

Report to: Cabinet

Date: 4 February 2021

Title: Planning Technical Advice Notes for Sustainability

Report of: Ian Fitzpatrick, Deputy Chief Executive and Director of Regeneration and Planning

Cabinet member: Cllr Emily O'Brien, Cabinet member for planning and infrastructure

Ward(s): All wards wholly or partially outside of the South Downs National Park

Purpose of report: To seek Cabinet approval for the publication and use of three Planning Technical Advice Notes that address sustainability issues

Decision type: Key

Officer recommendation(s):

- (1) To agree the publication and use of the Sustainability in Development Technical Advice Note contained in Appendix 2
- (2) To agree the publication and use of the Circular Economy Technical Advice Note contained in Appendix 3
- (3) To agree the publication and use of the Biodiversity Net Gain Technical Advice Note contained in Appendix 4
- (4) To provide delegated authority to the Director of Regeneration and Planning, in consultation with the Portfolio Holder for Planning and Infrastructure, to make minor or technical amendments to the Technical Advice Notes prior to their publication or as otherwise required following publication

Reasons for recommendations:

- (1) To publicise the Council's expectations for the incorporation of sustainability issues, circular economy principles and biodiversity net gain in planning applications

(2) To make minor amendments to address technical or drafting issues

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1 Introduction

- 1.1 The Lewes Corporate Plan 2020-2024 identifies the Council's focus on providing leadership to the district on tackling the climate emergency, and putting sustainability at the heart of local planning processes.
- 1.2 A local plan is under preparation, and once adopted this will play a significant role in contributing towards these corporate plan aims. The Local Development Scheme (LDS), which was adopted by Full Council in July 2020, anticipates that the local plan will be adopted in 2023.
- 1.3 In order to support the priorities identified in Corporate Plan in advance of the adoption of the new local plan, a series of Technical Advice Notes (TANs) have been prepared to provide advice to developers and planning applicants on how they can contribute towards achieving sustainability in new development. The subjects that the Technical Advice Notes cover are: Sustainability in Development; Circular Economy; and Biodiversity Net Gain.
- 1.4 This report explains the purpose of Technical Advice Notes, summarises the three Technical Advice Notes that have been prepared to address sustainability issues, and seeks Cabinet approval for these to be published and used in the planning application process.

2 Technical Advice Notes

- 2.1 Technical Advice Notes (TANs) provide technical advice and information to developers and planning applicants in order to encourage the types of development that the Council would like to see.
- 2.2 The purpose of a TAN is to inform applicants of the Council's expectations at an early stage, so that they can be designed into development proposals. The TANs also set out how applicants should demonstrate how their proposals have met the Council's expectations in their application.

2.3 Sustainability in Development Technical Advice Note

- 2.3.1 The Sustainability in Development TAN seeks to draw together the different aspects that influence the sustainability of a development proposal to make it easier to consider these factors in the design of a proposal, in order to encourage developers and planning applicants to give much greater consideration to sustainability issues.
- 2.3.2 The Sustainability in Development TAN provides a checklist of sustainability requirements and objectives that applicants should consider in development proposals. Applicants are requested to complete and submit the checklist to show whether sustainability issues have been given consideration in the proposal, and to provide evidence on how this has been done.
- 2.3.3 The requirements to submit the checklist only applies to Major and Minor applications¹. The checklist for minor applications is less detailed than the checklist for major applications in order to ensure that the expectations are proportionate to scale of the development proposed and does not discourage smaller developments from coming forward.
- 2.3.4 The requirement to submit a checklist does not apply to Householder and other types of planning application (for example an extension to an existing dwelling), although these are encouraged to consider the checklist to inform important early decisions and to influence design.
- 2.3.5 The checklist is primarily designed to inform applicants about considerations that should be taken into account in design, so they can be incorporated into the proposal from the outset. The submitted checklist will also assist case officers to identify how sustainability considerations have been taken into account, and will provide an opportunity to monitor how such issues are being considered over time.

2.4 Circular Economy Technical Advice Note

- 2.4.1 It is estimated that 51% of the 1.7 million tonnes of solid waste generated in East Sussex and Brighton & Hove each year is construction, demolition and excavation waste².
- 2.4.2 The Circular Economy TAN seeks to encourage a circular economy (CE) approach to be taken in development proposals, whereby materials are recovered, reused and

¹ Major applications involve residential development of 10+ dwellings or over half a hectare or building(s) exceeds 1000m² and commercial development of 1,000m² or more floorspace or 1 or more hectares. Minor applications include residential development of between 1 and 9 dwellings and commercial development under 1, 000m² or less than 1 hectare

² East Sussex Waste and Minerals Monitoring Report 2018/19

recycled in order to minimise the amount of 'waste' that is created through development.

- 2.4.3 The Circular Economy TAN seeks to embed the circular economy principles, such as the responsible sourcing of materials, enabling buildings to be adaptable for future reuse, and ensuring the materials can be recovered and recycled, into the design of buildings from the outset, on the basis that if the scheme is designed in the right way, waste generated should be minimised as a result.
- 2.4.4 The Sustainability in Development TAN requests the provision of evidence explaining how circular economy concepts have been placed at the heart of the development proposals, in addition to the provision of a Site Waste Management Plan for major developments.

2.5 Biodiversity Net Gain Technical Advice Note

- 2.5.1 In January 2020, the Government introduced the Environment Bill to support their '25 Year Environment Plan to Improve the Environment', which was published in 2018.
- 2.5.2 The Environment Bill proposes that developers will be required to ensure habitats for wildlife are enhanced and that development delivers a minimum 10% biodiversity net gain on the pre-development biodiversity baseline.
- 2.5.3 Once the Bill receives royal assent, there will be a two-year transition period before biodiversity net gain in development becomes mandatory.
- 2.5.4 Ahead of biodiversity net gain being mandated, a Biodiversity Net Gain TAN has been prepared to encourage developers and planning applicants to incorporate biodiversity net gain into applications now and provide guidance on how this should be assessed.
- 2.5.5 The Biodiversity Net Gain TAN sets out an expectation that major development applications achieve a minimum 10% biodiversity net gain. Within applications for minor development, biodiversity net gain is encouraged where possible. This is in line with the current expectations in the Environment Bill.
- 2.5.6 The TAN encourages an on-site biodiversity net gain to be designed into the scheme at the earliest opportunity. Only where it can be demonstrated that this is not possible should off-site offsetting be considered.

3 Outcome expected and performance management

- 3.1 TANs are not part of the statutory development plan, and therefore cannot be used in the determination of planning applications. However, the TANs do encourage sustainability considerations to be taken into account. They have been linked to either

development plan policy or to the National Planning Policy Framework where possible, and advise how to address requirements that are already in existing policy.

- 3.2 In order to ensure that the TANs are effective and to learn lessons from their implementation, a review of the TANs will take place no later than one year after their approval. This will also allow changes in guidance and legislation, such as the possible introduction of the Future Homes Standard and the mandating of biodiversity net gain, to be taken into account and to ensure that the TANs remain fit for purpose.

4 Consultation

4.1 The cross-part Lewes District Council Local Plan Steering Group were consulted on the preparation of the TANs, which were then subject to targeted consultation with members of Planning Services User Group (including planning agents and developers who regularly work in the area) and other specific organisations who could provide detailed advice, including East Sussex County Council, Sussex Wildlife Trust and the Local Nature Partnership.

4.2 A total of eight representations were received during the targeted consultation. A summary of the representations received and how they have been addressed are summarised in Appendix 1.

4.3 The TANs were amended as a result of these responses, and reported back to the Local Plan Steering Group before being finalised.

5 Corporate plan and council policies

5.1 By seeking to influence how sustainability issues are considered in planning applications, the TANs will help to deliver the priorities of the Corporate Plan to tackle issues of climate change and put sustainability at the heart of the local planning process, in advance of the new local plan being prepared.

5.2 The TANs are consistent with the Lewes District Council Sustainability Policy objectives, particularly taking opportunities to improve biodiversity and green infrastructure; reducing waste and promoting the re-use of materials where possible; and enabling resilient and sustainable communities and creating places where people can and want to live into the future.

5.3 The need for these TANs has been noted in the Climate Change and Sustainability Strategy Action Plan.

6 Financial appraisal

6.1 The proposed documents are to be used as 'Technical Guidance Notes' with set

expectations; therefore there are no financial implications of this report.

7 Legal implications

7.1 The Environment Bill 2019/2020 is due to have its report stage and third reading on a date to be announced which means that amendments can still be made to the Bill. However, it is not considered premature to introduce the TAN at this stage as it is subject to a review mechanism.

7.2 The proposed Technical Advice Notes do not have the same status as an adopted planning policy and cannot therefore be used as a reason for refusal for a planning application submitted within the area for which LDC is the planning authority.

Legal Implications Provided 21.12.20. LDC-JCS-9757

8 Risk management implications

8.1 The following risk will arise if the recommendations are not implemented and the following mitigation is proposed:

Risk: if not implemented, the guidance set out in the Technical Guidance Notes would not be available to the public, meaning that planning applicants would have less understanding of the Council's expectations for how planning applications should address sustainability considerations.

Mitigation: That the recommendations of this report are approved, allowing the publication of the TANs to present the Council's expectations for how planning applications should address sustainability considerations.

9 Equality analysis

9.1 An Equality Screen has been completed in conjunction with this report. Although the proposals are unlikely to impact on protected groups, taking steps to promote sustainability may improve the health and wellbeing of communities.

10 Environmental sustainability implications

10.1 By seeking to influence how sustainability issues are considered in planning applications, the TANs will help to meet the target of zero carbon by 2030.

11 Appendices

- Appendix 1 – Summary of Consultation
- Appendix 2 – Sustainability in Development Technical Advice Note

- Appendix 3 – Circular Economy Technical Advice Note
- Appendix 4 – Biodiversity Net Gain Technical Advice Note

12 **Background papers**

The background papers used in compiling this report were as follows:

- [Lewes Corporate Plan 2020-2024](#)
- [National Planning Policy Framework \(2019\)](#)
- [Lewes Local Plan Part 1: Joint Core Strategy](#)
- [Lewes Local Plan Part 2: Site allocations and development management policies](#)
- [East Sussex, South Downs and Brighton & Hove Waste and Minerals Local Plan](#)
- [East Sussex, South Downs and Brighton & Hove Waste and Minerals Monitoring Report 2018/19](#)