large areas of hard landscaping can result in surplus run-off, exacerbating flooding, causing pollution and erosion problems and reducing natural infiltration. This can directly lead to water quality problems, by accumulating pollutants as water runs over land. Runoff from roads will also contain heavy metals and hydrocarbons and run-off from farmland is more likely to contain nitrates and sediment. These can have serious implications for water quality and amenity.
- 7.3.3 Wherever possible, runoff to waterbodies should be prevented for the majority of small (up to 5mm) rainfall events. This interception reduces the particular problems posed by the initial flush of pollutants which build up on surfaces during preceding dry periods. As by definition there are many more small rainfall events than larger ones (and their volume is a significant proportion of the total over any given period), this leads to more frequent flushing of pollutants from surfaces.
- 7.3.4 Although some pollution arising from surface water runoff may be unavoidable and water treatment at every outfall may be impractical, moderating flows and filtering runoff through SuDS can deliver significant reductions in the impact on the water resource by means of ground infiltration, sub base storage and filtration.
- 7.3.5 Methods that can help to reduce pollution include infiltration trenches, basins, ponds, wetlands, filter drains and permeable surfacing. For example; permeable paving can maximize opportunities for using space in a multi-functional way requiring no additional land take. They are not solely infiltration systems, do not have onerous maintenance requirements and can accommodate heavier traffic (including construction traffic). In addition, there is also evidence to show whole life costs can be significantly lower than a traditional 'pipe' system, as the future maintenance requirement is low and they negate the need for grates, gullies, expensive flow control structures, extensive lengths of pipework, oil separators etc.
- 7.3.6 Some traditional methods of building can cause poor water quality as surface water run-off can contain a variety of pollutants. The poor water quality associated with new

developments may also have direct negative impacts on biodiversity. Applicants may be required to use mitigation measures to minimise resultant pollution within new development. Supporting documentation accompany planning applications should explain how contaminated water arising during the construction process will be addressed.

## **CHAPTER 8 - WATER MANAGEMENT STATEMENTS**

- 8.1 National planning policy only requires planning applications of a certain scale and nature to be accompanied by Flood Risk Assessments. However, given the severity and sensitivity of flooding from all sources in Tewkesbury Borough, and the potential impact of cumulative development, it is considered necessary to require all applications except those proposing minor development<sup>1</sup> to be accompanied by an appropriate level of information in relation to the flooding. This information shall be submitted in the form of a Water Management Statement (WMS), which will be a validation requirement for such schemes.
- 8.2 The WMS is as a crucial element in managing flood risk and it is advised that appropriate details should be submitted to and agreed with the Council's Development Management team prior to the submission of a planning application. The WMS should involve several stages:
1. Prior to land acquisition, the developer should undertake an assessment of the site in terms of the requirements set out in this SPD in order to assist appraisal of site development constraints and land acquisition costs.
  2. The level of detail required within the WMS will depend on the scale and type of development and individual site conditions. The level of information should be agreed with the Council's Development Management team at an early stage.
  3. Evaluation of the submitted WMS will be undertaken by the Council in conjunction with the other regulatory bodies, including the Environment Agency and the LLFA.

## **Water Management Statement Requirements**

All outline and detailed planning applications (including reserved matters) which fall outside of FRA requirements, except those proposing minor development<sup>2</sup>, shall, as a minimum, be accompanied by a Water Management Statement.

The Water Management Statement (WMS) shall comprise a report, being proportionate to the scale and nature of development proposed, outlining the water cycle issues relevant to a development proposal and suitable means of providing for the sustainable drainage of the site in the long term. The WMS shall also explain how both foul and storm water sewage from a development will be addressed. The WMS should include details of existing drainage systems and problems, infiltration, groundwater, surface water flow, foul and storm water disposal and any other drainage related flooding issues that may relate to the development.

A feasibility study evaluating the means of incorporating SuDS as part of the proposed development should also be included, as will a study of local soils and geology supported by site investigation results. This information will assist in developing a proposal for SuDS to be incorporated within the proposed layout of the development. The developer must be able to demonstrate that the technique is suitable for the development and provide supporting evidence to back up their calculations. The WMS should also assess the feasibility of incorporating rainwater harvesting and grey water recycling, and the appropriate measures for collecting and reusing water should be incorporated into a development.

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<sup>2</sup> The term 'minor development' is the same as that defined within the Planning Practice Guidance and means:

- minor non-residential extensions: industrial/commercial/leisure etc. extensions with a footprint less than 250 square metres.
- alterations: development that does not increase the size of buildings e.g. alterations to external appearance.

householder development: For example; sheds, garages, games rooms etc. within the curtilage of the existing dwelling, in addition to physical extensions to the existing dwelling itself. This definition excludes any proposed development that would create a separate dwelling within the curtilage of the existing dwelling e.g. subdivision of houses into flats.

## CHAPTER 9 - MANAGING AND MITIGATING FLOOD RISK

- 9.1 Residual risks are those remaining after applying the sequential approach and mitigating measures. Applicants will be required to assess flood risk for their development, propose measures to mitigate it and show that any residual risks can be safely managed. However, resilience measures should not be used to justify development in inappropriate locations.
- 9.2 The following measures can help mitigate flood risk and will be expected to be taken into account in new development where appropriate:-

### **Flood Mitigation Measures**

#### **Floor levels in new residential and non-residential development**

Floor levels for habitable rooms in new development must be set at 600mm or more above the flood level predicted for the 1% (1:100) annual probability flood event (plus the allowance for climate change) in order to reduce the potential risk to life and damage to property. All levels should be presented as an accurate height Above Ordnance Datum, Newlyn (mAOD)

#### **Protection of flood flow routes and culvert policy**

Development should ensure it does not inhibit the function of flood flow routes to convey floodwater as efficiently as possible across floodplains. Culverting of watercourses will be strongly resisted and existing culverts required to be opened up wherever possible.

#### **Use of flood resilient construction in new development**

Where appropriate; new development should be built with flood resilient materials and construction methods. Flood resilient construction allows buildings to recover quicker than conventional buildings following a flooding event.

Flood-resistant construction can prevent entry of water or minimise the amount that may enter a building. This form of construction should be used with caution and accompanied by other resilience measures as effective flood exclusion may be reliant on elements, such as barriers to doorways, being maintained in a good state. Buildings may also be damaged by water pressure or debris being transported by flood water. This may breach flood-excluding elements of the building and permit rapid inundation.

#### **Provision of safe access and egress routes in new development**

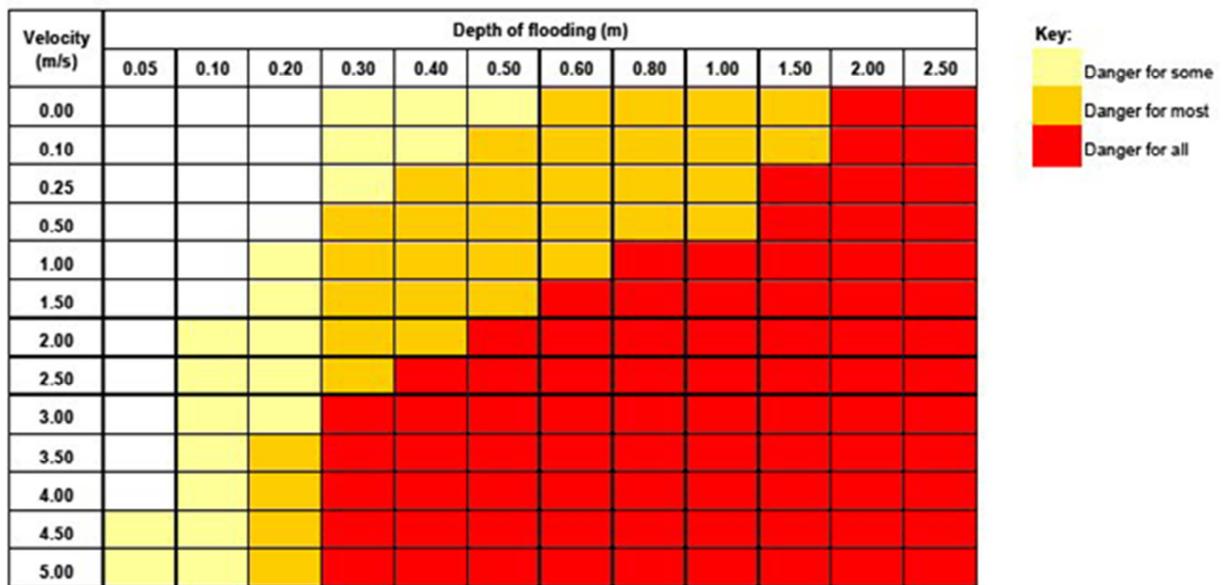
For routes to be classed as 'safe', as a minimum; dry pedestrian access, without the intervention of the emergency services or others, should be provided to and from the development without crossing through the 1% plus climate change floodplain. Vehicular access to a site should also be achievable, taking into account extreme events. The production of flood evacuation plans are also recommended to aid evacuation and rescue during flood events, which should satisfy the concerns of the local authority emergency planner and the emergency services. Access should be considered for all types of development.

## **Site layout**

- 9.3 The site layout of any proposed development should take into consideration areas of flood risk present on the site and this should influence the choice of where to locate elements of the proposed development, including SuDS. This is in line with the Sequential Approach to flood risk as outlined in Chapter 5. The least vulnerable elements of the proposed development should be located to coincide with the highest level of flood risk. Flood risk vulnerability classification of ‘more vulnerable’ and above (as defined in the NPPG) will not generally be acceptable within the 1% plus 70% flood outline.
- 9.4 The inclusion of good quality green infrastructure (including trees and other vegetation) within a development master plan has the potential to significantly increase the profile and profitability of developments. Low lying ground can be designed to maximise benefits by providing flood conveyance and storage as well as recreation, amenity and environmental purposes such as air quality. Where public areas are subject to flooding, easy access to higher ground should be provided without resorting to inappropriate hard engineered solutions. Structures, such as street furniture and play equipment, provided within the low lying areas should be flood resistant in design and firmly attached to the ground.
- 9.5 Site layout does not only have to cater for the flood risk on the site but can also accommodate flood water that may contribute to a problem downstream. For example, where a proposal has a watercourse flowing through which contributes to flooding downstream (in the existing community or further downstream) the proposed development should offer flood risk betterment by holding back flood flow peaks. Within the site, this can be accommodated in the green infrastructure and by generally making space for water. This is a proactive approach to flood risk management, where new developments offer enhancements to the surrounding area. All developments with watercourses identified within their site must consider this approach.
- 9.6 The site layout should also respond to the characteristics of the location and the nature of the risk. In some areas it is more appropriate to make space for water and allow controlled flood water onto areas of the development site. This is particularly relevant to riverside developments where extreme events can be catered for in multi-function open space areas (likely to form part of the green infrastructure provision) that would normally be used for recreation but infrequently can flood. The use of such features in these areas

should be appropriate and compatible with the frequency, depth and duration of any flooding. However, signage clearly explaining the use of such areas for flood control and recreation should be fully visible so that infrequent flood inundation does not cause alarm.

9.7 Safe access and egress is imperative for residential developments as described above. The route should also ensure it is located where the Flood Hazard (in terms of depth and velocity of flooding) is low. This is described in the DEFRA/EA research document ‘**Flood Risk Assessment Guidance for New Development FD2320**’ Table 13.1 from this document is shown below:



9.7.1 When designing safe access and exit routes, over and above the requirement for routes to be out of the 1% plus climate change flood extent; the combinations of depth and velocity on the routes should correspond to the white boxes in the above diagram.

## CHAPTER 10 - BIODIVERSITY

- 10.1 The 2006 Natural Environment and Rural Communities Act (NERC) places a duty on all public authorities in England and Wales to have regard, in the exercise of their functions, to the purpose of conserving biodiversity. A key purpose of this duty is to embed consideration of biodiversity as an integral part of policy and decision making.
- 10.2 The NPPF is clear that pursuing sustainable development includes moving from a net loss of biodiversity to achieving net gains for nature, and that a core principle for planning is that it should contribute to conserving and enhancing the natural environment and reducing pollution.
- 10.2.1 Paragraph 109 of the NPPF states that the planning system should contribute to and enhance the natural and local environment by minimising impacts on biodiversity and providing net gains in biodiversity where possible, contributing to the Government's commitment to halt the overall decline in biodiversity, including by establishing coherent ecological networks that are more resilient to current and future pressures.
- 10.3 Those proposing development should therefore seek opportunities to use multi-purpose open space for amenity; incorporate wildlife habitat and flood storage uses and need to consider how flooding and biodiversity can be jointly managed. Opportunities should always be explored to recreate more natural conditions along watercourses. For example; de-culverting, restoring or re-profiling rivers to promote ecological improvements, removal of barriers to fish migration, development set back from watercourses to enable access and enhancement, protection of sensitive locations and integration with wider green/blue infrastructure networks.
- 10.4 Further guidance on biodiversity and green Infrastructure can be found in the natural conservation policies within the [Tewkesbury Borough Local Plan to 2011](#) and policies SD9 and INF3 of the [Joint Core Strategy](#).
- 10.5 In accordance with the NPPF and the 2006 Act, developers will be required to demonstrate that where practicable, SuDS schemes will benefit water habitats and biodiversity. The council therefore expects features such as ponds and



wetlands to be planted to enhance biodiversity.

- 10.6 The planting of native species appropriate to the local conditions will be favoured and where appropriate the mix of planted species should aim to create habitats that contribute to the 'Biodiversity 2020' strategy.
- 10.7 Some common landscape and ecological design requirements may have to be adapted slightly to ensure that the SuDS can function effectively. It will also be important that the types of planting proposed are considered in line with the design of the SuDS features. For example, the soil moisture profile may be very different at the top of a swale's bank to the bottom and this will need to be taken into consideration to ensure the success of both the plants and the operation of the drainage feature.
- 10.8 Opportunities should also be explored to recreate more natural conditions along watercourses. Examples of this include: de-culverting (in accordance with the LLFA **Local Flood Risk Management Strategy Culvert Policy**) restoring or re-profiling rivers to promote ecological improvements; removal of barriers to fish migration; integration with wider green/blue infrastructure networks; setting back development from watercourses to enable access and enhancement; and protection of sensitive locations.
- 10.9 Local level actions and decision making can help secure improvements to the water environment. This is widely known as the '**Catchment Based Approach**' and has been adopted to deliver requirements under the **Water Framework Directive** (WFD). It seeks to:
- Deliver positive and sustained outcomes for the water environment by promoting a better understanding of the environment at a local level; and
  - To encourage local collaboration and more transparent decision-making when both planning and delivering activities to improve the water environment.

The objectives of the WFD include:

- To prevent deterioration in the status of aquatic ecosystems, protect them and improve the ecological condition of waters
- To achieve at least good status for all waters by 2015. Where this has not been possible, and subject to the criteria set out in the Directive, aim to achieve good status by 2021 or 2027.
- To conserve habitats and species that depends directly on water.

- To reduce or phase out the release of individual pollutants or groups of pollutants that presents a significant threat to the aquatic environment
- To reduce the pollution of groundwater and prevent or limit the entry of pollutants
- To help reduce the effects of floods and droughts

10.10 Development needs to be planned carefully so that it does not result in deterioration or further pressure on the water environment and compromise WFD objectives. Failure to comply with WFD requirements may lead to the European Commission bringing legal proceedings against the UK. Local Authorities have a general responsibility not to compromise the achievement of UK compliance with EC Directives.



# Tewkesbury Borough Council

## Flood and Water Management Supplementary Planning Document

### Response Report (January 2018)

## **1. Purpose and Background**

- 1.1. This report sets out details of the consultation that has taken place which has informed the development and refinement of the Flood and Water Management Supplementary Planning Document (SPD). The report has been produced in accordance with regulation 12 of the Town and Country Planning (Local Planning) (England) Regulations 2012. The regulation states that, before adoption of a supplementary planning document, the local planning authority must prepare a statement setting out:
  - the persons the local planning authority consulted when preparing the supplementary planning document;
  - a summary of the main issues raised by those persons; and
  - how those issues have been addressed in the supplementary planning document.
- 1.2. The Council has prepared its own Statement of Community Involvement (SCI) (2013) to show how it will involve the community in its plan and policy making process. This can be viewed on the Council's web site at <https://www.tewkesbury.gov.uk/emerging-planning-policies/>.
- 1.3. The aim of this SPD is to provide more detailed guidance on the approach that should be taken to manage flood risk and the water environment as part of new development proposals to achieve a high standard of management. The SPD seeks to drive forward development that will help deliver innovative, adaptive and integrated flood risk management solutions that can also maximise social, environmental and economic objectives. It is focused on the very best of practices; to deliver effective and more sustainable solutions that can meet the challenges presented by our changing environment.
- 1.4. The SPD provides more guidance on how the flood and water management policies contained within the Development Plan Documents of the Local Plan should be applied. For Tewkesbury Borough, the principle policy is set out in the adopted Gloucester, Cheltenham and Tewkesbury Joint Core Strategy through Policy INF3: Flood Risk Management.

## **2. Consultation Process**

- 2.1. A period of formal public consultation was undertaken on a draft SPD for a 6 week period from Monday 25<sup>th</sup> September 2017 until 5pm on Monday 6<sup>th</sup> November 2017.
- 2.2. Around 1,000 organisations and individuals were written to to inform them of the consultation and invite comments on the draft SPD. Contacts were taken from the existing Tewkesbury Borough Plan consultation database as those who have been involved in, or have an interest in, the plan making process in Tewkesbury. This includes all Parish Councils in the Borough, neighbouring local authorities, Gloucestershire County Council, as well as the following statutory consultees:
  - Environment Agency
  - Lead Local Flood Authority

- Historic England
- Sport England
- Marine Management Organisation
- Thames Water
- Severn Trent
- Highways England
- Network Rail

2.3. In addition to this a notice of the consultation was placed in the local press through the Gloucestershire Echo as well as advertised on the Borough Council’s website news feed.

2.4. In line with the Council’s SCI the SPD was made available for viewing in the following ways:

- Electronically on the Tewkesbury Borough Council website (<https://www.tewkesbury.gov.uk/flood-and-water-management-spd>)
- In hard copy at Tewkesbury Borough Council Offices, Gloucester Road, Tewkesbury
- In hard copy at Tewkesbury Borough libraries (Tewkesbury, Bishops Cleeve, Winchcombe, Churchdown, Brockworth)

### 3. Consultation Responses

3.1. A total of 17 responses were received, and the main issues raised were that the technical requirements were more onerous than national guidance; that it was felt it could bring a financial burden to development, contrary to what the NPPF states regarding a SPD; and the length and complexity of the document. However the majority of responses were positive and welcomed the purpose of the document. These issues were then considered and appropriate amendments were made to the SPD.

3.2. A number of respondents to the plan supported the content of the SPD and its aims and objectives. However, a number of respondents also raised issues with the SPD that they felt needed further review. A summary table of these issues, and the Council’s response, is provided in the table below:

Summary of Response	Response in SPD
Aspects of the SPD content is not supplementary to the wider development plan policies (i.e. JCS) and does not adhere to what the NPPF or NPPG envisages should make up an SPD. There is also some conflict between the guidance in the SPD and the policies of the JCS.	It is not considered that the SPD provides any conflict with the provisions of the NPPF, PPG or the strategic flood risk policy (Policy INF2) of the Joint Core Strategy. In addition the SPD does follow the guidance presented by the Environment Agency.
The SPD is too lengthy and complicated and could be made more concise. It also repeats guidance that is provided in other existing documents, particularly the in particular the CIRIA SuDS guidance. This is unnecessary and could lead to the SPD becoming out of date	It is recognised that the SPD is a lengthy document and will need to contain a certain level of detail due to the technical nature of the guidance it is providing. Nevertheless, the SPD has been reduced by removing guidance around the implementation of SuDS where it

<p>quickly.</p>	<p>is already contained within an existing document. This avoids repetition and also addresses the issue of the SPD potentially becoming out of date if this 'external' guidance is updated.</p>
<p>The SPD requirement for major development to provide an FRA which presents a 70% climate change allowance to peak river flows is over and above Environment Agency guidance.</p>	<p>The requirement for a 70% climate change allowance is considered to be appropriate and is not in conflict with the Environment Agency guidance.</p> <p>The 70% allowance is set out as the Environment Agency's 'Upper' allowance for the Severn river basin district in their 'Adapting to Climate Change' document. The Borough of Tewkesbury is located in an area where non-standard catchment type is possible. As such, a number of modelled catchments exhibit significantly greater increases to river flood flows than the standard catchment. Similarly, as has been demonstrated historically, the scale of the flooding impact may extend far wider than the immediate locality of the flooding incident e.g. water treatment works, the power network, road infrastructure, sustainable urban extensions. The upper limit of climate projections that are considered plausible for the Severn river basin district (for the period 2070-2115) is 90%. Therefore, it is deemed reasonable to adopt a precautionary approach and apply just the 'Upper' allowance figure of 70%.</p> <p>Further explanation of this has been provided in the Introduction and Objectives section of the SPD.</p>
<p>70% climate changes allowance should not be used to determine the developable area of a site or be used as a design standard. It is more appropriate for sensitivity testing which mitigation should take account of.</p>	<p>The SPD sets out that, within the 1% flood extent with a 70% climate change allowance, more vulnerable uses and above will not generally be accepted. However, a sequential test will need to be applied in the event of any deviation away from this, in line with national guidance.</p> <p>Further clarification has been provided on the different vulnerabilities of different development types and uses. Some of which may be acceptable with the 70% allowance areas subject to the Sequential Test.</p>

<p>The SPD takes an onerous approach to the design of attenuation basins which will result in a large proportion of development sites being required for attenuation. This will add to the financial burden on development and affect the delivery of residential and employment growth.</p>	<p>If the SuDS management train design concept is applied, and an innovative approach is taken, then there would be a reduced need for attenuation basins and the associated land take for them. The SPD provides details of different approaches that can be taken, which can be achieved without additional financial burden.</p> <p>The purpose of the SPD is to help drive forward development that will deliver innovative, adaptive and integrated flood risk management solutions that can also maximise social, environmental and economic objectives.</p> <p>Nevertheless, the design criteria for the maximum gradient for attenuation basins has been amended from 1in6 to 1in4. However, the SPD emphasises the need for safety mitigation features to be designed in from the outset, to reduce risk.</p>
<p>The requirement of a 70% climate change allowance for rainfall events/surface water drainage storage is not correct and not in line with Environment Agency guidance.</p>	<p>The wording of the SPD has been amended to clarify that the 70% climate change requirement for rainfall events is an aspiration that the Council will seek, taking a precautionary approach due to the flood risk sensitivity of the area. The SPD makes clear that a 40% allowance must be applied as a bare minimum in line with Environment Agency guidance.</p>
<p>Requiring attenuation to have a low Flood Hazard Ratings in all cases was felt to be unrealistic. Instead their design should be on a risk based approach depending on circumstances and flood frequency affecting a site.</p>	<p>The SPD has been amended to require a flood hazard rating of less than 1.25 for attenuation schemes. This provides a more flexible approach while still seeking to protect the most vulnerable people within the 'danger for some' category (i.e. children, elderly). In addition, where this is not feasible, the SPD requires safety design measures to be incorporated.</p>
<p>Requiring attenuation to a 1 in 1 year greenfield run-off rate is considered to be over-precautionary and impractical in most circumstances. This will also result in overly large attenuation basins which will increase hazards on-site and maintenance responsibilities. It could also encroach of usability of public open space provided on site. This is contradictory to all other guidance contained in the Government guidance and in</p>	<p>It is considered that attenuating to a 1in1 year greenfield run-off rate is achievable with innovative approaches that follow the SuDS management train design concept. This can include the use of public open space as part of multi-functional green infrastructure strategy. However, the SPD has been amended to be more flexible and the requirement is for the 1in1 greenfield rate for the 1in1 event, and the mean annual flood flow green-field rate</p>

the JCS evidence base (SFRA2).	for all events above the 1 in 1 and up to the 1% event (plus climate change).
The greenfield discharge rate guidance in the SPD should reference developable areas, but not include any significant areas of public open space. This is in line with Ciria guidance.	Additional flexibility has been provided in the SPD to take into account of circumstances of different developments to be judged on their merits where the desired approach is not feasible.
The requirements for brownfield developments to restrict run-off to the 1 in 1 greenfield rate, make 70% allowance for climate change, betterment and urban creep is more onerous than other national guidance and could impact on development viability.	The SPD has introduced wording to clarify that a more flexible approach may be taken on brownfield sites to take into account of potential different circumstances and challenges in developing brownfield sites. However, the aspirations to achieve the greenfield run-off rate for the 1in1 event and 40% betterment have been retained.
The ReFH2 hydrological method can be appropriate as per the Ciria guidance. However, this is prescriptive and doesn't allow any flexibility. Clarification should be provided on what other acceptable methods should be based on this guidance.	The SPD maintains that the ReFH2 method is preferred as it the most up to date model available. The SPD recognises that other methods may be used, however, the SPD states that a comparison with the ReFH2 method should be provided.
The use of open to surface or below ground SuDS techniques for a development should be based on the circumstances of the individual site. This may include ground conditions, topography, build costs and maintenance costs.	The SPD does not prescribe the exact SuDS techniques to be used. The SuDS management train design concept should be followed to determine the most appropriate approach. However, the SPD prefers the open to surface methods due to their many multiple benefits that achieve other objectives, such as improvements to biodiversity and water quality. Below ground methods are recognised in the SPD but they must be shown to be effective and maintainable.
There should be greater recognition and detail in the SPD on the need for safe access to be provided for development, but for residential schemes in particular.	This has now been addressed; the SPD now more clearly defines and includes additional guidance on flood mitigation measures which includes the provision of safe access and egress routes in new developments. This includes dry pedestrian access without the need for emergency service assistance.
There should be stronger reference to the role of watercourse management and SuDS to provide biodiversity betterment and habitat improvements.	There is a dedicated chapter in the SPD on biodiversity as well as guidance throughout the SPD about water management methods that are complimentary to the biodiversity objectives such as naturalising water courses and preference for open to surface SuDS.

<p>The SPD should contain greater references and signposting to the requirements of the Water Framework Directive.</p>	<p>Additional references have been incorporated into the SPD, particularly as part the biodiversity chapter.</p>
<p>The potential impact of changes to the water environment and approaches to flood risk management on heritage assets and their setting could be recognised in the SPD.</p>	<p>Flood and water management solutions need to cover all concerns; including heritage. There is specific reference to historic environment within the requirements for Flood Risk Assessments. The NPPF, JCS and other plans provide adequate protections to the historic environment.</p>
<p>The SPD should recognise the potential for alternative adoption and maintenance arrangements where a statutory organisation is unable to fulfil that role. There should also be stronger mention of the need for long term management of the monitoring and enforcement that will be put in place to ensure this for the lifetime of the development.</p>	<p>The SPD provides details within the SuDS chapter and sets out the position in regards to adoption and maintenance. The SPD sets out that alternative bodies, such as private management companies, may also be able to maintain SuDS.</p>
<p>The SPD has a lack of detail on issues around geology and soils.</p>	<p>Additional information is provided in the SPD within the chapter on setting the local context to signpost to the JCS 'Sustainable Drainage Systems for Local Development Framework' report which gives more guidance.</p>