

Report to: Cabinet

Date: 15 September 2021

Title: Planning Technical Advice Notes for Sustainability

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

Cabinet member: Councillor Colin Swansborough, Portfolio Holder for Place Services and Special Projects

Ward(s): All

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 Biodiversity Net Gain Technical Advice Note contained in Appendix 3
- (3) To agree the publication and use of the Electric Vehicle Charging Point 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 Place Services and Special Projects, 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, biodiversity net gain and electric vehicle charging points in planning applications

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

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1 Introduction

1.1 In July 2019, Eastbourne Borough Council declared a climate emergency and set the ambition of becoming a Carbon Neutral town by 2030. The new Local Plan will play a key role in helping to achieve this ambition; however, the Local Plan is still under preparation and is not expected to be adopted until 2023.

1.2 In order to support the climate change priorities 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; Biodiversity Net Gain; and Electric Vehicle Charging Points.

1.3 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 applies to Major, Minor and Householder applications¹. The checklist for Minor and Householder applications are 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 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 Biodiversity Net Gain Technical Advice Note
- 2.4.1 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.
- 2.4.2 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.
- 2.4.3 Once the Bill receives royal assent (expected by the end of 2021) there will be a two-year transition period before biodiversity net gain in development becomes mandatory.
- 2.4.4 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.

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. Householder applications involve proposals to alter or enlarge a single house, including works within the boundary/garden of a house.

- 2.4.5 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.
- 2.4.6 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.
- 2.5 Electric Vehicle Charging Points Technical Advice Note
- 2.5.1 Transport is a significant contributor to carbon emissions in Eastbourne, and increasing in the share of vehicles that are Ultra Low Emissions Vehicles (ULEVs) will start to help in reducing these emissions. Increasing the use of ULEVs will require the installation of appropriate infrastructure, such as Electric Vehicle Charging Points (EVCPs) to support their use.
- 2.5.2 The National Planning Policy Framework (NPPF) encourages the provision of off-street EVCPs in development, as does East Sussex County Council's Guidance for Parking at New Residential Development (2017).
- 2.5.3 The EVCP TAN sets out the expectations for the provision of EVCPs in new housing and commercial developments provide guidance and advice on how this infrastructure could be provided. It also provides a summary of existing technologies and the current situation in the UK, using case studies and examples of best practice.

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 NPPF 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 implementation 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-party Local Plan Steering Group were consulted in the preparation of the TANs, which were also subject to targeted consultation with 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 Eastbourne Eco-Action Network.

- 4.2 A summary of the representations received and how they have been addressed are summarised in Appendix 1.

5 Corporate plan and council policies

- 5.1 By seeking to influence how sustainability issues are considered in planning applications, the TANs will contribute towards the Council's ambition to be a carbon neutral town by 2030. The TANs will also support the Eastbourne Corporate Plan 2020-2024 vision to deliver a clean and attractive zero carbon town, particularly in terms of transitioning to the delivery of new carbon-neutral & environmentally friendly homes; enhancing biodiversity of public and open spaces; and providing electric vehicle charging points throughout the borough.
- 5.2 The TANs are consistent with the Eastbourne Borough Council Sustainability Policy (December 2018) 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 TANs contribute to the action identified in the Eastbourne Borough Council Climate Emergency Strategy (2020) to develop and adopt guidance documents to help developers and property renovators to ensure their work makes homes resilient to climate change. The Biodiversity Net Gain TAN is also identified in the Eastbourne Borough Council Biodiversity Strategy 2021-2025.

6 Financial appraisal

- 6.1 The proposed documents are to be used as 'Technical Advice Notes' with set expectations; therefore there are no financial implications of this report.

7 Legal implications

- 7.1 The Environment Bill is currently at the report stage in the House of Lords and there will be a 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.

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 TANs 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 becoming a carbon neutral town by 2030.

11 Appendices

- Appendix 1 – Summary of Consultation
- Appendix 2 – Sustainability in Development Technical Advice Note
- Appendix 3 – Biodiversity Net Gain Technical Advice Note
- Appendix 4 – Electric Vehicle Charging Points Technical Advice Note

12 Background papers

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

- [Eastbourne Corporate Plan 2020-2024](#)
- [National Planning Policy Framework \(2021\)](#)
- [Eastbourne Core Strategy 2006-2027 \(2013\)](#)
- [Eastbourne Climate Emergency Strategy \(2020\)](#)

Appendix 1 – Summary of Consultation on Draft TANs

General Comments

Summary of Comment	Response
<p>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>	<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>The need for the information being sought must be justified and proportionate to the size and scale of the application</p>	<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 the SiD TAN clarifies that it is not intended to make the process burdensome; and the submission of information should be proportionate and relevant to the development proposed.</p>
<p>Many of the points raised in the Technical Advice Notes cannot be realistically answered at planning application stage</p>	<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 applications), this should be explained in the 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 (SiD TAN)

Summary of Comment	Response
For all Householder Applications and most other smaller developments, satisfying the requirements of these TANs is proportionately excessive, especially at the Planning Application stage.	The TAN is clear that submission of information should be proportionate to the scale of development being proposed.
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 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. Core Strategy Policy D1 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 CO ₂ / 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 CO ₂ possible, be Carbon Neutral or show a dwelling emission rate of less than 0.00 tonnes CO ₂ /Year if possible.'
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.
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?'

Summary of Comment	Response
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 ² as to what is required for each type of application. No change necessary.
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 Core Strategy Policy D1, 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.	Retaining 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 amended to cover all appliances rather than just baths/showers.
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 questing in the design/location and layout section of the checklist which refers to consideration of the cycle network.

² [East Sussex County Council: Planning Applications – transport implications](#)

Comments on Biodiversity Net Gain TAN (BNG 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
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.
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
There could be some tightened up in the wording/language, which would leave less ambiguity as to Eastbourne BC commitment to supporting local biodiversity and the best use of the Biodiversity Net Gain (BNG) metric.	Amendments have been made to text to tightening up language as appropriate.
BNG applied through the Defra Biodiversity Metric is limited to habitat creation and enhancement only,	The applicant's Ecologist and the Council's Ecologist would be required to inform what design

Summary of Comment	Response
<p>so cannot be solely relied upon deliver gains in biodiversity. Species-specific enhancement and other design features which are important for wildlife are not covered within the Metric.</p>	<p>features are not covered by the metric, and how species-specific enhancements can be made.</p> <p>Reference to using an alternative appropriate method to be agreed by the Council, as alternative to DEFRA Metric has been included.</p> <p>The BNG TAN has been amended to request that that opportunities for site-specific or species-specific enhancement or mitigation should be highlighted in the application.</p>
<p>A net gain of more than 10% should be sought</p>	<p>The Environment Bill is likely to mandate 10%, and the BNG TAN has been amended to emphasise that this is a minimum. Further consideration will be given to % net gain in the local plan.</p>
<p>Consideration should be given which additional aspects of wildlife friendly design developers should incorporate in their applications on top of BNG requirements, including the consideration of habitat enhancement for priority habitats found within the borough which would be locally beneficial.</p>	<p>The potential aspects of wildlife friendly design have been amended to be more specific for Eastbourne, including identification of the priorities for habitat enhancement and creation. The TAN also confirms that it should be read alongside Eastbourne Biodiversity Strategy.</p>
<p>There is a missed opportunity in section 7 to highlight and focus on habitats and species specific to Eastbourne, including the consideration of habitat enhancement for priority habitats found within the borough which would be locally beneficial.</p>	<p>Amendments have been made including identification of the priorities for habitat enhancement and creation.</p>
<p>Any offsetting should ideally be within Eastbourne and the surrounding area, rather than risk losing these credits elsewhere.</p>	<p>There will be an opportunity to review off-setting and any future Local Nature Recovery Strategy as part of future amendments to the TAN or through the Local Plan, as understanding of practice develops.</p> <p>The BNG TAN has been amended to confirm that if off-setting is required it should be within local areas that provide the most benefit locally, and details should be set out in application.</p>

Comments on Electric Vehicle Charging Points TAN (EVCP TAN)

Summary of Comment	Response
Homeowners should be encouraged to use renewable energy supply to power EVCPs	Reference to including details of consideration in using renewable sources in a planning application submission has been included
Further guidance should be provided to developers as to the size of the EV charging bays, signage, design features for safety and access for the disabled	The detailed requirements for parking provision is already set out in the ESCC Parking Guidance.
It is unclear for developers what type of charging service should be used, and who will maintain, run and service the charging points	The EVCP TAN has been amended to include greater detail on the expectations around the ECVPs, and identify what information should be submitted with a planning application to meet these requirements
For flats, care would need to be given to the design and distribution of charging points, as cars charging overnight might have to stay connected and prevent someone else using the charge point.	This is an issue with unallocated car parking spaces and it is considered that there is little that can be done about this at the current time.
The ECVP TAN should specify a formula for the number, specification and type of chargers	A number is provided in Table 1. It is not considered appropriate at this time to identify specifications and types for chargers, as technology is evolving and it is important that guidance is flexible to respond to changes
Consideration needs to be given in the developments to allow for future expansion on the charging infrastructure	The requirement for passive provision would allow future expansion, and additional wording has been added to stipulate how passive provision will be monitored.
Potentially conflicting with ESCC standards	The ECVP TAN confirms that it does not override any of East Sussex County Council requirements or guidelines in terms of car parking.