

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):	<p>(1) To agree the publication and use of the Sustainability in Development Technical Advice Note contained in Appendix 2</p> <p>(2) To agree the publication and use of the Circular Economy Technical Advice Note contained in Appendix 3</p> <p>(3) To agree the publication and use of the Biodiversity Net Gain Technical Advice Note contained in Appendix 4</p> <p>(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</p>
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](#)

Appendix 1 – Summary of Consultation on Draft TANs

General Comments

Summary of Comment	Response
Object to the imposition of Technical Advice Notes due to cost and delays of undertaking additional work to meet requirements, particularly on small developers and private individuals	<p>Whilst there are a number of points in the checklist, these are for consideration; the document actually requires little additional work. The purpose of the TANs is to inform what considerations should be taken into account at design, so they can be incorporated from the outset.</p> <p>The TANs are not additional planning policy, and themselves are not designed for the determination of a planning application. The TANs do encourage sustainability considerations to be taken into account, but any requirements within them already exist elsewhere, and the TANs just consolidate them and advise how to address the requirements which are already within policy.</p> <p>It is recognised that numerous additional forms for completion and submission with an application could be onerous, so the request for details of waste generation in the draft CE TAN have been removed, and CE principles incorporated into the SiD TAN.</p>
The need for the information being sought must be justified and proportionate to the size and scale of the application	<p>The checklist items are for consideration predominantly during the design phase and are to ensure that the scheme concept as a whole is considering the sustainability issues of development.</p> <p>It is agreed that the information provided should be proportionate, and it has been clarified in the SiD TAN that we do not intend to make the process burdensome; and the submission of information should be proportionate and relevant to the development proposed.</p>
Many of the points raised in the Technical Advice Notes cannot be realistically answered at planning application stage	<p>The SiD TAN makes it clear that the submission of information should be proportionate to the scale of development being proposed. If the requirements of checklist are not relevant for a particular type of application (e.g. some outline application), this should be explained in the</p>

Summary of Comment	Response
	<p>submission of the checklist.</p> <p>However it is beneficial if all information is provided 'up front' where possible to reduce uncertainty and cost or delays of further applications.</p>

Comments on Sustainability in Development TAN

Summary of Comment	Response
Sustainable development has been defined in many ways, but the most frequently quoted definition is from Our Common Future, also known as the Brundtland Report. I do not see how this TAN addresses this concept.	The SiD TAN has been amended to further emphasise the benefits of implementing the considerations in the checklist in relation to meets the needs of the present without compromising the ability of future generations to meet their own needs.
It needs to be made clear who is to complete the Checklist	The SiD TAN makes it clear that the applicant is expected to complete and submit the relevant checklist with their planning application for validation.
There is an overlap between this TAN and the CE TAN.	Parts of the CE TAN have been moved to the SiD TAN and these have been cross referenced where required.
The overall scope of the checklist for minor developments being little different from the majors checklist, and these are onerous requirements which will certainly impact on the delivery of smaller schemes.	The requirements of the Minors checklist have been reconsidered and amended, and a note has been added to confirm that submission of information should be proportionate to the scale of development being proposed.
For all Householder Applications and most other smaller developments, satisfying the requirements of these TANs is proportionately excessive, especially at the Planning Application stage.	<p>It has been made more explicit that the TAN is only relevant for new build residential or commercial floorspace. There is no requirement for Householder applications to be supported by the checklist.</p> <p>A note has been added to confirm that submission of information should be proportionate to the scale of development being proposed.</p>
The SiD TAN should be more explicit about how rainwater harvesting will be used to reduce potable water demand.	It is considered that the provision of such detail may not be considered proportionate. Such details may be included on a review of the TAN

Summary of Comment	Response
	or in the new Local Plan and through more in depth Supplementary Guidance.
Whilst there would be an aspiration to have water efficient appliances, it would not be known at planning stage how this would be achieved and such requirements could not be enforced.	The TAN is to ensure that the applicant has considered these issues. LPP1 Policy CP14 requires that developments incorporate measures to reduce carbon energy. This is a way of addressing this requirement and can be considered at this stage to show lower water consumption and reduced energy use in the operation of the development and can be conditioned.
Developments should be encouraged to be prosumers (generate own energy for consumption) rather than purely consumers	This has been amended to 'Have you considered Energy Generating technology on the site?', on the basis that sites can produce the energy they use and could contribute back to the grid if they can produce more than they would use on site. This is going further than just asking if renewable are used to generate the energy needed on site.
Suggest changing Carbon Neutral to a Dwelling Emission Rate of less than 0.00 tonnes CO2 / year	Carbon Neutral is an easier concept or statement to understand. However it is appreciated that Carbon Neutral could imply off setting, whereas the DER is a measure of the emission rate taking into account the specification of the building and therefore is a true reflection of the carbon reduction measures. Therefore the checklist has been amended to include both, stating 'Seek to produce the minimum of CO2 possible, be Carbon Neutral or show a dwelling emission rate of less than 0.00 tonnes CO2/Year if possible.'
Note that Future Homes Standard consultation is still under analysis. When introduced, it will be legally binding and therefore this question might not be needed	The checklist requests information to confirm that such appropriate standards have been met. The TANs will be reviewed in future and amended as a result of the Future Homes Standard if necessary.
The relationship between shading and reducing overheating should be more greatly emphasised	It is agreed that these all tie in together. The checklist has been amended to reference maximising natural light while avoiding overheating.

Summary of Comment	Response
The aspiration to use locally sourced suppliers isn't always possible, so this has a risk of not being achievable.	It is accepted that it will not always be possible nor will it necessarily be known at this stage, therefore the checklist has been changed to 'Will locally sourced suppliers be considered/used?'
The technologies listed identified photovoltaic tiles rather than systems – is this meant to indicate a preference away from panellised systems to roof integrated systems?	This wasn't the intention so it has been amended to systems to not appear to preference any particular system over another.
Reference to 'code for sustainable homes' should be removed as it is defunct	Reference to Code of Sustainable Homes has been removed
Building for Life 12 is a placemaking criteria, exclusive of sustainability so might not be relevant for this checklist	BFL12 is superseded with Building for a Healthy Life and reference can therefore be used to the later, as the Local Plan Part 2 refers to the later we will reference both for clarity.
The checklist refers to a transport statement being required for 35+ dwellings and then a travel plan required on 35+ dwellings. Is this correct?	This is taken from ESCC website ³ as to what is required for each type of application. No change necessary.
Suggested the production of a 'Design Guide'	Whilst it is agreed that this could be beneficial, this is for future consideration outside of these TANs. It could be considered as part of a wider design guide for general design principles, it could also be considered should design codes become more widespread.
Would like to see the wording for the water efficiency guidance to reflect Southern Water's Target 100	The requirement within the checklist is taken from LPP1 Core Policy 14, and as such is listed as a requirement. However, the question has been amended to reference a preference for target water consumption of 100 litres per person per day or less to show support for Southern Water aspirations.
Mature trees should be left on site due to carbon storage issues and amount of time taken for planted trees to sequester a similar amount.	Retain mature trees is a requirement under biodiversity heading.
Showers are not water efficient in themselves	Whilst showers are considered more efficient than baths generally, the question has been

³ [East Sussex County Council: Planning Applications – transport implications](#)

Summary of Comment	Response
	amended to cover all appliances rather than just baths/showers.
What does the requirement for an Energy Statement mean	The requirement for an Energy Statement comes from Core Policy 14, but requires one to be submitted only on allocated sites. Therefore this has been removed from the checklist as the requirement is so small.
Utility companies have the responsibility to be rolling out smart meters	It is considered that as the developer can request/ensure they are installed, this is still a relevant question to ask in the checklist.
What's a positive high energy rating is this the Energy Performance Certificates?	New builds are subject to New Build EPC's which are required for Building Regulations sign off, and takes into account detailed construction details in giving an energy rating. The EPC won't be done at planning stage, but applicants can commit to a positive performance outcome, which would be required anyway for Building Regulations sign off.
Lighting should refer to low voltage LED	It is considered this would be covered by general energy efficiency questions in the checklist and not necessary to name individually.
Is the Energy Opportunities Map still relevant now?	The map provides the most up to date information on Energy Opportunities, therefore it should be given some consideration
Have links/access to local cycle routes has been considered and is the development designed for safe cycling?	There is a question in the design/location and layout section of the checklist which refers to consideration of the cycle network.

Comments on Circular Economy TAN

Summary of Comment	Response
The requirements of the CE TAN are currently a waste audit rather than a reflection of a CE approach being put in place. The CE TAN should start to embed the design philosophy which is at the heart of the CE into the design of buildings in the District. It is suggested that much more emphasis is placed on the	It is understood that providing encouragement to design in CE principles at the outset of a development proposal would be significantly more effective in ensuring that 'waste' is not generated and instead there is an ability for materials to be recovered, re-used and recycled in future. This approach would be much more

Summary of Comment	Response
sustainable design, with emphasis on the scheme promoter explaining how CE concepts were put at the heart of the development.	<p>effective for establishing CE principles as opposed to simply asking for details about quantities of waste and amount being recycled as the first draft of the CE TAN originally did.</p> <p>As a result, the emphasis of the CE TAN has been changed significantly in order to request for information about how CE approaches have been considered in the design of a proposal. The CE templates previously in the CE TAN have been removed, and the information is requested via the Sustainability in Development TAN checklist, to reduce the number of separate forms that applicants are expected to complete.</p>
The CE TAN focuses on advice around waste, and there is a need for a higher-level planning policy that requires the embodiment of CE principles and provide advice on different areas for zero carbon developments. These could include designing for embodied and operational carbon, insulation, reuse, recycling, green roofs, and building materials made from waste and organic materials.	It is anticipated that the new Local Plan seek to address Circular Economy principles and zero carbon development. Prior to the new Local Plan being prepared, the CE TAN and Sustainability in Development TAN are being put in place to seek to encourage thought to be given to these principles and to raise its profile so that it will be a more familiarly and common consideration by the time that a new local plan is adopted.
The CE statements seek to influence the design of the development, which does lead to a question of the available skills and opportunity for officers and members to understand and interrogate the design of a given proposal. This could be addressed through a Design Review Panel	The establishment of a Design Review Panel would have implications wide than the CE TAN, so would need to be considered at a greater scale. However, greater emphasis on design in proposed planning reforms may provide greater need for such a panel.
The TAN should emphasise that the use of local materials (which will support local employment) will be encouraged as part of Lewes District Council's approach to circular economy and community wealth building,	The use of local materials is referenced in the CE TAN and information on the use of locally sourced materials is requested as part of the Sustainability in Development TAN checklist.
It may not be possible for the information required by the CE TAN to be provided at Outline stage	The requirement to submit information on CE is now part of the Sustainability in Development TAN. This recognises that the information provided proportionate to the matters for consideration, with some matters being appropriate at Outline stage and others

Summary of Comment	Response
	appropriate at Reserved Matters stage.
The Newhaven Local Employment and Training Technical Guidance Note should be extended to cover the rest of the District	The Newhaven Local Employment and Training Technical Guidance Note pilot programme to assist in securing local labour agreements as part of development proposals in Newhaven. If this pilot is effective, the roll out across the District will be considered
The checklist requirements are similar to a traditional Waste Minimisation Plan, and could be integrated into the Sustainability in Development checklist.	The Circular Economy information requirements have been incorporated into the Sustainability in Development TAN checklist to reduce the number of checklists to be submitted
The requirements of the CE TAN cannot be designed in advance in a Planning Application, particularly a household extension.	The requirements of the CE TAN have been changed to emphasise the designing in of CE principles, rather than reporting on waste arising, and been incorporated into the Sustainability in Development TAN. This only applies to Major and Minor applications, and not householder extensions.
The CE TAN appears to be designed to exclude small developers and to favour major developers who will have systems in place for handling such questions and will probably subcontract the responsibility to another firm.	The requirements of the CE TAN have been changed to emphasise the designing in of CE principles, rather than reporting on waste arising, and been incorporated into the Sustainability in Development TAN. This provides separate information for major and minor applications, and reiterates that the submission of information should be proportionate to the scale of development being proposed
The CE TAN may be too long and difficult for developers to engage with.	The requirement to submit CE information has been incorporated into the Sustainability in Development TAN, so the CE TAN is now shorter

Comments on Biodiversity Net Gain TAN

Summary of Comment	Response
Support the integration of guidance from the Wildlife Trusts.	It is confirmed that guidance from the Wildlife Trusts was considered in the preparation of the TAN

Summary of Comment	Response
At the Application stage, biodiversity net gain is effectively a box ticking exercise to satisfy the local authority rather than a meaningful attempt at enhancing the environment or conserving it into the future.	Biodiversity net gain is referenced within the NPPF so a consideration to be taken into account in the determination of a planning application.
The Policy Context should reference LPP2 Policy DM24	Updated to include and LPP1 and LPP2 added to Further Reading
Concern about the cost implications of a management plan spanning a 30 year minimum	The Environment Bill identifies the requirement for habitat enhancement to be maintained for at least 30 years after the development is completed, so it is expected that this will be mandatory
Add further by stipulating the way in which information is presented as part of a planning application to enable the council to put in place the mechanisms required to effectively assess applications at validation stage.	Reference made to link with the Sustainability in Development TAN, which provides a checklist for what evidence should be submitted with an application to show how BNG has been addressed.
The TAN needs to be really clear that the mitigation hierarchy is separate to the BNG, and that any loss will be compensated for and 10% net gain provided in addition to that compensation. The BNG hierarchy could be presented more simply to prioritise avoidance amongst all other levels of the hierarchy	Text has been amended to make clear that the mitigation hierarchy is separate from BNG, and two diagrams added: one to describe the mitigation hierarchy, and another to show how the hierarchy works with BNG
Some of the examples highlighted as ways to deliver BNG, whilst being beneficial for biodiversity, would not create a net gain.	The examples identified that are not positive BNG actions have been removed from the list.
There should be further information provided to encourage minor applications can be encouraged to consider BNG.	Text has been updated to encourage consideration in minor applications, and included within the checklist within the Sustainability in Development TAN.
A link to the Sussex Biodiversity Record Centre should be added to the Further Reading list.	Sussex Biodiversity Record Centre added to Further Reading list