

## SWT Executive

Wednesday, 16th November, 2022,  
6.15 pm



Somerset West  
and Taunton

The John Meikle Room - The Deane  
House

[SWT MEETING WEBCAST LINK](#)

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**Members:** Federica Smith-Roberts (Chair), Derek Perry (Vice-Chair), Benet Allen, Chris Booth, Dixie Darch, Caroline Ellis, Mike Rigby, Francesca Smith, Andrew Sully and Sarah Wakefield

### Agenda

**1. Apologies**

To receive any apologies for absence.

**2. Minutes of the previous meeting of the Executive**

To approve the minutes of the previous meeting of the Committee.

(Pages 5 - 8)

**3. Declarations of Interest**

To receive and note any declarations of disclosable pecuniary or prejudicial or personal interests in respect of any matters included on the agenda for consideration at this meeting.

(The personal interests of Councillors and Clerks of Somerset County Council, Town or Parish Councils and other Local Authorities will automatically be recorded in the minutes.)

**4. Public Participation**

The Chair to advise the Committee of any items on which members of the public have requested to speak and advise those members of the public present of the details of the Council's public participation scheme.

For those members of the public who have submitted any questions or statements, please note, a three minute time limit applies to each speaker and you will be asked to speak before Councillors debate the issue.

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- 5. Executive Forward Plan** (Pages 9 - 10)  
To receive items and review the Forward Plan.
- 6. New Regulatory Services Enforcement Policy 2022-2023** (Pages 11 - 84)  
This matter is the responsibility of Executive Councillor for Environmental Services, Councillor Andrew Sully.
- 7. Low Carbon Retrofit Strategy and Delivery Plan** (Pages 85 - 158)  
This matter is the responsibility of Executive Councillor for Housing, Councillor Fran Smith.
- 8. Governance for Taunton Garden Town** (Pages 159 - 172)  
This matter is the responsibility of Executive Councillor for Planning and Transportation, Councillor Mike Rigby.
- 9. Firepool Design Guidance and Masterplan** (Pages 173 - 196)  
This matter is the responsibility of Executive Councillor for Planning and Transportation, Councillor Mike Rigby.
- 10. Access to Information - Exclusion of the Press and Public**  
During discussion of the following item it may be necessary to pass the following resolution to exclude the press and public having reflected on Article 13 13.02(e) (a presumption in favour of openness) of the Constitution. This decision may be required because consideration of this matter in public may disclose information falling within one of the descriptions of exempt information in Schedule 12A to the Local Government Act 1972. Executive will need to decide whether, in all the circumstances of the case, the public interest in maintaining the exemption, outweighs the public interest in disclosing the information. Recommend that under Section 100A(4) of the Local Government Act 1972 the public be excluded from the next item of business on the ground that it involves the likely disclosure of exempt information as defined in paragraph 3 respectively of Part 1 of Schedule 12A of the Act, namely information relating to the financial or business affairs of any particular person (including the authority holding that information).
- 11. Cultural Grant Provision** (Pages 197 - 204)

This matter is the responsibility of Executive Councillor for Culture, Councillor Caroline Ellis.

A handwritten signature in black ink, appearing to read 'A Pritchard', with a horizontal line underneath.

**ANDREW PRITCHARD**  
**CHIEF EXECUTIVE**

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Members of the public are welcome to attend the meeting and listen to the discussions. There is time set aside at the beginning of most meetings to allow the public to ask questions. Speaking under "Public Question Time" is limited to 3 minutes per person in an overall period of 15 minutes and you can only speak to the Committee once. If there are a group of people attending to speak about a particular item then a representative should be chosen to speak on behalf of the group. These arrangements do not apply to exempt (confidential) items on the agenda where any members of the press or public present will be asked to leave the Committee Room.

If you would like to ask a question or speak at a meeting, you will need to submit your request to a member of the Governance Team in advance of the meeting. You can request to speak at a Council meeting by emailing your full name, the agenda item and your question to the Governance Team using [governance@somersetwestandtaunton.gov.uk](mailto:governance@somersetwestandtaunton.gov.uk)

Any requests need to be received by 4pm on the day that provides 1 clear working day before the meeting (excluding the day of the meeting itself). For example, if the meeting is due to take place on a Tuesday, requests need to be received by 4pm on the Friday prior to the meeting.

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**SWT Executive - 21 September 2022**

Present: Councillor Federica Smith-Roberts (Chair)  
 Councillors Benet Allen, Chris Booth, Dixie Darch, Caroline Ellis, Mike Rigby, Francesca Smith, Andrew Sully and Sarah Wakefield

Officers: James Barrah, Chris Hall, Alison North, Andrew Pritchard, Clare Rendell, Kerry Prisco, John Rendell and Malcolm Riches

Also Present: Councillors Sue Buller, Simon Coles, Marcus Kravis, Brenda Weston and Loretta Whetlor

(The meeting commenced at 6.15 pm)

128. **Apologies**

An apology was received from Councillor D Perry.

129. **Minutes of the previous meeting of the Executive**

(Minutes of the meeting of the Executive held on 20 July 2022 circulated with the agenda)

**Resolved** that the minutes of the Executive held on 20 July 2022 be confirmed as a correct record.

130. **Declarations of Interest**

Members present at the meeting declared the following personal interests in their capacity as a Councillor or Clerk of a County, Town or Parish Council or any other Local Authority:-

Name	Minute No.	Description of Interest	Reason	Action Taken
Cllr C Booth	All Items	Wellington and Taunton Charter Trustee	Personal	Spoke and Voted
Cllr S Coles	All Items	SCC & Taunton Charter Trustee	Personal	Spoke
Cllr D Darch	All Items	SCC	Personal	Spoke and Voted
Cllr C Ellis	All Items	SCC & Taunton Charter Trustee	Personal	Spoke and Voted
Cllr M Kravis	All Items	SCC & Minehead	Personal	Spoke
Cllr M Rigby	All Items	SCC & Bishops Lydeard	Personal	Spoke and Voted
Cllr F Smith	All Items	SCC & Taunton Charter Trustee	Personal	Spoke and Voted

Cllr F Smith-Roberts	All Items	SCC & Taunton Charter Trustee	Personal	Spoke and Voted
Cllr A Sully	All Items	SCC	Personal	Spoke and Voted
Cllr S Wakefield	All Items	SCC	Personal	Spoke and Voted
Cllr B Weston	All Items	Taunton Charter Trustee	Personal	Spoke
Cllr L Whetlor	All Items	Watchet	Personal	Spoke

131. **Public Participation**

No members of the public had requested to speak on any item on the agenda.

132. **Executive Forward Plan**

(Copy of the Executive Forward Plan, circulated with the agenda).

Councillors were reminded that if they had an item they wanted to add to the agenda, that they should send their requests to the Governance Team.

**Resolved** that the Executive Forward Plan be noted.

133. **Proposal to increase the maximum hackney carriage fares**

During the discussion, the following points were raised:-

- Councillors highlighted that they had already raised the fares in January 2022, as they had not been increased for ten years. This report was to ensure the fares were increased to fall in line with the rise in fuel costs.
- Councillors reminded attendees that the proposed fares were the maximum that a taxi driver could charge.
- Councillors highlighted that the electric vehicles were also impacted by the increase in the cost of living.
- Councillors agreed that this would give the taxi drivers the opportunity to raise the fares if they needed to.
- Councillors queried if the taxi drivers had requested this review.  
*The Licensing Specialist advised that it had been raised at the recent Taxi Forum.*

**Resolved** that the Executive approved to vary the current table of maximum fares as per the published proposal, and such changes to come into effect on the 22nd of September 2022.

134. **Corporate Performance Report - Quarter 1 2022/23**

During the discussion, the following points were raised:-

- Councillors highlighted that the report made it clear what challenges faced the Council.

- Councillors agreed that the report also included positive results and high-performance markers.
- Councillors queried how the report would transfer over to the New Council. *The Business Intelligence and Performance Manager advised that officers were working on the process for post Vesting Day and the work included the risk register and performance indicators.*
- Councillors requested clarification on call waiting times.
- Councillors thanked the officers at the Deane Helpline for all their hard work.
- Councillors queried what the current stress levels were like for officers. *The Chief Executive advised that officers were understandably tired as they had been on a programme of change for the last five years, with Transformation, Covid and Unitary Council. However, he thanked the officers as the service level was still high due to the hard work and dedication of the teams.*
- Councillors were pleased to see that Housing was in the green or improving section.
- Councillors highlighted that complaints were dealt with and learnt from to help improve service delivery.
- Councillors thanked the work force at Somerset West and Taunton Council for their exemplary service.

**Resolved** that the Executive noted the Council's performance report.

135. **2022/23 General Fund Financial Monitoring as at Quarter 1 (30 June 2022)**

During the discussion, the following point was raised:-

- Councillors queried whether the car park improvement figure was being capitalised and whether the Council were allowed to do so. *The Chief Executive assured councillors that the work was being carried out with due diligence and that they checked every line to ensure that what could be capitalised, could be done. This work would help going into the New Council.*

**Resolved** that the Executive:-

- 2.1 Noted the Council's forecast financial performance and projected reserves position for 2022/23 financial year as of 30 June 2022.
- 2.2 Approved budget transfers ("virement") of:
  - a) £473,420 to realign budgets in both Bereavement Services and Grounds Maintenance reflecting the accounting change of the service level agreement.
  - b) £302,040 to realign budgets across Commercial Services to mitigate the forecast pressure on car parking income.
- 2.3 Approved a transfer of £1,200,000 from the Business Rates Volatility Reserve with £1,000,000 to the Investment Risk Reserve and £200,000 to the Investment Sinking Fund.

136. **Access to Information - Exclusion of the Press and Public - Appendix E ONLY**

**Resolved** that under Section 100A(4) of the Local Government Act 1972 the public be excluded from the next item of business (Agenda Item 10 – Appendix E only) on the grounds that it involved the likely disclosure of exempt information as defined in paragraph 3 respectively of Part 1 of Schedule 12A of the Act, namely information relating to the financial or business affairs of any particular person (including the authority holding that information).

137. **2022/23 Housing Revenue Account Financial Monitoring as at Quarter 1 (30 June 2022)**

During the discussion, the following points were raised:-

- Councillor M Rigby left the meeting.
- Councillors thanked officers for the helpful report.
- Concern was raised that the increase in the cost of construction could lead to a delay in some projects.

*The Director for Housing advised that phosphates had caused a few delays as well as the increase in construction costs. He advised that day to day repairs would not be delayed, as the Council had a duty of care as a landlord. He acknowledged that the capital costs of contracts and major projects was a challenge faced by the whole sector.*

- Councillors requested clarification on re-charging.
- Councillors agreed that it was an impressive report and that work had been carried out even though the service had been faced with some challenges.

**Resolved** that the Executive noted the HRA's forecast financial performance and projected reserves position for 2022/23 financial year as at 30 June 2022.

(The Meeting ended at 7.05 pm)



**EXECUTIVE**

<b>Executive Meeting</b>	<b>Draft Agenda Items</b>	<b>Lead Officer</b>
<b>16 November 2022</b>	Firepool Design Guidance and Masterplan	Graeme Thompson
<b>venue =</b>	Low Carbon Retrofit Strategy and Action Plan	Chris Brown
Exec RD = 4 November	Governance for Taunton Garden Town	Jenny Clifford
Informal Exec RD = 4 October	New Regulatory Services Enforcement Policy 2022-2023	Jo Toogood
SMT RD = 21 September	Cultural Grant Provision	Chris Hall
	<b>NO MORE ITEMS</b>	
<b>21 December 2022</b>	GF Financial Performance 2022/23 Q2	Kerry Prisco
<b>venue =</b>	HRA Financial Performance 2022/23 Q2	Kerry Prisco
Exec RD = 9 December	Corporate Performance Report Q2	Malcolm Riches
Informal Exec RD = 8 November	Connecting our Garden Communities	Graeme Thompson
SMT RD = 26 October	Wellington Place Plan – Approval to go out for Public Consultation	Sarah Povall
	NTWP - Purchases	Jane Windebank
<b>18 January 2023</b>		
<b>venue =</b>		
Exec RD = 6 January		
Informal Exec RD = 6 December		
SMT RD = 23 November		
<b>15 February 2023</b>		
<b>venue =</b>		
Exec RD = 3 February		
Informal Exec RD = 3 January		
SMT RD = 14 December		
<b>15 March 2023</b>	GF Financial Performance 2022/23 Q3	Kerry Prisco
<b>venue =</b>	HRA Financial Performance 2022/23 Q3	Kerry Prisco
Exec RD = 3 March	Corporate Performance Report Q3	Malcolm Riches
Informal Exec RD = 1 February	Firepool Design Guidance and Masterplan	Graeme Thompson
SMT RD = 18 January		



*Report Number: SWT 144/22*

## **Somerset West and Taunton Council**

### **Executive – 16 November 2022**

#### **New Regulatory Services Enforcement Policy 2022-2023**

**This matter is the responsibility of Executive Councillor Andrew Sully**

**Report Author: Joanne Toogood, Regulatory Services Operational Manager**

#### **1 Executive Summary / Purpose of the Report**

- 1.1 The policies attached to this report explain the Councils approach to enforcement activity. This is to reassure the public and others concerned that the Council deals with enforcement in a fair, considered and transparent manner.
- 1.2 The Somerset West and Taunton's Regulatory Services Enforcement Policy 2022-2023 is an overarching policy designed to have a number of service specific policies which sit below such as the Private Sector Housing Enforcement Policy 2022-2023.
- 1.3 Both policies were drafted in consultation with the wider Somerset authorities as part of the Environmental Health & Licensing Sub Work Stream with the aim of adoption by all prior to vesting day.
- 1.4 There are no direct financial implications attached to either policy.
- 1.5 Having an adequate policy in place is essential to meet our legal requirements and the principles of good enforcement. Not having an adequate policy therefore undermines the principles of good enforcement and may ultimately result in a failure to protect the public from harm.
- 1.6 The request is for Members to consider and adopt Somerset West and Taunton's Regulatory Services Enforcement Policy 2022-2023 in Appendix 1 and the Private Sector Housing Enforcement Policy 2022-2023 in Appendix 2.

#### **2 Recommendations**

- 2.1 That the Executive adopts the following as council policy:
  - Somerset West and Taunton's Regulatory Services Enforcement Policy 2022-2023
  - Somerset West and Taunton's Private Sector Housing Enforcement Policy 2022-2023

### **3 Risk Assessment**

- 3.1 Having an adequate policy in place is essential to meet our legal requirements and the principles of good enforcement. It also serves to inform officers and decision makers of the framework under which they operate, in addition to providing information to those people, organisations and businesses which are regulated and those protected by regulation.
- 3.2 Not having an adequate policy therefore undermines the principles of good enforcement, can impact upon legal proceedings and may ultimately result in a failure to protect the public from harm.
- 3.3 This report does not relate to any of the risks identified in the Corporate Risk Register.

### **4 Background and Full details of the Report**

- 4.1 The purpose of this policy is to ensure compliance with Regulators' Code published in 2014 and the principles of good enforcement. Section 6 of that code sets out the governments expectation that local authorities will ensure that their approach to their regulatory activities is transparent and easily understood. The provisions of section 6 includes an expectation that local authorities will publish a clear set of service standards, setting out what those they regulate should expect from them. This includes their enforcement policy, explaining how they respond to non-compliance.
- 4.2 Taunton Deane Borough Council and West Somerset Council adopted the Somerset Authorities Environmental Health Enforcement Policy 2009 but the later Somerset Regulatory Enforcement Policy 2016-2020 which was drafted by the Somerset Heads of Regulatory Services Group was not adopted. We currently do not publish a copy of any enforcement policy on our website.
- 4.3 Published service standards are important for regulators to show that they are meeting their responsibility under statutory principles of good regulation to be accountable and transparent about their activities. The Regulators' Code requires that published service standards should be easily accessible, clearly signposted and kept up to date.
- 4.4 The 2009 policy is no longer fit for purpose and could leave Somerset West and Taunton vulnerable to criticism over enforcement action.
- 4.5 As part of the Local Government Reform programme, Environmental Health and Licensing, sub workstream we have drafted a new Somerset Corporate Enforcement Policy 2023-2028 to be adopted ahead of vesting day by Somerset Council. All workstreams have been consulted on the new policy and amends made as appropriate to incorporate comments received.
- 4.6 The Somerset West and Taunton Regulatory Services Policy (Appendix 1) has been drafted based on the above policy and is designed to cover the enforcement activities of Environmental Health, Licensing and Planning Enforcement.
- 4.7 In addition to this it has been decided to produce and adopt the Private Sector Housing Enforcement Policy 2022-23 in Appendix 2. This separate policy document has been

produced to give more specific detailed advice covering the work of the Private Sector Housing team, part of the Environmental Health service and a key regulatory service. This policy should be read in conjunction with Somerset West and Taunton's Regulatory Services Enforcement Policy 2022-2023 (Appendix 1).

4.8 The Housing and Planning Act 2016 requires the authority to develop a policy on financial penalties, this is contained within appendix 1 of the SWT Private Sector Housing Enforcement Policy 2022-23.

4.9 In summary, the Council can issue a financial penalty of up to £30,000 for the most serious offences where there is a very high level of culpability and a high level of harm. The policy describes what factors will be taken into account in establishing the level of penalty and it is expected that most fines will be significantly below the maximum. A table of fine levels can be found on page 30 of the financial penalty policy (Appendix 1 of the SWT Private Sector Housing Enforcement Policy 2022-2023 (Appendix 2)).

## **5 Links to Corporate Strategy**

5.1 One of the Council's Corporate objectives is to 'Deliver excellence in the way the Council conducts its business'. These policies explain the Council's approach to enforcement activity. This is to reassure the public and others concerned that the Council deals with enforcement in a fair, considered and transparent manner.

## **6 Finance / Resource Implications**

6.1 There are no direct financial implications arising from adopting this policy.

6.2 Poorly managed enforcement and/or a failure of legal proceedings can result in resources being used wasted and costs being awarded against the Council.

## **7 Unitary Council Financial Implications and S24 Direction Implications**

7.1 See comments above (section 6)

## **8 Legal Implications**

8.1 If we do not have an appropriate enforcement policy in place for the statutory functions of the relevant enforcement services, we may not meet the legal requirements that are our duty as a regulatory authority. Specifically, as set out in the Regulators' Code 2014 (Department of Business Innovation and Skills – now Department for Business, Energy and Industrial Strategy), the Code of Practice Powers of Entry 2014 (Home Office) and the provisions outlined in the Legislative and Regulatory Reform Act 2006 and the Regulatory and Enforcement Sanctions Act 2008.

## **9 Equality and Diversity Implications**

9.1 A full assessment is not necessary for this report.

9.2 The policy has been reviewed in accordance with the requirements of the Equality Act 2010 and it complies with the public sector Equality Duty. This is underpinned by virtue

of the policy seeking to ensure the overarching principles of good enforcement are met and that all our enforcement activities are carried out in a fair, consistent and equitable manner irrespective of the otherwise protected characteristics of individuals subject to enforcement and regulatory action.

- 9.3 The policy does recognise there may be circumstances where alternative enforcement actions including no action are undertaken due to the vulnerability of the persons involved which may include a mental or physical disability. In these situations, any deviation from a standard policy approach will be considered on a case by case basis and an assessment will be carried out in conjunction with available information.

## 10 Consultation Implications

- 10.1 Both policies were drafted in consultation with the wider Somerset authorities as part of the Environmental Health & Licensing Sub Work Stream and will hopefully be adopted by Somerset Council for vesting day.

### Democratic Path:

- **Scrutiny / Audit and Governance Committee – Yes (Date) / No** (delete as appropriate)
- **Executive – Yes (Date) / No** (delete as appropriate)
- **Full Council – Yes (Date) / No** (delete as appropriate)

**Reporting Frequency: Once only**

### List of Appendices (background papers to the report)

Appendix A	Somerset West and Taunton Regulatory Services Enforcement Policy 2022-2023
Appendix B	Somerset West and Taunton Private Sector Housing Enforcement Policy 2022-2023

### Contact Officers

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**Somerset West  
and Taunton**

**Regulatory Services  
Enforcement Policy**

**2022-2023**

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# Regulatory Services Enforcement Policy

## 1. Introduction

### 1.1 Policy Statement

1.1.1 Somerset West and Taunton (the council) carries out a wide range of regulatory roles in meeting its many statutory duties of protecting the public, individuals and the environment. These duties are mainly met by carrying out programmed inspections of premises, responding to complaints, issuing licenses and offering advice. This Policy outlines the approach we take when considering enforcement action.

1.1.2 This policy applies to all regulatory services or services which have enforcement duties. There are further policies referring to specific legislation and regulations for the different areas of these services which set out the enforcement requirements for each department.

1.1.3 This policy is influenced by good enforcement practice, current legislation, guidance and statutory codes of practice. The appropriate use of the full range of enforcement powers, including prosecution, is important, both to secure compliance with the law and to ensure that those who have duties under it may be held to account for failures to safeguard health, safety and welfare, or breach of regulations enforced by the council.

1.1.4 In deciding on the most appropriate course of action, officers should have regard to the principles set out in this policy and the need to maintain a balance between enforcement and other activities, including inspection, advice and education. Wherever possible, the council will work closely with businesses and other organisations to assist them in meeting their legal obligations, without unnecessary expense.

1.1.5 This document has been approved in accordance with the council's Constitution and is effective from .

1.1.6 This policy is available on the council's website [www.somersetwestandtaunton.gov.uk](http://www.somersetwestandtaunton.gov.uk).

## 2. Principles of good regulation

2.1.1 We will exercise our regulatory activities in a way which is:

- (i) Proportionate – our activities will reflect the level of risk to the public and enforcement action taken will relate to the seriousness of the offence;
- (ii) Accountable – our activities will be open to public scrutiny, with clear and accessible policies, and fair and efficient complaints procedures;

- (iii) Consistent – our advice to those we regulate will be robust and reliable and we will respect advice provided by other regulators. The council shall seek to ensure consistency of enforcement; however, the council realises that consistency is not a simple matter of uniformity. Officers will need to exercise their professional judgement and discretion according to the circumstances of each individual case and the relevant responsibilities and intervention systems maintained by the council;
- (iv) Transparent – we will ensure that those we regulate are able to understand what is expected of them and what they can anticipate in return, and
- (v) Targeted – we will focus our resources on higher risk enterprises and activities, reflecting local need and national priorities and where the council believes its efforts are able to have an impact.

## **2.2 Regulators' Code**

2.2.1 The Regulators' Code came into statutory effect on 6 April 2014 under the Legislative and Regulatory Reform Act 2006, replacing the Regulators' Compliance Code. It provides a clear, flexible and principles-based framework for how regulators should engage with those they regulate. The council has had regard to the Regulators' Code in the preparation of this policy.

2.2.2 Section 6 of the Regulators' Code sets out Government's expectation that local authorities will ensure that their approach to their regulatory activities is transparent and easily understood. The provisions of Section 6 includes an expectation that local authorities will publish a clear set of service standards, setting out what those they regulate should expect from them. This includes their enforcement policy, explaining how they respond to non-compliance.

## **2.3 Human Rights Act 1998**

2.3.1 The council is a public authority for the purposes of the Human Rights Act 1998. We therefore apply the principles of the European Convention for the Protection of Human Rights and Fundamental Freedoms. This Policy and all associated enforcement decisions take account of the provisions of the Human Rights Act 1998. In particular, due regard is had to the right to a fair trial and the right to respect for private and family life, home and correspondence.

## **2.4 Data Protection Act 2018**

2.4.1 Where there is a need for the council to share enforcement information with other agencies, we will follow the provisions of the UK General Data Protection Regulation 2018 (UK GDPR) which forms part of the Data Protection Act 2018.

## **2.5 The Code for Crown Prosecutors**

2.5.1 The council may prosecute in respect of serious or recurrent breaches, or where other enforcement actions, such as voluntary undertakings or statutory notices have failed to secure compliance. When deciding whether to prosecute, the council has regard to the provisions of The Code for Crown Prosecutors as issued by the Director of Public Prosecutions. [The Code for Crown Prosecutors | The Crown Prosecution Service \(cps.gov.uk\)](#)

2.5.2 The Code for Crown Prosecutors is a public document, issued by the Director of Public Prosecutions, that sets out the general principles to follow when decisions are made in respect of prosecuting cases. There are two questions which should be answered.

*Is there enough evidence against the defendant?*

When deciding whether there is enough evidence to proceed, the council will consider whether evidence can be used in court and is reliable and credible, and there is no other material that might affect the sufficiency of evidence. The council must be satisfied there is enough evidence to provide a "realistic prospect of conviction" against each alleged offender.

*Is it in the public interest to bring the case to court?*

Before deciding that prosecution is appropriate, the council will balance factors for and against prosecution carefully and fairly, considering each case on its merits. The public interest factors that we will take into account are detailed under the enforcement options available to us in Section 6.

### **3. Purpose of this policy**

3.1.1 This policy sets out standards that will be applied by the council when acting in its role as a regulator and enforcement agency and what residents, businesses, consumers and workers can expect from the council.

3.1.2 All authorised officers concerned will act in accordance with the policy and refer to the policy when making enforcement decisions.

3.1.3 The policy must be read in conjunction with all relevant guidance on enforcement and regard must also be had to any internal procedures.

### **4. When this policy applies**

4.1.1 This policy is the overarching enforcement policy for the regulatory services of the council. It outlines the approach to enforcement and lays down the principles which will be followed in deciding upon, and taking action.

- 4.1.2 Enforcement activities will include any criminal or civil action carried out in the exercise of statutory powers and duties, aimed at ensuring that individuals or businesses comply with the law.
- 4.1.3 This is not limited to formal enforcement action such as prosecution or the issuing of Notices. It also includes the inspection of premises for the purpose of checking compliance with regulation or conditions and the investigation of complaints.
- 4.1.4 This policy has been set in accordance with the Regulators' Compliance Code and the Statutory Code of Practice for Regulators. This means that the council will be open, helpful, fair and careful to ensure that any action required by the council is proportionate to the risks.
- 4.1.5 The council has set out its strategic aims and objectives and its enforcement services will carry out their duties in support of these. This approach is intended to provide better information to businesses and the community and, by doing so, lend support to the council's efforts to deliver best value services.
- 4.1.6 Council services will work with and consult other agencies, and other service areas within the council, as necessary where there is a shared or complementary enforcement role.
- 4.1.7 Officers will take reasonable steps to assist businesses and individuals to comply with the law. However, officers will be prepared to ensure compliance by exercising the formal powers delegated to them in the council's Scheme of Delegation including, where appropriate, prosecution.
- 4.1.8 A departure from this policy must only be in exceptional circumstances and capable of justification. Any departure will first be considered by the service manager unless a delay in making such a decision will result in serious risk of personal injury, risk to public health or impact effective running of the service. All such decisions will be recorded in compliance with the Openness of Local Government Bodies Regulations 2014.

## **5. Non-compliance**

### **5.1 Approach to dealing with non-compliance**

- 5.1.1 Where failures to meet legal obligations are identified, an open, fair and proportionate approach will be taken by the council.
- 5.1.2 The council will commit to providing opportunity for discussion in relation to advice given, actions required or decisions taken in relation to non-compliance.
- 5.1.3 Those approaching the council requiring advice on non-compliance shall receive such advice on the understanding that where they are showing

willingness to resolve the non-compliance, the council will not directly trigger enforcement actions.

- 5.1.4 Best efforts will be used to resolve any issues where the law may have been broken without taking formal action, or referring the matter to the courts when the circumstances indicate that a minor offence may have been committed and the council is confident that appropriate corrective action will be taken. However, there may be occasions when the breach is considered to be serious and/or where informal action is not appropriate. In such cases, immediate enforcement action may be taken without prior notice and, as noted above, some services have specific Legislative Guidance and Regulations which set out the enforcement requirements in these services.
- 5.1.5 Advice regarding the non-compliance, the actions required and decisions taken at the time of our intervention, along with the reasons for these, will be clearly explained. An opportunity to discuss the council's course of action will be provided to ensure actions are proportionate and consistent. As stated in the previous paragraph, where immediate enforcement action is required, the opportunity for discussion may not be given where there is a serious breach or public health or safety is at risk.
- 5.1.6 Officers investigate potential breaches of legislation and they are responsible for managing investigations and making decisions on enforcement action. As part of this process, they may consult with colleagues and managers in determining the best and most appropriate course of action. Officers have the power to use a variety of legislation in the course of their duties, and these have been delegated to them by the Chief Executive Officer.
- 5.1.7 In relation to prosecutions, where relevant, officers' cases are reviewed by a manager in line with this enforcement policy before submitting to the council's legal department for consideration.
- 5.1.8 The enforcement action that the local authority chooses to take will depend upon the particular circumstances and the way in which the breach is dealt with by the business or regulated person in question. Although the general rule will be to use the minimum level of enforcement necessary to reach a satisfactory solution, the council will deal firmly with those that deliberately or persistently fail to comply.
- 5.1.9 We will take account of the circumstances of small regulated businesses, including any difficulties they may have in complying and where appropriate, discuss options that will allow them to secure compliance. We will have regard to the Primary Authority scheme when dealing with non-compliance and will discuss the circumstances of breaches with the local authority representative within such partnerships. We will take these discussions into account when deciding on the best approach following the principles of the Primary Authority scheme (see [Local regulation: Primary Authority - GOV.UK \(www.gov.uk\)](http://www.gov.uk) for more information).

- 5.1.10 Where non-compliance has been dealt with by providing advice or guidance the Council will monitor that compliance in a variety of ways. For low risk, low level non-compliance, they will seek reassurance that compliance will be secured. For more serious non-compliance, re-visits or further proactive monitoring may be undertaken.
- 5.1.11 In some instances, more than one regulatory authority agency may be involved in dealing with non-compliance. In these circumstances, collaborative working will ensure effective coordination to avoid inconsistencies and to ensure that any proceedings taken are proportionate and appropriate. The most effective regulatory outcome and least burdensome impact on the business or individual will be sought.
- 5.1.12 Where a complaint of non-compliance relating to a business, or other regulated person, is received the officers investigating this breach will assess the information received and may make further enquiries to determine whether a complaint requires investigation. In assessing a complaint, officers may consult colleagues and managers to help assess what risk may be involved and this will determine what action is taken.
- 5.1.13 The council will be fair, objective and consistent in its approach. The council's corporate equality and diversity website page can be found here: [Equality and diversity \(somersetwestandtaunton.gov.uk\)](https://www.somersetwestandtaunton.gov.uk/equality-and-diversity).
- 5.1.14 The Council may publicise information about enforcement action that is taken in line with Government guidance on publishing sentencing outcomes (more information can be found here: [\[ARCHIVED CONTENT\] \(nationalarchives.gov.uk\)](https://www.nationalarchives.gov.uk)).

## **6. Conduct of investigations**

- 6.1.1 Investigations will be carried out in compliance with the following legislation and in accordance with any other legislation, associated guidance or codes of practice, in so far as they relate to the council:
- Police and Criminal Evidence Act 1984
  - Criminal Procedure and Investigations Act 1996
  - Regulation of Investigatory Powers Act 2000
  - Criminal Justice and Police Act 2001
  - Human Rights Act 1998 (including the European Convention on Human Rights)
  - Anti-social Behaviour, Crime and Policing Act 2014

- Public Sector Equality Duty under the Equalities Act 2010
- 6.1.2 These Acts and associated guidance control how evidence is collected and used and give a range of protections to citizens and potential defendants.
- 6.1.3 The authorised officers of the council will also comply with the requirements of the particular legislation under which they are acting, and with any associated guidance or codes of practice.

## **6.2 Powers of authorised officers**

- 6.2.1 All authorised officers will carry an authorisation document identifying the legislation under which they are empowered to act. The powers available to officers under these different pieces of legislation vary considerably, and it is not the purpose of this document to provide an exhaustive list of those powers.
- 6.2.2 The authorisation document will certify that an officer is duly appointed as an officer of the council and that they are empowered to make inspections authorised under specific Acts of Parliament and any regulation, byelaw or order made under them. Legislation enables an officer to;
- exercise power of entry
  - carry out any investigations
  - procure samples
  - seize equipment and documents
  - serve legal notices
  - apply for warrants
  - institute legal proceedings
  - issue fixed penalty notices
- 6.2.3 In some cases powers of seizure are used for safety and evidence gathering purposes. Where articles are removed for any of these purposes, a receipt or notice will be given at the time of the inspection or as soon as practicable.
- 6.2.4 Obstructing an authorised officer of the council carrying out duties as set out on their authorisation document is an offence. Obstruction may be physical or it may be the refusal to provide information or the giving of false information. If the officer believes that obstruction is occurring, they will remind the offender of their powers and inform the person that they are committing an offence.

6.2.5 In order to investigate some alleged or suspected offences interviews may be conducted. These may either be:

- Informal interview, in order to establish whether an offence has occurred
- Formal interview, where evidence already exists that an offence has taken place. Officers will carry out formal interviews in line with this policy and the Police and Criminal Evidence Act 1984

6.2.6 Officers do not have the power of arrest, however, joint working is undertaken with the Police and other agencies. Instances may arise where the Police or other agencies consider that an arrest should be made in connection with an authorised officer's investigation.

### **6.3 Progress of investigations**

6.3.1 Officers carrying out investigations will keep alleged offenders and witnesses informed about the progress of any investigation as far as their involvement in the process is concerned.

## **7. Enforcement options**

7.1.1 There are a range of actions that are available to the council as set out in the different legislation the council enforces. Examples of the main types of actions which may be considered are set out below.

### **7.2 No action**

7.2.1 In certain circumstances, contraventions of the law may not warrant any action. This can be where the cost of compliance to the offender outweighs the detrimental impact of the contravention, or the cost of the required enforcement action to the Council outweighs the detrimental impact of the contravention on the community. In such cases we will advise the offender of the reasons for taking no action.

### **7.3 Compliance advice, guidance and support**

7.3.1 The council uses compliance advice, guidance and support as a first response in the case of many breaches of legislation that are identified. In line with the Regulators' Code, we will clearly explain what the non-compliant item or activity is, the advice being offered, actions required or decisions taken, and the reasons for these.

7.3.2 We will provide an opportunity for dialogue in relation to the advice with a view to ensuring that we are acting in a way that is proportionate and consistent. Advice is provided, sometimes in the form of a warning letter, to assist individuals and businesses in rectifying breaches as quickly and efficiently as possible, avoiding the need for further enforcement action.



- 7.3.3 A warning letter (sometimes called an ‘informal caution/notice’) will set out what should be done to rectify the breach and to prevent re-occurrence. If a similar breach is identified in the future, this letter will be persuasive in considering the most appropriate enforcement action to take on that occasion. Such a letter cannot be cited in court as a previous conviction but it may be presented in evidence.
- 7.3.4 The council recognises that where a business has entered into a partnership with a primary authority, the Primary Authority will provide compliance advice and support, and the council will take such advice into account when considering the most appropriate enforcement action for it to take. It may discuss any need for compliance advice and support with the Primary Authority.
- 7.3.5 Where more formal enforcement action, such as a simple caution or prosecution, is taken, the council recognises that there is likely to be an ongoing need for compliance advice and support, to prevent further breaches.

#### **7.4 Voluntary Undertakings**

- 7.4.1 The council may accept voluntary undertakings that breaches will be rectified and/or recurrences prevented. The council will take any failure to honour voluntary undertakings very seriously and enforcement action is likely to result.

#### **7.5 Statutory (Legal) Notices**

- 7.5.1 In respect of many breaches the council has powers to issue statutory notices. These include: ‘Stop Notices’, ‘Prohibition Notices’, ‘Emergency Prohibition Notices’, ‘Improvement Notices’, ‘Abatement Notices’ and other Enforcement Notices. Such notices are legally binding. Failure to comply with a statutory notice can be a criminal offence and may lead to prosecution and/or, where appropriate, the carrying out of work in default.
- 7.5.2 A statutory notice will clearly set out actions which must be taken and the timescale within which they must be taken. It is likely to require that any breach is rectified and/or prevented from recurring. It may also prohibit specified activities until the breach has been rectified and/or safeguards have been put in place to prevent future breaches. Where a statutory notice is issued, an explanation of the appeals process will be provided to the recipient.
- 7.5.3 Some notices issued in respect of premises may be affixed to the premises and/or registered as local land charges.

#### **7.6 Work in Default**

- 7.6.1 The Council is given powers under the Housing Act 2004 and other legislation to carry out works in default where a person has been required to

do works but has failed to do so. In most circumstances a person will be given notice of the Council's intention to carry out works in their default. Once the Council has started works it is an offence for that person to obstruct the Council or any of the contractors that have been employed to carry out the works. The cost of the works will be recovered in accordance with the relevant statutory provisions. The Council is not obliged to carry out works and reserves the right not to do so where the cost of the works is likely to be very high or there are likely to be difficulties in recovering the costs.

## **7.7 Fixed Penalty Notice**

- 7.7.1 The council has powers to issue fixed penalty notices in respect of some breaches. Officers and their representatives will follow this guidance <http://www.gov.uk/guidance/enforcement-officers-issuing-fixed-penalty-notices> to determine if it is appropriate to issue an FPN.
- 7.7.2 A fixed penalty notice is not a criminal fine and does not appear on an individual's criminal record. If a fixed penalty is not paid, the council may commence criminal proceedings or take other enforcement action in respect of the breach.
- 7.7.3 If a fixed penalty is paid in respect of a breach, the council will not take any further enforcement action in respect of that breach. Payment of a fixed penalty does not provide immunity from prosecution in respect of similar or recurrent breaches.
- 7.7.4 The council is only able to issue fixed penalty notices where it has specific powers to do so. If fixed penalty notices are available, their issue is at the discretion of the council. In some circumstances, in particular where breaches are serious or recurrent, it may be that prosecution is more appropriate than the issue of a fixed penalty notice.

## **7.8 Civil or Financial Penalty Notices**

- 7.8.1 The Council has in certain circumstance the power to issue Civil or Financial Penalties in relation to particular offences in question. The powers are set out in law and the Council will follow the relevant policy and procedures when deciding on whether to make a financial penalty or civil penalty and the level or amount that the penalty should be. The details of the method of appealing these penalties will be set out in any notices served. In some cases this will include the right to make representations before a final penalty notice is made.

## **7.9 Injunctive actions, Enforcement Orders etc.**

- 7.9.1 In some circumstances the council may seek a direction from the court (in the form of an order or an injunction) that a breach is rectified and/or prevented from recurring. The court may also direct that specified activities be suspended until the breach has been rectified and/or safeguards have been put in place to prevent future breaches.

7.9.2 Failure to comply with a court order constitutes contempt of court, a serious offence which may lead to imprisonment.

7.9.3 The council is required to seek enforcement orders after issuing some enforcement notices, providing the court with an opportunity to confirm the restrictions imposed by the notice. Otherwise, the council will usually only seek a court order if it has serious concerns about compliance with voluntary undertakings or a notice.

## **7.10 Prosecution**

7.10.1 The council may prosecute in respect of serious or recurrent breaches, or where other enforcement actions, such as voluntary undertakings or statutory notices have failed to secure compliance. When deciding whether to prosecute the council has regard to the provisions of The Code for Crown Prosecutors as issued by the Director of Public Prosecutions.

7.10.2 Prosecution will only be considered where the council is satisfied that it has sufficient evidence to provide a realistic prospect of conviction against the defendant(s).

7.10.3 Before deciding that prosecution is appropriate, the council will consider all relevant circumstances carefully and will have regard to the following public interest criteria:

- the gravity of an alleged offence, taken together with the seriousness of any actual or potential harm, or the general record and approach of the alleged offender
- there has been a reckless disregard of regulatory requirements
- there have been repeated breaches giving rise to significant risk, or persistent and significant poor compliance
- there has been a failure to honour voluntary undertakings or comply with statutory notices; or there has been a repetition of a breach that was subject to a simple caution
- false information has been supplied wilfully, or there has been an intent to deceive, in relation to a matter which gives rise to significant risk
- authorised officers have been intentionally obstructed in the lawful course of their duties

7.10.4 The council will also consider prosecution where it is appropriate to draw attention to the need for compliance with the law and to deter others.

7.10.5 This is not an exhaustive list. The council acknowledges that there may be occasions where the above factors may be present but where the public interest does not require a prosecution.

7.10.6 A successful prosecution will result in a criminal record. The court may impose a fine and in respect of particularly serious breaches a prison sentence. The court may order the forfeiture and disposal of non-compliant goods and/or the confiscation of any profits which have resulted from the breach. Prosecution may also lead, in some circumstances, to the disqualification of individuals from acting as company directors.

## **7.11 Refusal, suspension and revocation of licences, permit or certificate**

7.11.1 The council issues a number of different licences, consents, registrations and permits. They are applied for by submission of an application, the form and content of which is sometimes specified in law. Applications are generally granted for a limited defined period and will be required to be renewed.

7.11.2 The council may be permitted to ask supplementary questions on an application form in order to assist it in reaching a decision on whether the applicant is a fit and proper person to hold such a licence.

7.11.3 In some cases applications are subject to either a public or interested party consultation process and any application that attracts adverse comment or objection or does not meet council policy requirements, will be referred to an internal civil hearing forum (a committee hearing) to determine the application.

7.11.4 Most licences and other permissions have conditions attached which can be standard conditions or specific conditions or a combination of both. These conditions form part of the licence and lay down requirements that a business or individual must have regard to when trading. Breaching a condition may be a civil or criminal matter. Breach of these conditions may lead to a review of the licence which may result in its suspension, revocation or amendment.

7.11.5 When considering future applications, information supplied with the application, together with any previous enforcement action and compliance record, can be taken into account when reaching a decision.

## **7.12 Post – Conviction Court Orders**

7.12.1 A person that is convicted of a relevant offence in the Criminal Courts, can under the Anti-Social Behaviour Crime and Policing Act 2014, be given an order that is equivalent to an Anti-Social Behaviour Order, known as a Criminal Behaviour Order, which prohibits and/or requires the offender from doing anything described in the order. A Remedial Order can be made for breach of a Community Protection Notice under section 49 of the Anti-social Behaviour, Crime and Policing Act 2014. Dog Destruction and Control Orders can be made under The Dangerous Dogs Act 1990 and the Dogs Act 1872.

## **7.13 Confiscation of Proceeds of Crime**

7.13.1 Where a prosecution concerns offending conduct falling within the relevant tests under the Proceeds of Crime Act 2002, we will consider seeking a confiscation order to remove the benefit obtained from such criminal conduct. The making of such orders sends a clear message that ‘crime does not pay’. The purpose is to recover the financial benefit the offender has obtained from their criminal conduct.

## **8. Decisions on enforcement action**

### **8.1 How decisions are made on enforcement action**

8.1.1 In assessing what enforcement action is necessary and proportionate, consideration will be given to the six core principles underlying the design of an effective modern sanction system set out in the Macrory Review;

- aim to change the behaviour of the offender
- aim to eliminate any financial gain or benefit from non-compliance
- be responsive and consider what is appropriate for the particular offender and regulatory issue, which can include punishment and the public stigma that should be associated with a criminal conviction
- be proportionate to the nature of the offence and the harm caused
- aim to restore the harm caused by regulatory non-compliance, where appropriate
- aim to deter future non-compliance

8.1.2 In line with the Regulators’ Code, we will also ensure that risk assessment precedes and informs all aspects of our approaches to regulatory activity, including advice, support, enforcement and sanctions by assessing the risks to regulatory outcomes.

8.1.3 Our risk assessments framework will:

- be based on all available relevant and good-quality data
- include explicit consideration of the combined effect of the potential impact of non-compliance on regulatory outcomes, and the likelihood of non-compliance
- evaluate the likelihood of non-compliance, consider all relevant factors including, past compliance records and potential future risks, the existence of good systems for managing risks, evidence of recognised

external accreditation, and management competence and willingness to comply

8.1.4 Where national schemes or authoritative guidance for enforcement risk assessment exist, we will base our assessments upon them where it is appropriate to do so. An example of this is the HSE Enforcement Management Model.

8.1.5 The council will consult other organisations before taking enforcement decision, including consulting Primary Authorities where appropriate.

## **8.2 How decisions are communicated to those affected**

8.2.1 When we decide to take enforcement action, we will;

- Clearly explain any advice, actions required or decisions that we have taken
- Discuss and agree timescales that are acceptable to both you and us, in relation to any actions required
- Provide in writing details of how to appeal against any advice provided, actions required or decisions taken, including any statutory rights to appeal
- Explain what will happen next and offer practical information on the process involved
- Keep in touch with you, where required, until the matter is resolved

## **9. Review of this policy**

9.1 This policy will be reviewed periodically or in line with changes in relevant legislation, or Regulators' Code. Any significant changes will be subject to prior approval by relevant elected Members.

## **10. Comments and complaints**

9.1.1 All appeals in relation to enforcement action taken should be via the statutory appeals process outlined in the relevant legislation.

9.1.2 Complaints about the conduct of officers should be made via the council's corporate complaints procedure. More details can be found here; [Complaints and compliments \(somersetwestandtaunton.gov.uk\)](https://www.somersetwestandtaunton.gov.uk).

The logo for Somerset West and Taunton, featuring the text "Somerset West and Taunton" in white on a teal background with a white curved shape on the right side.

**Somerset West  
and Taunton**

# **Private Sector Housing Enforcement Policy 2022-2023**

**Private Sector Housing Team**

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# Private Sector Housing Enforcement Policy

## 1. Introduction

### 1.1 Policy Statement

- 1.1.1 This Policy sets out how Somerset West and Taunton Council (the Council) intends to secure effective compliance with the Housing Act 2004 and other relevant legislation while minimising the burden to the Council, individuals, organisations and businesses.
- 1.1.2 It sets out what owners, landlords, their agents and tenants of residential properties can expect from the Council's Private Sector Housing (PSH) Team when regulating standards.
- 1.1.3 The policy will ensure consistency of approach whilst allowing members of the public to know what to expect from the service.
- 1.1.4 This policy deals with housing enforcement in all residential dwellings including privately rented, socially rented, owner occupied properties and Houses in Multiple Occupation (HMOs).
- 1.1.5 This policy has regard to the Regulatory Services Enforcement Policy and the principles it sets out for enforcement and other activities.

## 2. Principles of good regulation

- 2.1.1 We are committed to the principles of good enforcement as set out in the Legislative and Regulatory Reform Act 2006 and when carrying out our regulatory activities we will do so in a way that is transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed. See Regulatory Services Enforcement Policy for further details.

### 2.2 Regulators' Code

- 2.2.1 The Legislative and Regulatory Reform Act 2006 also requires that we have regard to the Regulators Code and we are committed to ensuring our enforcement activities comply with this Code. See Regulatory Services Enforcement Policy for further details.

## 3. Our approach

- 3.1.1 We will work with other departments and service providers to ensure the full range of powers available to the Council are used in the most efficient way. We will also target our resources to ensure the most serious cases are tackled as a priority.

3.1.2 We will provide information in plain English and accessible formats where possible and publicise the availability of our services. We will be open about our priorities, policies and procedures and we will ensure that officers explain the options available to property owners, landlords and tenants, and their reasoning for pursuing any given course of action.

3.1.3 Enforcement action referred to in this policy includes the formal requirement to take action or carry out remedial work and penalties for offences under housing law (and associated legislation). Typically, enforcement options could be:

- The service of notices/orders.
- A simple caution.
- A financial penalty.
- Prosecution in the Magistrate's Court.
- Works in default with recovery of costs.

### **3.2 Factors which inform enforcement decisions**

3.2.1 The decision on which enforcement option to take will be a judgement based on the circumstances of the case and will take account of factors which include (but not exclusively):

- Any previous history of non-compliance or lack of co-operation with the Council.
- The length of time over which the offence has been committed.
- The condition of the property taking into account Part 1 of the Housing Act 2004 and relevant management regulations including the type and severity of the hazard.
- The likely exposure of vulnerable individuals to a hazard.
- The impact of the action on the occupier of the premises concerned.
- Financial or other gain by not complying with housing legislation, for example, failure to apply for a licence as soon as required to do so.
- Any adverse health and safety and environmental impact of the action.
- Relevant guidance and protocols that are in place; and
- The degree to which the property is being effectively managed.

### **3.3 Identifying the need for action**

3.3.1 Enforcement action will be proportionate to the seriousness of the offence. Where we have discretion, we will consider whether other measures could lead to effective resolution. We will apply the Housing Enforcement Policy in every case and make a decision about whether to proceed to formal enforcement action having considered the individual circumstances of the case. In making our decision we will consider relevant factors such as the harm caused or, potential for harm to be caused to individuals, the public and the environment.

### **3.4 Co-ordinated working**

3.4.1 Often a single housing matter may overlap the enforcement responsibilities of several services and agencies such as Devon and Somerset Fire and Rescue Service and The Environmental Protection Team. Where possible we will take a comprehensive approach to enforcement by:

- Co-ordinating action between Council departments and other agencies.
- Ensuring the most effective action is taken and led by the most appropriate agency.
- Sharing information with other agencies.

## **4. Conduct of investigations**

### **4.1 Powers of entry**

4.1.1 Entry to a property is usually required to enable the PSH Team to carry out its statutory functions. Officers' will normally make an appointment to visit in the first instance and will give at least 24 hours' notice to both the occupants and owners of our intention to enter properties to inspect them.

4.1.2 Officers will carry written authorisation when carrying out inspections.

4.1.3 Powers of entry will allow an officer, at any reasonable time, to enter a property to carry out an inspection and gather evidence, take other people with them, take appropriate equipment or materials and take any measurements, photographs, recordings and samples as necessary. In some cases, powers of entry will be used to carry out works.

4.1.4 The PSH Team will exercise its statutory powers to gain entry without giving prior notice to investigate suspected non-compliance with housing related law or to carry out a statutory duty where it is necessary to do so. Reasons for the use of these powers may include:

- To protect the health and safety of any person including where there is a category 1 hazard which involves an imminent risk of serious harm or to protect the environment without avoidable delay.

- To prevent the obstruction of officers where this is anticipated.
  - To determine if a property is an unlicensed HMO, if there is a breach of a licence condition or the maximum number of occupants on the licence is being exceeded or there is a suspected breach of the management regulations.
  - Joint working with other agencies such as the police, Immigration Enforcement or fire service.
- 4.1.5 The PSH Team may apply to the Magistrates Court/Justice of the Peace for a Warrant to Enter Premises if entry has been consistently denied, refusal is reasonably anticipated, giving notice would defeat the purpose of the visit or gaining entry has been problematic such as in the case of empty properties. Before applying for a warrant, we will consider all the circumstances of the case and ensure that a warrant is a proportionate and reasonable action. A warrant under this section includes the power to enter by force, if necessary.
- 4.1.6 Obstructing an authorised officer from entering a premise in accordance with their powers is an offence and could result in prosecution.

## **4.2 Requiring information**

### 4.2.1 Authorised officers have the power to require:

- Documents to be provided under s235 of the Housing Act 2004 to enable them to carry out their powers and duties.
- Electrical and gas safety certificates to be provided in relation to Houses in Multiple Occupation under s234 of the Housing Act 2004.
- Any person with an interest in a property to provide details about its ownership or occupation under Section 16 of the Local Government (Miscellaneous Provisions) Act 1976.
- Specified information for the purpose of deciding whether to apply for a banning order against the person under Section 19 of the Housing and Planning Act 2016.
- Specified information for the purpose of deciding whether to make an entry in the database of rogue landlords and property agents or to complete an entry or keep it up to date under Section 35 of the Housing and Planning Act 2016.
- Information to be provided to enable the Council to monitor compliance with the minimum energy efficiency standards where there appears to have been a breach of The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 by serving a Compliance notice under regulation 37.

4.2.2 Officers will routinely use these powers and it is an offence not to produce the required information as requested or to provide false or misleading information. To address non-compliance, formal action will be considered such as a simple caution, financial penalty or prosecution.

4.2.3 For specific housing purposes the Authority also has the power to:

- Obtain and use Housing Benefit and Council Tax information under Section 237 of the Housing Act 2004.
- Request and use tenancy deposit information under Section 212A of the Housing Act 2004; and
- Access and use information contained within the database of rogue landlords and property agents under Section 39 of the Housing and Planning Act 2016,

### **4.3 Failure to comply**

4.3.1 Non-compliance with the Housing Act 2004 referred to in this policy is a criminal offence. Typical offences include:

- Direct breaches of regulations such as the HMO management regulations.
- A breach of a legal Notice or Order without reasonable excuse. For example, a Housing Act 2004 Improvement Notice.
- Failure to licence a property which is required to be licenced under Part 2 or 3 of the Housing Act 2004.
- Failure to comply with the conditions of a licence issued under Part 2 or 3 of the Housing Act 2004.

4.3.2 Several different enforcement options are available to the Council dependent upon the circumstances of the offence. The most suitable option will be decided on a case by case basis in line with this policy.

4.3.3 Other legislation enforced by the Council can also lead to criminal convictions. Other such legislation includes (as examples) the Environmental Protection Act 1990 and the Public Health Act 1936.

4.3.4 Some other housing related offences are civil, and non-compliance can be dealt with by way of a financial penalty. Some criminal offences can also be dealt with by way of a financial penalty which does not lead to a criminal conviction.

## 5 Enforcement options

5.1.1 Where there has been a breach of the law, options available to the Council include offering a issuing a financial penalty or prosecution. The most appropriate course of action will be considered on a case by case basis.

5.1.2 The Council may also conduct formal interviews under caution to assist in gathering evidence as part of an investigation into an alleged offence.

### 5.2 Financial Penalty

5.2.1 The Housing and Planning Act 2016 introduced the option of a financial penalty (civil penalty) for some offences as an alternative to prosecution. The Financial Penalty Policy in Appendix 1 gives full details on how the Council will apply financial penalties under the Housing Act 2004 and the Housing and Planning Act 2016.

5.2.2 Specific offences where a financial penalty may be imposed as an alternative to prosecution include:

- Failure to comply with an Improvement Notice (section 30 of the Housing Act 2004).
- Offences in relation to licensing of Houses in Multiple Occupation (section 72 of the Housing Act 2004).
- Offences in relation to licensing of houses under Part 3 of the Act (section 95 of the Housing Act 2004).
- Offences of contravention of an overcrowding notice (section 139 of the Housing Act 2004).
- Failure to comply with management regulations in respect of Houses in Multiple Occupation (section 234 of the Housing Act 2004).
- Breach of a banning order (section 21 of the Housing and Planning Act 2016).
- Failure to comply with the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 (section 123 of the Housing and Planning Act 2016).

5.2.3 Circumstances where a financial penalty may be considered appropriate include:

- A direct offence where an informal approach has not been successful in achieving compliance, including where there is a history of non-compliance.

- Failure to comply with an improvement notice.
  - A flagrant or serious breach of the law.
- 5.2.4 In all the above cases, the same burden of proof is required as with a criminal prosecution, meaning the offence must be proved beyond reasonable doubt. The difference with this decision is that the judgement will be made by the Local Housing Authority rather than the Court.
- 5.2.5 To ensure our proposed action is objective, reasonable and proportionate to the individual case:
- we will follow the procedural requirements under the legislation and the guidance (refer to Appendix 1).
  - we will follow our internal procedures having regard to the Code for Crown Prosecutors; and
  - we will internally review our proposed action before making a final decision.

### **5.3 Other financial penalties**

- 5.3.1 The Council may also apply a financial penalty for other relevant offences. These include, but not limited to:
- Failure to comply with the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (Appendix 2).
  - Failure to comply with the Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014 (Appendix 2).
  - Failure to comply with The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 as amended (Appendix 3).
- 5.3.2 In these cases, the Authority have to show on the balance of probability that an offence has been committed. We will follow the Statement of principles for determining a penalty charge in Appendix 2 and the Enforcement of minimum energy efficiency standards in Appendix 3 when applying a financial charge under these pieces of legislation.
- 5.3.3 Other financial penalties will be determined following the legislative requirements and available guidance for the particular offences.

### **5.4 Prosecution**

- 5.4.1 Offences will be considered for prosecution in accordance with the legal, evidential and public interest tests within the Code for Crown Prosecutors.



5.4.2 Prosecution will be considered in similar circumstances to financial penalties under the Housing Act 2004 and the Housing and Planning Act 2016 above, and are likely to be appropriate for repeat offenders or where the seriousness of the offence is such that it is necessary to draw attention to the need for compliance with the law.

## **5.5 Works in Default**

5.5.1 The Council will consider carrying out works in default or remedial action where the legislation allows. It will typically be appropriate for:

- Emergency Remedial action under the Housing Act 2004 either before or after a notice is served.
- Where actions have been required by a Notice under any legislation and have not been completed within the agreed timescale, or, reasonable progress has not been made towards their completion.

5.5.2 In these cases, the Council may organise and carry out the work itself or appoint an agent to complete the work on its behalf and recover the cost of works plus all additional costs including agency and administration fees. These costs will be charged to the property owner but can also be placed as a land charge on the property for payment when the property is sold or if money is raised against it.

5.5.3 The Council may also consider prosecution or a financial penalty in addition to carrying out works in default. Following the carrying out of works in default the Council may pursue enforced sale of a property where the legislation allows.

## **5.6 Banning orders and database of rogue landlords and property agents**

### **5.6.1 Banning orders**

5.6.2 In accordance with the Housing and Planning Act 2016, the Council may apply to the First-tier Tribunal for a banning order against a residential landlord or a property agent who has been convicted of a [banning order offence](#).

5.6.3 A banning order bans a landlord or property agent from letting houses or engaging in letting agency or property management work in England for a defined period of time (minimum 12 months).

5.6.4 Banning orders are reserved for the most serious offenders who flout their legal obligations and rent out substandard accommodation and will be decided on a case by case basis.

5.6.5 In deciding whether to apply for a banning order and how long to recommend the ban for, we will have regard to [Banning Order Offences under the](#)

[Housing and Planning Act 2016 – Guidance for Local Housing Authorities](#) and specifically we will consider:

- the seriousness of the offence and the sentence imposed by the Court; and
- the previous history of the offender especially in relation to other banning order offences.

5.6.6 We will also take into account the likely effect of the ban on the person and anyone else who may be affected, including:

- the harm or potential harm to the tenant, specifically in relation to vulnerable people (banning order offences more directly related to health and safety of tenants will be considered more harmful),
- punishment of the offender, ensuring any ban is proportionate and also reflects the severity of the offence; and
- deterring the offender and others from committing similar offences by recommending a sufficiency long enough ban.

5.6.7 If we decide to apply for a banning order, we will first write to the landlord/property agent giving notice of our proposal to apply. This is called a 'notice of intent' and must be served within 6 months of the date of conviction.

5.6.8 The notice of intent will inform the landlord:

- of our intention to apply for a banning order and the reasons for this;
- the length of each proposed ban; and
- the right of the landlord to make representations during the notice period (minimum 28 days).

5.6.9 At the end of the notice period we will consider any representation received and make a decision whether to apply to the First-tier Tribunal for a banning order. We may also require further information to help us decide (see section 5). Once a decision has been made we will advise the landlord whether we intend to apply for a banning order or not. Only the First-tier Tribunal can make, vary, or revoke a banning order. Once a decision is made then any appeals must go to the Upper Tribunal.

5.6.10 Breaching a banning order is an offence, subject to either prosecution in the magistrate's court or financial penalty (see section 6.1 and Appendix 1). Somerset West and Taunton Council will consider prosecuting or issuing a financial penalty to any landlord found to be breaching a banning order in its area.

### **5.6.11 Database of rogue landlords and property agents**

5.6.12 The database has been designed to help Local Housing Authorities keep track of rogue landlords and property agents operating across council boundaries.

5.6.13 The Council must place a person on the database if it has successfully made a banning order application. The landlord will remain on the database for the period that the banning order has effect.

5.6.14 We will consider if it is appropriate to make an entry on to the database of rogue landlords and property agents when a landlord has been convicted of a banning order offence or received 2 or more financial penalties over a 12-month period.

5.6.15 In deciding whether to make an entry on the database, and the period of time that a landlord or property agent should stay on the database, we will have regard to the [Database of rogue landlords and property agents under the Housing and Planning Act 2016 - Statutory guidance for Local Housing Authorities](#). We will consider the severity of the offence, any mitigating factors, any history of compliance or non-compliance and deterring the offender and others from committing similar offences.

5.6.16 Before being placed on the database a decision notice will be served on the landlord or property agent specifying the length of time they will be maintained on the database and right of appeal. The minimum period is 2 years.

### **5.7 Rent Repayment Orders (RRO)**

5.7.1 A RRO can require a landlord to repay up to 12 months' rent. The offences for which an application for an RRO can be made are:

- Using violence to secure entry contrary to section 6(1) of the Criminal Law Act 1977.
- Unlawful eviction or harassment of occupier's contrary to sections 1(2), 1(3) or 1(3A) of the Protection from Eviction Act 1977.
- Failure to comply with an Improvement Notice issued under the Housing Act 2004.
- Failure to comply with a Prohibition Order issued under the Housing Act 2004.
- Operating a licensable property under the Housing Act 2004 without a licence.
- Breaching a banning order issued under the Housing and Planning Act 2016.

- 5.7.2 The local authority or the tenant can apply to the First-tier Tribunal for an RRO. There does not have to be a conviction, but the Tribunal will need to be satisfied beyond reasonable doubt that one of the offences listed above has been committed.
- 5.7.3 When considering whether to apply for an RRO, the following factors will be taken into account:
- The conduct of the landlord.
  - The financial circumstances of the landlord.
  - Whether the landlord has been convicted of one of the offences stated above.
  - Whether the tenant is in receipt of Local Housing Allowance.
  - The Code for Crown Prosecutors.
  - Any other factors relevant to the case.
- 5.7.4 We will always consider applying for a RRO where a landlord has been convicted of one of the above offences in our area.
- 5.7.5 The Council will also consider assisting tenants in applying for an RRO. A decision on how and if to provide support will be made on a case by case basis in accordance with the above factors. The Council will also consider the vulnerability of the occupant, the likelihood of success and the financial implications to the Council.
- 5.7.6 We will have regard to [Rent repayment orders under the Housing and Planning Act 2016 - Guidance for Local Housing Authorities](#) and we will inform a landlord if we intend to apply for a RRO and consider any representation received.
- 5.7.7 If the landlord has been convicted of an offence then the tribunal must order the maximum amount of rent to be repaid (up to 12 months). If the landlord has not been convicted of an offence, we will consider the following factors when deciding how much rent we will seek to recover:
- Punishment of the offender – having a real financial impact.
  - Deterring the offender and others from committing similar offences.
  - Removing financial benefit from committing the offence.

## **5.8 Interim and Final Management Orders**

- 5.8.1 These powers will only be used as a last resort where other attempts to ensure the health safety or welfare of occupiers has failed. Interim Management Orders (IMOs) can be made where there is no realistic prospect of a property licence being granted. By making an IMO the management and rental income from a property is taken away from the current landlord for up to a year. The money is used to carry out necessary

works to reduce any significant hazards in the property, to maintain the property and to pay any relevant management expenses. Following an IMO, the Council can apply for a Final Management Order (FMO) to be approved that can last for up to five years. The Council may allocate a private company to manage the property.

- 5.8.2 In exceptional circumstances and where the health, safety and welfare of occupants need to be protected, the Council may apply to the First-tier Tribunal (Property Chamber) for authority to make an IMO for privately rented accommodation that is not covered by a current licensing scheme. The Council may also make an IMO for properties where a banning order has been made.

## **6. Housing Act 2004**

- 6.1.1 The PSH Team enforce a number of different pieces of legislation associated with residential dwellings. When taking action using our regulatory powers, the officer will consider which course of action is the most appropriate to deal with the circumstances of the case.
- 6.1.2 The Housing Act 2004 is the main piece of legislation enforced by the PSH Team. The Housing Act 2004 and associated secondary legislation covers key areas of the teams work such as minimum housing conditions, HMOs and HMO Licensing.

### **6.2 Housing Health and Safety Rating System (HHSRS)**

- 6.2.1 Part 1 of The Housing Act 2004 is concerned with assessing housing conditions and reducing health and safety hazards using the HHSRS. The HHSRS covers 29 potential hazards in the home. It is a risk assessment approach which looks firstly at the likelihood of someone becoming ill or injured and secondly, how badly harmed a person could be as a result. It is always considered based on the people most vulnerable to the hazard.
- 6.2.2 The HHSRS applies to all residential premises regardless of tenure and the Council has a duty to inspect premises where there is a suspected hazard.
- 6.2.3 The Council is under a duty to take enforcement action in relation to the most dangerous health and safety hazards referred to as Category 1 Hazards (those which have a hazard rating within bands A, B or C). When a Category 1 hazard is identified, the Council will decide which of the available enforcement options is most appropriate to use.
- 6.2.4 The Council has the power to deal with less dangerous Category 2 Hazards (bands D to J). The Council may take enforcement action in relation to Category 2 hazards where it makes the judgement that it would be appropriate to the particular circumstances of the case.
- 6.2.5 Following the identification of a significant HHSRS hazard, the Council may, as far as practically possible and reasonable according to the circumstances

of the case, seek the views of occupiers, owners and interested parties on the hazard(s) identified and work required. These views will be taken into account when deciding the most appropriate course of enforcement action. Where the Council is confident that action will be taken to address the hazard within a reasonable time scale and it is appropriate to the circumstances of the case, an informal enforcement approach may be taken in the first instance. Where the Council wishes to ensure works are carried out in a timely manner or is concerned that an informal approach will lead to undue delay, then a formal approach may be taken straight away.

6.2.6 Interested parties will be informed of the appropriate course of enforcement action when this decision has been made. In determining the most appropriate action, regard will also be given to the Listed Building status and the impact any course of action would have on the local environment.

6.2.7 Urgent action without consultation can be taken where a health and safety hazard poses an imminent or serious risk of harm to occupants or members of the public.

6.2.8 The options for formal action to remedy a hazard under Part 1 of the Housing Act 2004 are:

- Improvement Notice (including Suspended Notice).
- Prohibition Order (including Suspended Order).
- Emergency Remedial Action.
- Emergency Prohibition Order.
- Hazard Awareness Notice.
- Demolition Order and slum clearance declaration.

6.2.9 There is a right of appeal to the First-tier Tribunal against formal Notices or Orders. Details on how to appeal will always be included when formal Notices or Orders are served.

### **6.3 Specific matters to be considered**

**6.3.1 Crowding and space:** Where a HHSRS hazard for crowding and space is assessed as a Category 1 hazard, the appropriate option for enforcement action will usually be a Hazard Awareness Notice in cases where the hazard is created by the actions of the occupier. The full range of options for enforcement action will be considered in cases where the hazard is the result of action by a landlord or where any of the current occupants are considered to be particularly vulnerable or at an increased risk of harm.

**6.3.2 Retaliatory evictions:** Where the Council becomes aware of the threat of a retaliatory eviction, then a more formal approach may be taken in the first

instance and a formal notice served, which may be a 'relevant notice' (improvement notice or emergency remedial action) described in the Deregulation Act 2015 section 33.

**6.3.3 The Homes Act:** Where appropriate, tenants will be advised of their rights under the Homes (Fitness for Human Habitation) Act 2018 where they can take their own private action against a landlord for poor living conditions. The Council will generally not get involved in these cases but may as appropriate, provide information in support of the case.

#### **6.4 Houses in Multiple Occupation (HMOs)**

6.4.1 There is a suite of HMO regulations under the Housing Act 2004, including management regulations. The management regulations cover all HMOs and place specific requirements on property managers in relation to management and safety of HMOs. Enforcement action for non-compliance with HMO regulations, in particular the HMO Management regulations will be considered in each case in accordance with this policy.

#### **6.5 Licensing of residential properties**

##### **6.5.1 Licensing of Houses in Multiple Occupation (HMOs)**

6.5.2 Parts 2 of the Housing Act 2004 require certain HMOs to have a licence to operate.

6.5.3 The Council also has the power to designate additional licensing areas for up to five years and require certain HMOs in a specified area to apply for a licence in order to operate legally.

##### **6.5.4 Selective licensing of other residential accommodation**

6.5.5 The Council also has the power to designate selective licensing areas for up to five years under Part 3 of the Housing Act 2004 and require certain rented residential properties in a specified area to apply for a licence in order to operate legally.

##### **6.5.6 General**

6.5.7 All licences will come with conditions that have to be complied with during the period of the licence.

6.5.8 A fee will be charged for all licence applications as detailed in our published fees and charges.

6.5.9 Licences may be issued for up to a maximum of 5 years. It will usually be the case that licences will be issued for 5 years from the date of application or renewal date. However, licences may be issued for shorter periods appropriate to the circumstances of the case. For example, the duration of the licence may be shortened where the Council has reasonable evidence

that the property should have already been licensed or there is concern about the management of the property. No reduction in fee will apply.

6.5.10 All licence holders, managers and other persons involved in the management of the property must be deemed a fit and proper person in accordance with the Housing Act 2004. The Council will specify the information required as part of this process and may require additional checks such as a Disclosure and Barring Service (DBS) check where considered appropriate.

6.5.11 A person's fit and proper person status may be reviewed if they are prosecuted for an offence, if they consistently breach licensing conditions, if there is evidence of poor management or for any other factors deemed relevant by this Authority.

6.5.12 When issuing a licence, opportunity will be given for interested parties to make representation to The PSH Team regarding decisions made and the conditions applied. If agreement cannot be reached there is a right of appeal to the First-tier Tribunal. Details of how to appeal will always be provided.

6.5.13 Failure to comply with the licensing requirements is an offence. Where the Council become aware of a property that requires licensing under Parts 2 or 3 of the Housing Act 2004 but is not so licensed, or where there is non-compliance with licensing conditions, enforcement action will be considered in accordance with this policy.

## **7. Other legislation**

7.1.1 The PSH Team has a wide range of delegated powers covering multiple pieces of legislation. This allows the team to have a holistic and comprehensive approach to regulating the housing sector in Mendip to keep resident's safe and well. When enforcing the legislation below, whether it be informally or formally in serving notices, issuing penalties and sanctions and taking prosecutions, our approach will follow the principles as described in this policy.

7.1.2 Legislation enforced by the PSH Team in accordance with this policy includes, but is not limited to:

- Housing Act 2004 and associated regulations
- Housing and Planning Act 2016 and associated regulations
- The Smoke and Carbon Monoxide Alarm (England) Regulations 2015, enacted under the Energy Act 2013
- The Redress Schemes for Lettings Agency Work and Property Management Work (Requirement to Belong to a Scheme etc.) (England) Order 2014, enacted under the Enterprise and Regulatory Reform Act 2013



- Environmental Protection Act 1990
- Housing Act 1985
- Public Health Act 1936 and 1961
- Prevention of Damage by Pests Act 1949
- Building Act 1984
- Local Government (Miscellaneous Provisions) Act 1976
- Local Government (Miscellaneous Provisions) Act 1982
- Anti-Social Behaviour, Crime and Policing Act 2014
- Caravan Sites and Control of Development Act 1960
- Mobile Homes Act 2013 and associated regulations
- The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (as amended) enacted under the Energy Act 2011.
- The Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 (section 123 of the Housing and Planning Act 2016).

## **8. Housing tenure**

### **8.1 Owner occupiers**

- 8.1.1 Enforcement action on owner occupiers and long leaseholders will be based on the health and safety risk to the occupants or other affected persons. The Council will generally not take action where a more appropriate contractual remedy exists.
- 8.1.2 Where a HHSRS inspection identifies a significant hazard, the Council anticipates that a Hazard Awareness Notice may be the most appropriate course of action. However, all Housing Act 2004 Part 1 enforcement options (see section 7) are available to the Council and will be considered.
- 8.1.3 Enforcement options requiring action to be taken such as an Improvement Notice or Prohibition Order will be considered in cases involving:
- Vulnerable people who are not capable of making informed decisions about their own welfare or who require the intervention of the Council to ensure their welfare is best protected.

- Hazards that might reasonably affect other people e.g. other occupants, visitors, neighbours.
  - Serious risk of life-threatening harm e.g. electrical hazards.
- 8.1.4 Where the condition of one property is affecting the occupant of another property or the general public, such as a health and safety hazard or statutory nuisance, appropriate enforcement action will be considered regardless of property tenure.
- 8.1.5 We will always consider the most appropriate option dependent on the circumstances of the case and will make the owner aware of any suitable financial assistance available from the Council.

## **8.2 Landlords and managing agents**

- 8.2.1 We will work with landlords and managing and letting agents to help them comply with their legal obligations and advise them of the legislation that applies and how to comply with it.
- 8.2.2 Where we are aware of other requirements outside of our remit or best practice in the sector, we will advise landlords where to seek further assistance.
- 8.2.3 If there are serious hazards identified in a rented property, we will undertake enforcement action requiring relevant defects to be repaired or improvements made.
- 8.2.4 If a landlord proposes reasonable alternative works or solutions, we will consider these along with the required outcome.
- 8.2.5 We will consider each case on its own merits and only take enforcement action when it is considered appropriate. If enforcement action is taken, we will explain why such action is necessary.
- 8.2.6 Where we need to take enforcement action we will usually charge for this action as the legislation allows.
- 8.2.7 Where a landlord has shown a history of non-compliance, is not fully cooperative or the risk is serious, we may go straight to formal action.
- 8.2.8 In making a decision to prosecute or issue a financial penalty, we will have regard to the seriousness of the offence, the benefit of the sanction and whether some other action would be appropriate. Where we prosecute, we will look to recover all our costs.

## **8.3 Tenants**

- 8.3.1 If tenants are unhappy about their housing conditions, they are expected to give their landlord the opportunity to resolve any problems before the Council become involved.
- 8.3.2 Unless there are exceptional circumstances, the PSH Team will generally not visit a property at the request of a tenant unless the tenant has first been in contact with their landlord or agent to try and resolve the matter.
- 8.3.3 Example of exceptional circumstances include, but not exclusively:
- an imminent risk to health and safety.
  - a history of harassment/threatened eviction/poor management practice.
  - where the tenant could not reasonably be expected to contact their landlord/managing agent due to the special circumstances of the case e.g. vulnerability.
- 8.3.4 This does not preclude the Council from making unannounced visits to properties where it feels it appropriate to do so.
- 8.3.5 Where the matter appears to present an imminent risk and the Council become involved to try and quickly resolve the matter, it is still expected that tenants will make every effort to contact their landlord.
- 8.3.6 Where landlords are taking action in a reasonable time frame then the Council will not seek to interfere with this process.
- 8.3.7 Tenants are expected to:
- allow reasonable access to their landlord, managing agent or contractor to arrange or carry out works;
  - keep prearranged appointments or give sufficient notice of cancellation;
  - be courteous and non-threatening to our officers;
  - provide information in a timely manner when requested;
  - keep officers informed of any contact they have had with their landlord (agent or builder etc.) which may affect the action the Council take.
- 8.3.8 The Council will consider withdrawing its service if the above conditions are not followed.

## **9. Empty homes**

- 9.1.1 The Housing Strategy sets out how the Council will work to bring empty properties back into use, including the use of enforcement action.

- 9.1.2 The PSH Team will work with owners of empty homes to help them bring them back into use and encourage access to financial assistance where it is available.
- 9.1.3 The Council will consider the full range of enforcement options including Compulsory Purchase Orders, Empty Dwelling Management Orders (EDMOs) and enforced sale where an owner does not co-operate and the empty property has not been brought back into use within a reasonable period.
- 9.1.4 Where an empty property presents a serious or imminent risk to health and safety or is causing a statutory nuisance, appropriate enforcement action will be considered depending on the circumstances of each case.

## **10. Mobile homes, caravan parks and camp sites**

- 10.1.1 The main involvement with mobile home (including caravan and park home) sites is the duty to licence applicable sites (holiday, touring and residential), under the Caravan Sites and Control of Development Act 1960.
- 10.1.2 We will also licence applicable camping sites under the Public Health Act 1936. If the land is to be used as a camping site by the public for more than 42 days consecutively - or 60 days in a year - a licence is required. There are exceptions for organisations that hold camping exemption certificates.
- 10.1.3 We will normally issue a licence unless the site does not have the correct planning permission, planning permission is to expire within 6 months or the applicant has had a site licence withdrawn in the previous three years.
- 10.1.4 It is an offence to operate certain types of sites without a licence and complaints of unlicensed sites will be investigated in conjunction with the Council's Planning Department.
- 10.1.5 Licences are issued with conditions which concern maintaining adequate health and safety on sites. They will also specify the number and type of pitches, the spacing between pitches, whether the pitches are residential, static holiday or touring, water supply and drainage, toilets and washing facilities, fire precautions and electrical installations.
- 10.1.6 Breaches of licence conditions will be investigated in line with current enforcement objectives and priorities. Appropriate enforcement action may be taken in relation to any breaches of the licence conditions, based on the risk of the breach in relation to occupiers' health, safety or welfare.
- 10.1.7 The Mobile Homes Act 2013 introduced the power to serve a compliance notice to ensure that conditions on relevant protected sites are complied with.
- 10.1.8 The Mobile Homes Act 2013 also introduced the power to require a fee to accompany licensing applications for protected sites as well as an annual

fee. Before applying any charges, we will publish and review a fees policy in accordance with the legislative requirements.

10.1.9 The Council will consider enforcement action against site owners who fail to meet their basic responsibilities. This includes the requirement for owners or managers of relevant protected sites to be fit and proper persons.

10.1.10 The Council will also licence campsites under the Public Health Act 1936 and apply appropriate conditions as required.

## **11. Cost recovery**

### **11.1 Proceeds of Crime Act 2002**

11.1.1 Where appropriate to the case, the Council, will consider taking proceedings under the Proceeds of Crime Act following a successful prosecution.

### **11.2 Charging for services**

11.2.1 The Council has the power under the Housing Act 2004 to recover costs for certain action such as serving notices or carrying out the licensing function. These charges will be made in line with our published fees and charges.

11.2.2 Where charges for enforcement action are lawfully incurred and levied they will be registered as a local land charge. This means that when the property is sold the debt has to be repaid including any interest accrued on the initial charge.

### **11.3 Unpaid debts and invoices**

11.3.1 We will pursue debts owed as a result of enforcement charges, charges for carrying out works (as well as any other charges), unpaid invoices or unpaid financial penalties.

11.3.2 The Council may consider enforcing the sale of the property to recover costs or recovering the money owed in the relevant Court, including the County Court.

## **12. Complimentary documents**

12.1.1 This policy does not stand alone and should be read as part of a wider approach to improving homes and enforcement.

- **Regulatory Services Enforcement Policy** – is the policy for enforcement across all the Regulatory Services function area which this policy sits under and supplements.
- **Safeguarding Policy** – this covers how to raise concerns about the welfare of a child, young person or vulnerable adult, and how we work

with our partner agencies to ensure that we protect children and vulnerable adults.

- **Housing Strategy** – outlines a comprehensive picture of local housing needs, issues and priorities for action.

## 13. Feedback

13.1.1 We encourage comments on our service and we will use them to actively improve what we do.

13.1.2 You can contact the Private Sector Housing Team:

- by telephone on 0300 304 8000
- by email at [communityprotection@somersetwestandtaunton.gov.uk](mailto:communityprotection@somersetwestandtaunton.gov.uk)
- by writing to Private Sector Housing, Somerset West and Taunton Council, Deane House, Belvedere Road, Taunton. Somerset. TA1 1HE

### 13.2 Compliments, Comments and Complaints.

13.2.1 The Council has a formal procedure in place for dealing with Compliments, Comments and Complaints. For further information please contact customer services on 0300 304 8000 or visit <https://www.somersetwestandtaunton.gov.uk/contact-us/complaints-and-compliments/>

## 14. Appendices

Appendix 1: Financial Penalty Policy

Appendix 2: Statement of principles for determining a penalty charge

Appendix 3: Enforcement of minimum energy efficiency standards



# Financial Penalty Policy

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## 1. Introduction

- 1.1 This policy for determining the level of Financial Penalties under the Housing and Planning Act 2016 follows the Government Guidance [‘Civil Penalties under the Housing and Planning Act 2016 - Guidance for Local Housing Authorities’](#). When reading this policy the term ‘financial penalty’ and ‘civil penalty’ should be read as one and the same.
- 1.2 This policy sets out the framework within which decisions will normally be made with regard to issuing financial penalties for certain specified offences under the Housing Act 2004 and the Housing and Planning Act 2016 as referred to in the Somerset West and Taunton Council, Housing Enforcement Policy. The legal basis for the power to impose a financial penalty is section 249A of the Housing Act 2004 (as inserted by Schedule 9 of the Housing and Planning Act 2016); Section 21 and Schedule 1 of the Housing and Planning Act 2016; Part 5 of the Electrical Safety Standards in the Private Rented Sector (England) Regulations 2020 and Section 123 of the Housing and Planning Act 2016.
- 1.3 The same criminal standard of proof is required for a financial penalty as for prosecution. This means that before taking formal action, a local housing authority should satisfy itself that if the case were to be prosecuted in the magistrates’ court, there would be a realistic prospect of conviction having regard to the Crown Prosecution Service’s Code for Crown Prosecutors and the need for full assessment of the evidence. In carrying out such assessment, the Council may consider that the offences alleged are more suitable for prosecution rather than a financial penalty.
- 1.4 The maximum penalty is £30,000 but the amount is determined by the local authority in each case having regard to the above statutory guidance. It is expected that the maximum amount is reserved for the very worst offenders. The actual amount levied in any particular case should reflect the severity of the offence, as well as taking account of the landlord’s previous record of offending.
- 1.5 An offence which results in a high risk of harm will increase the severity of the offence. Likewise an offence which is the result of a failure to act following a formal requirement to do so, such as failure to comply with an improvement notice or breaching a banning order, will increase the severity of the offence.
- 1.6 A higher level of culpability or responsibility of the offender for the offence will also increase the severity of the offence.
- 1.7 The aim of this policy is that the level of financial penalty reflects the severity of the offence with a greater severity resulting in a higher penalty.
- 1.8 Aggravating factors, mitigating factors and the value of the assets of the offender are also taken into account to determine the value of the financial penalty.

1.9 An appeal against the issue of a financial penalty is heard by the First-tier Tribunal.

## 2. Statutory Guidance

2.1 The Government Guidance referred to previously states that Councils should consider the following factors to help ensure that the financial penalty is set at an appropriate level:

- a) **Severity of the offence.** The more serious the offence, the higher the penalty should be.
- b) **Culpability and track record of the offender.** A higher penalty will be appropriate where the offender has a history of failing to comply with their obligations and/or their actions were deliberate and/or they knew, or ought to have known, that they were in breach of their legal responsibilities. Landlords are running a business and should be expected to be aware of their legal obligations.
- c) **The harm caused to the tenant.** This is a very important factor when determining the level of penalty. The greater the harm or the potential for harm (this may be as perceived by the tenant), the higher the amount should be when imposing a financial penalty.
- d) **Punishment of the offender.** A financial penalty should not be regarded as an easy or lesser option compared to prosecution. While the penalty should be proportionate and reflect both the severity of the offence and whether there is a pattern of previous offending, it is important that it is set at a high enough level to help ensure that it has a real economic impact on the offender and demonstrates the consequences of not complying with their responsibilities.
- e) **Deter the offender from repeating the offence.** The ultimate goal is to prevent any further offending and help ensure that the landlord fully complies with all of their legal responsibilities in future. The level of the penalty should therefore be set at a high enough level such that it is likely to deter the offender from repeating the offence.
- f) **Deter others from committing similar offences.** While the fact that someone has received a financial penalty will not be in the public domain, it is possible that other landlords in the local area will become aware through informal channels when someone has received a financial penalty. An important part of deterrence is the realisation that (a) the local housing authority is proactive in levying financial penalties where the need to do so exists and (b) that the level of financial penalty will be set at a high enough level to both punish the offender and deter repeat offending.
- g) **Remove any financial benefit the offender may have obtained as a result of committing the offence.** The guiding principle here should be to ensure that the offender does not benefit as a result of committing an

offence, i.e. it should not be cheaper to offend than to ensure a property is well maintained and properly managed.

### 3. Assessment process

- 3.1 Once a decision has been made that the evidential test is met and the offences are suitable for financial penalty, a judgement is made on the level of culpability and harm and used to identify a range for the financial penalty. Aggravating and mitigating factors are then applied to calculate an initial value of financial penalty. The initial value is then adjusted in the light of the offender's assets following the statutory guidance to achieve the financial penalty.
- 3.2 In formulating this assessment process, the principles of the '[Sentencing Council: Health and Safety Offences, Corporate Manslaughter and Food Safety and Hygiene Offences - Definitive Guidelines](#)' have been used as a guide to help develop the culpability, harm and fine levels. Specific reference was made to the 'Breach of food safety and food hygiene regulations' for micro businesses as this provided the most comparative guidelines.
- 3.3 The process is divided into a number of steps and these are described in detail below.  
  
  - Step 1 – Decide the level of culpability**
  - Step 2 – Decide on level of harm/potential harm**
  - Step 3 – Consider aggravating and mitigating factors**
  - Step 4 – Assets check**
  - Step 5 – Review the penalty**
  - Step 6 – Totality principle for multiple offences**
  - Step 7 – Reduction for early payment**
- 3.4 Each step contains definitions and guidance (below) on what elements should be considered when making a judgment. These definitions are not limiting and other relevant information may be included as appropriate.

## Step 1 – Decide the level of culpability

Key factor	Definition
<b>Culpability</b>	<p><b>Very high</b> Deliberate breach of or flagrant disregard for the law</p> <p><b>High</b> Offender fell far short of the appropriate standard, for example, by:</p> <ul style="list-style-type: none"> <li>• failing to put in place measures that are recognised standards</li> <li>• ignoring concerns raised by officers, tenants, employees or others</li> <li>• allowing breaches to subsist over a long period of time</li> </ul> <p>Serious and/or systemic failure to address the risks</p> <p><b>Medium</b> Offender fell short of the appropriate standard in a manner that falls between descriptions in ‘high’ and ‘low’ culpability categories.</p> <p>Systems were in place but these were not sufficiently adhered to or implemented.</p> <p><b>Low</b> Offender did not fall far short of the appropriate standard, for example, because:</p> <ul style="list-style-type: none"> <li>• significant efforts were made to meet housing legislation although they were inadequate on this occasion</li> <li>• there was no warning/circumstance indicating a risk to safety and breach of legislation</li> </ul> <p>Failings were minor and occurred as an isolated incident</p>

## Step 2 – Decide on level of harm/potential harm

Key factor	Definition
<b>Harm</b>	<p><b>High</b></p> <ul style="list-style-type: none"> <li>• Serious adverse effect(s) on individual(s), other relevant parties and/or community</li> <li>• High risk of an adverse effect on individual(s) including vulnerable groups/ community</li> </ul> <p><b>Medium</b></p> <ul style="list-style-type: none"> <li>• Adverse effect on individual(s)/community</li> <li>• Risk of an adverse effect on individual(s)/community</li> <li>• Tenants misled regarding compliance</li> </ul> <p><b>Low</b></p> <ul style="list-style-type: none"> <li>• Low risk of an adverse effect on individual(s)/ community</li> <li>• Some actual but small adverse effect on individual(s)/community</li> </ul>

Having considered the culpability and harm, table 1 provides a starting point to reach an appropriate level of penalty for each combination.

**Table 1. Financial Penalty Levels**

Harm and culpability assessment	Starting point	Range	
		Low	High
<b>Very high culpability</b>			
High harm	£15,000	£6,250	£30,000
Medium harm	£6,250	£2,500	£12,500
Low harm	£2,500	£1,250	£4,500
<b>High culpability</b>			
High harm	£6,250	£2,500	£12,500
Medium harm	£3,000	£1,000	£5,500
Low harm	£1,000	£500	£2,250
<b>Medium culpability</b>			
High harm	£2,500	£750	£4,500
Medium harm	£1,000	£350	£2,000
Low harm	£350	£175	£750
<b>Low culpability</b>			
High harm	£300	£125	£750
Medium harm	£125	£50	£350
Low harm	£50	£25	£175

### Step 3 – Consider aggravating and mitigating factors

A further adjustment upward or downward within the stated range in table 1 should then be considered for any mitigating or aggravating factors as described below.

Key factor	Guidance
<b>Aggravating factors</b>	Include but not limited to: <ul style="list-style-type: none"> <li>• Previous convictions, having regard to a) the nature of the offence to which the conviction relates and its relevance to the current offence; and b) the time that has elapsed since the conviction</li> <li>• Motivated by financial gain</li> <li>• Deliberate concealment of illegal nature of activity</li> <li>• Evidence of wider/community impact</li> <li>• Breach of any court order</li> <li>• Obstruction of justice / obstruction of officers in their duties</li> <li>• Poor track record of compliance with legal obligations</li> <li>• Refusal of free advice or training</li> <li>• Poor condition of the property</li> <li>• More than one hazard/Multiple hazards (improvement notices)</li> <li>• Vulnerable people living at the property*</li> </ul>
<b>Mitigating factors</b>	Include but not limited to: <ul style="list-style-type: none"> <li>• No previous convictions or no relevant/recent convictions</li> <li>• Steps taken voluntarily to remedy problem</li> <li>• High level of co-operation with the investigation, beyond that which will always be expected</li> <li>• Good history of compliance / no history of non-compliance</li> <li>• Self-reporting, co-operation and acceptance of responsibility</li> <li>• Mental disorder, learning difficulty or serious medical condition linked to the commission of the offence.</li> </ul>

The Council will consider factors that it is reasonably aware of. The above list is not exclusive and does not limit the consideration of other relevant aggravating and mitigating factors. In exceptional cases, having considered all the aggravating and mitigating factors, it may be appropriate to move outside the identified category range in table 1.

**\*Vulnerable people** (Non exhaustive list of vulnerable people):

- |                             |   |
|-----------------------------|---|
| • Young adults and children | • People exploited where English is not their first language. |
| • Disabled persons          | • Victims of Trafficking or sexual exploitation               |
| • People on a low income    | • People at risk of harassment or eviction                    |
| • Victims of domestic abuse | • People at risk of homelessness.                             |
| • Looked after children     | • People with complex health conditions                       |
| • Refugees                  | • Persons with a Drug or alcohol addiction                    |
| • Asylum seekers            |   |

#### **Step 4 – Assets check**

Use of existing powers to, as far as possible, make an assessment of a landlord's assets and any income they receive (not just rental income) to determine an appropriate penalty.

In setting a financial penalty, the Council may conclude that the offender is able to pay any financial penalty imposed unless the Council has obtained or the offender has supplied any financial information to the contrary. An offender will be expected to disclose to the Council such data relevant to his/her financial position to enable the Council to assess what an offender can reasonably afford to pay.

Representation on this may be made following a notice of intention to charge.

#### **Step 5 – Review the penalty**

A check should be made as to whether the level of financial penalty reached meets, in a fair and proportionate way, the objectives of punishment, deterrence and the removal of gain derived through the commission of the offence; it should not be cheaper to offend than to take appropriate precautions.

Where appropriate, wider consideration should be given to a reduction in the penalty taking account of the impact on innocent third parties, such as (but not limited to): the offender's ability to comply with the law or make restitution to victims; employment of staff, service users, customers and the local economy.

#### **Step 6 – Totality principle for multiple offences**

When issuing financial penalties for more than one offence, it will be considered whether the total penalties are just and proportionate to the offending behaviour.

The Council will add up the penalties and consider if they are just and proportionate. If the total is not just and proportionate the Council will consider how to reach a just and proportionate financial penalty. This will be carried out in accordance with the [Offences Taken into Consideration and Totality – Definitive Guideline](#).

#### **Step 7 – Reduction for early payment**

Once a final notice is issued, if the penalty is accepted and payment is received in full within 28 days then a 20% reduction will be applied.

## 4. Procedural matters

4.1 The legislation and Government guidance imposes a number of procedural steps which must be taken before the council can impose a financial penalty. It also specifies a person's right to make representation to the Council and the right of appeal once the final notice has been issued.

4.2 The procedure for imposing a penalty is set out in Schedule 13A of the Housing Act 2004 and Schedule 1 of the Housing and Planning Act 2016.

4.3 In summary, a Council wishing to impose a financial penalty, must first give the person/organisation a notice of its proposal ('notice of intent') to do so.

4.4 The notice of intent must set out:

- the amount of the proposed financial penalty;
- the reasons for proposing to impose the penalty; and
- information about the right to make representations.

4.5 The notice of intent must be given no later than 6 months after the Council has sufficient evidence of the conduct to which the penalty relates, or at any time when the conduct is continuing.

4.6 A person who is given a notice of intent may make written representations to the Council about the intention to impose a financial penalty. Any representations must be made within 28 days from the date the notice was given. Details on who to make representation to will be given in the notice.

4.7 After the end of the period for representations, the Council must decide whether to impose a penalty and, if so, the amount of the penalty. In making this decision the facts of the case will be reviewed along with any representations received which may include financial information or additional mitigation. If the authority decides to impose a financial penalty, it must give the person a notice ('final notice') requiring that the penalty is paid within 28 days.

4.8 The final notice must set out:

- the amount of the financial penalty;
- the reasons for imposing the penalty;
- information about how to pay the penalty;
- the period for payment of the penalty (28 days);
- information about rights of appeal; and



- the consequences of failure to comply with the notice.

4.9 The Council may at any time withdraw a notice of intent or final notice or reduce the amount specified in either notice. In consideration of this, the circumstances of the case will be reviewed along with any new information that may have come to light. Where a notice is to be withdrawn or the amount reduced, the person on whom a notice has been served will be advised in writing.

## **5. Appeals**

- 5.1 On receiving a notice of intent, a person has 28 days to make written representations to the Council about the intention to impose a financial penalty.
- 5.2 Following this, if a final notice is issued a person has 28 days to appeal to the First-tier Tribunal against the decision of the Council to impose a penalty and/or the amount of the penalty. The final notice is suspended until the appeal is determined or withdrawn.
- 5.3 An appeal with involve a re-hearing of the Council's decision and the First-tier Tribunal has the power to confirm, vary (increase or reduce) the size of the penalty or cancel the penalty. If the First-tier Tribunal decides to increase the penalty, it may only do so up to a maximum of £30,000.
- 5.4 The First-tier Tribunal can dismiss an appeal if it is satisfied that the appeal is frivolous, vexatious or an abuse of process, or has no reasonable prospect of success.

## Annex 1: Financial Penalty Assessment form

<b>Financial Penalty Assessment form</b>							
<i>To be read in conjunction with the Financial Penalty Policy and statutory guidance.</i>							
Date:							
Officer:							
Property address:							
Offender:							
Name:							
Address (registered address):							
Nature of offence / Date of offence:							
<p>Prior to completion of this form, the evidential and public interest tests must be satisfied and agreed by Manager – Private Sector Housing.</p> <p><b>Background and details of the alleged offence:</b></p>							
<p><b>Step 1: Culpability</b> Detailed explanation:</p>	<b>Low</b>						
	<b>Medium</b>						
	<b>High</b>						
	<b>Very high</b>						
<p><b>Step 2: Level of harm</b> (potential or actual) Detailed explanation:</p>	<b>Low</b>						
	<b>Medium</b>						
	<b>High</b>						
<p><b>Culpability/harm assessment:</b> (Refer to Table 1: Financial penalty levels)</p> <table border="1" style="margin-left: auto; margin-right: auto;"> <thead> <tr> <th style="text-align: center;">Min</th> <th style="text-align: center;">Starting point</th> <th style="text-align: center;">Max</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">£</td> <td style="text-align: center;">£</td> <td style="text-align: center;">£</td> </tr> </tbody> </table>		Min	Starting point	Max	£	£	£
Min	Starting point	Max					
£	£	£					

<p><b>Step 3(a): Aggravating factors</b> (move up within band to increase charge)</p> <p>Explanation of all aggravating factors:</p> <p>Combination of factors considered to be: Substantial / Significant / Minor / N/A</p>
<p><b>Step 3(b) Mitigating factors</b> (move down within band to reduce charge)</p> <p>Explanation of mitigating factors:</p> <p>Combination of factors considered to be: Substantial / Significant / Minor / N/A</p>
<p><b>Proposed penalty</b></p> <p>Explanation of rationale:</p> 
<p><b>Step 4: Asset Check</b> (assume can pay the max unless evidence otherwise)</p> <p>Factors to consider:</p> <p>Explanation:</p> <p><b>Revised penalty</b> £ _____</p>
<p><b>Step 5: Review the penalty</b></p> <p>Does the revised penalty level align with the statutory guidance (summarised above)?  Full explanation if further revision required.</p>
<p><b>Step 6: Totality principle</b></p> <p>Where it is proposed to serve more than one financial penalty notice (FPN) – consider if <b>totality principle is just and proportionate</b> in accordance with the 'Offences Taken into Consideration and Totality - Definitive Guideline'. Full details to be given:</p>
<p><b>Sign off</b></p>
<p>Action and proposed penalty reviewed and agreed by:  XXX:</p>

<b>Serve notice of intention to charge.</b>
<b>Date served:</b>
<b>Representation received</b>  Date: Details:
<b>Further revision of charge following representation</b>  Explanation:
<b>Final penalty charge amount</b>  £ _____
<b>Step 7: Reduction for early payment</b> 20% discount if payment received within 28 days.  Applied: Yes / No / Why:
<b>Serve final charge notice</b>
<b>Date served:</b>
<b>Record debt</b>

The logo for Somerset West and Taunton is a teal-colored rectangle with a white curved shape on the right side. The text "Somerset West and Taunton" is written in white, bold, sans-serif font across the teal background.

**Somerset West  
and Taunton**

# **Statement of Principles for determining a penalty charge**

**The Smoke & Carbon Monoxide Alarm (England) Regulations 2015**

**The Redress Schemes for Letting Agency Work and Property  
Management Work (Requirement to Belong to a Scheme etc.)  
(England) Order 2014**

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## 1. Introduction

- 1.1 Somerset West and Taunton Council (the Council) is required under [The Smoke & Carbon Monoxide Alarm \(England\) Regulations 2015](#) to prepare and publish a statement of principles which it proposes to follow when deciding on the penalty charge amount for failing to comply with a remedial notice served under these regulations.
- 1.2 The Council may revise its statement of principles at any time and where it does the revision will be published. The statement of principles will be published on the Council website and made available on request.
- 1.3 The Private Sector Housing Team will also have regard to this statement of principles when applying financial penalties under [The Redress Schemes for Letting Agency Work and Property Management Work \(Requirement to Belong to a Scheme etc.\) \(England\) Order 2014](#).
- 1.4 This statement sets out the principles that the Council will apply in exercising powers to impose a financial penalty for failing to meet certain legislative requirements.
- 1.5 The Council will impose a penalty charge where it is satisfied, on the balance of probabilities, that the landlord has not complied with the action specified in a remedial notice within the required timescale.

## 2. Legal requirement

- 2.1 This statement is required under Regulation 13 of the Smoke and Carbon Monoxide Alarm (England) Regulations 2015 (the Regulations) and relates to matters that the Council must have regard to in determining the amount of any penalty charge issued under Regulation 8.
- 2.2 Under Regulation 4, a relevant landlord in respect of a specified tenancy must ensure that—
  - (a) during any period beginning on or after 1st October 2015 when the premises are occupied under the tenancy—
    - (i) a smoke alarm is equipped on each storey of the premises on which there is a room used wholly or partly as living accommodation;
    - (ii) a carbon monoxide alarm is equipped in any room of the premises which is used wholly or partly as living accommodation and contains a solid fuel burning combustion appliance; and
  - (b) checks are made by or on behalf of the landlord to ensure that each prescribed alarm is in proper working order on the day the tenancy begins if it is a new tenancy.

2.3 More details on the requirements, definitions and exemptions can be found in the Regulations and Government guidance (links at the end of this document).

2.4 Where the Council has reasonable grounds to believe that there are no or an insufficient number of smoke or carbon monoxide alarms in the property or; the smoke or carbon monoxide alarms were not working at the start of a tenancy or licence, then the Authority shall serve a Remedial Notice under Regulation 5 requiring the landlord to take action to comply with the Regulations within 28 days.

2.5 If the Landlord has not complied with the Remedial Notice, the Authority must take remedial action and may require the landlord to pay a penalty charge by serving a penalty charge notice under Regulation 8.

### **3. Statement of principles**

#### **3.1 The purpose of imposing a financial penalty**

3.1.1 The Council's primary purpose is to protect the public, although in exercising its regulatory powers they may have a punitive effect.

3.1.2 The primary aims of financial penalties will be to:

- change the behaviour of the landlord;
- eliminate any financial gain or benefit from non-compliance with the regulations;
- be proportionate to the nature of the breach of the regulations and the potential harm outcomes;
- aim to deter future non-compliance;
- reimburse the costs incurred by the Council in undertaking remedial work and carrying out its functions.

#### **3.2 Criteria for issuing a financial penalty**

3.2.1 Failure to comply with the requirements of a remedial notice gives the Authority the power to require the landlord to pay a penalty charge. In considering the imposition of a penalty charge, the authority will have regard to the available evidence of a breach of the remedial notice.

3.2.2 In deciding whether it would be appropriate to impose a penalty charge, the authority will take full account of the particular facts and circumstances of the breach under consideration.

3.2.3 The authority must be satisfied that on the balance of probabilities, the landlord on whom it has served a remedial notice under regulation 5 has



failed to take the remedial action specified in that notice within the period specified.

- 3.2.4 A financial penalty allows the council, amongst other things, to eliminate financial gain or benefit from non-compliance. A financial penalty charge will be considered appropriate in circumstances where the landlord has failed to comply with the requirements of a remedial notice.

### **3.3 Criteria for determining the amount of a financial penalty charge**

- 3.3.1 Regulation 8(2) states the amount of the penalty charge must not exceed £5,000. The penalty charge comprises two parts: a punitive element for failure to comply with the absolute requirement to comply with a remedial notice (subject to any representation made by a landlord to the council) and a cost element relating to the works carried out by the Council.
- 3.3.2 The period within which the penalty charge is payable is 28 days beginning with the day on which the penalty charge notice is served. The Council has a discretion to specify that if a landlord pays the penalty charge within 14 days beginning with the day on which the penalty charge notice was served (early payment), a reduction in the penalty charge may be applied.

### **3.4 Proposed fine levels**

- £2,500 for a first offence of failing to comply with a remedial notice; early payment reduction of 50% making it £1,250.
  - £5,000 for subsequent offences of failing to comply with a remedial notice to deter continued non-compliance; early payment reduction of 50% making it £2,500.
- 3.4.1 Having been served with a penalty charge notice, the landlord may give written notice to the Council requesting a review. When reviewing the penalty charge notice, the Council will have regard to this Statement of Principles, including:
- The level of cooperation provided by the landlord,
  - any history of previous contraventions of Housing or Housing related legislation,
  - the level of risk created by the non-compliance,
  - the cost incurred by the Council in enforcing the relevant provision,
  - any other circumstances specific to the case.

### **3.5 Rationale for fine levels**

3.5.1 The cost of a battery-operated smoke detector is in the region of £10 while a Carbon monoxide detector typically costs less than £20. The cost of complying with the legislation in an average 2 storey property is likely to be less than £50. Therefore, compliance with a Remedial Notice within the required 28 days is not financially burdensome and there is seldom an excuse for a landlord not installing the alarms to comply with a notice.

3.5.2 Smoke and carbon monoxide detectors are a cheap and effective way of saving lives. The fine is therefore set to deter landlords from failing to install potentially lifesaving detection and to be punitive for rogue landlords who refuse to comply with the law.

## **4. Procedural matters**

4.1 The regulations impose a number of procedural steps which must be taken before the council can impose a financial penalty. Before imposing a requirement on a landlord to pay a penalty charge the council must, within a period of six weeks from the point at which it is satisfied that the landlord has failed to comply with the requirements of the Remedial Notice, serve a penalty charge notice setting-out:

- the reasons for imposing the penalty charge;
- the premises to which the penalty charge relates;
- the number and type of prescribed alarms (if any) installed at the premises;
- the amount of the penalty charge;
- the obligation to pay that penalty charge or to give written notice of a request to review the penalty charge;
- how payment of the charge must be made; and
- the name and address of the person to whom a notice requesting a review may be sent.

4.2 A landlord may request in writing, a review of the penalty charge imposed. In conducting the review, the council will consider any representations made by the landlord, and serve notice of its decision whether to confirm, vary or withdraw the penalty charge to the landlord. Reviews will usually be undertaken by a senior officer not involved in the original decision.

4.3 Having requested a review, the landlord can further appeal to the First-tier Tribunal against the Council's decision.

- 4.4 A landlord will not be considered to be in breach of their duty to comply with the remedial notice, if they can demonstrate they have taken all reasonable steps to comply.

## **5. Redress scheme for letting and managing agents**

- 5.1 Under [The Redress Schemes for Letting Agency Work and Property Management Work \(Requirement to Belong to a Scheme etc.\) \(England\) Order 2014](#), it is a legal requirement for all letting agents and property managers to join a Government-approved redress scheme. This gives tenants and landlords with property agents and managers in the private rented sector the facility to complain to an independent person about the service they have received.
- 5.2 Where the council is 'satisfied on the balance of probabilities' that a person has failed to belong to a redress scheme as required by article 3 or 5 of the above Order, it may by notice require that person to pay a 'monetary penalty'.
- 5.3 The amount of the monetary penalty must not exceed £5,000.
- 5.4 The Council will comply with the procedure for the imposition of a monetary penalty stipulated within the Order including provisions for the submission of representations and objections and the appeal procedures.
- 5.5 The Council will give written notice of its intention to impose a penalty, setting out the reasons and the amount of the penalty. The lettings agent or property manager will have 28 days to make written representations against the penalty. Any representation made must be in writing and will usually be reviewed by a senior officer not involved in the original decision.
- 5.6 At the end of the 28 days the Council will decide, having taken into account any representations received, whether to impose the fine. If a fine is imposed then a final notice will be issued giving a minimum of 28 days for payment to be made. An appeal against the penalty can then be made to the First-tier Tribunal.
- 5.7 A monetary penalty will be recoverable on the order of a court, as if payable under a court order.
- 5.8 The standard monetary penalty for breach of duty under article 3 or 5 will be set initially at £5,000. The monetary penalty will be reduced by 50% if paid within 14 calendar days of the date of issue of the monetary penalty.
- 5.9 While this monetary penalty is set as a standard the order makes provision for a Letting Agent to make representations or objections. The Council will refer to this statement of principles in considering representations or objections received.

## **6. Associated documents**

- [The Smoke & Carbon Monoxide Alarm \(England\) Regulations 2015](#)
  - [Explanatory Booklet for Local Authorities](#)
  - [Q&A booklet for the private rented sector – landlords and tenants](#)
- [The Redress Schemes for Letting Agency Work and Property Management Work \(Requirement to Belong to a Scheme etc.\) \(England\) Order 2014](#)
  - [Lettings agents and property managers: redress schemes Guidance](#)



## **Enforcement of minimum energy efficiency standards**

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## 1. Introduction

- 1.1.1 The Energy Efficiency (Private Rented Property) (England and Wales) Regulations 2015 (as amended) have been designed to tackle the least energy efficient properties; presently those with an Energy Performance Certificate (EPC) rating of F or G.
- 1.1.2 This policy describes how the Council will enforce these Regulations, known as the Domestic Minimum Energy Efficiency Standard (MEES) Regulations.
- 1.1.3 The MEES Regulations establish a minimum standard and since the 1<sup>st</sup> April 2020, landlords can no longer let or continue to let properties covered by the MEES Regulations if they have an EPC rating below E, unless they have a valid exemption in place.
- 1.1.4 There are different areas of non-compliance associated with these Regulations:
- Where a property is let or continues to be let in breach of the Regulations;
  - Where the landlord has registered any false or misleading information on the government's "[National PRS Exemptions Register](#)", or
  - Where a landlord has failed to comply with a compliance notice.
- 1.1.5 These regulations do not cover the requirement to have an EPC, which come from legislation enforced by Trading Standards in Somerset. Somerset West and Taunton (the Council) do not enforce these regulations and where appropriate will notify Trading Standards of potential offences.
- 1.1.6 As resources allow, the Council will seek to identify landlords that are not meeting the minimum requirements.
- 1.1.7 We will advise landlords of the requirements and what action they need to take in order to be compliant. Where non-compliance is identified, we will determine if it is appropriate to take formal action and make a financial penalty in line with this policy.
- 1.1.8 There is an ambition to raise the minimum EPC rating beyond E and the Government has committed to look at a long-term trajectory to improve the energy performance standards of privately rented homes. The aim is for as many properties as possible to be upgraded to EPC Band C by 2030, where practical, cost-effective and affordable. This policy will be reviewed and updated as and when new legislative requirements are introduced.

## 1.2 Government Guidance

- 1.2.1 Government guidance '[The domestic private rented property minimum standard](#)' is available on how to comply with the Minimum Energy Efficiency'

standard (currently EPC band E) and MDC has had regard to this guidance when preparing this policy.

## 2. Scope of the legislation

2.1.1 The MEES Regulations apply to all domestic private rented properties that are:

- Let on specific types of tenancy agreement
  - assured tenancy (including an assured shorthold tenancy) defined in the Housing Act 1988;
  - A regulated tenancy defined in the Rent Act 1977;
  - A domestic agricultural tenancy as set out in the Energy Efficiency (Domestic Private Rented Property) Order 20151
- Legally required to have an Energy Performance Certificate (EPC)
  - [Government guidance on EPCs when buying or selling your home](#)

2.1.2 Where both the above apply, owners of properties with an EPC rating of F or G must take appropriate steps to comply with the requirements of the MEES Regulations. If the Council believes a landlord has failed to fulfil their obligations under the MEES Regulations, they can serve the landlord with a compliance notice. If a breach is confirmed, the landlord may be served with a financial penalty.

2.1.3 There are various exemptions that apply to the prohibition on letting a property with an energy efficiency rating below E, listed below:

2.1.4 Exemptions:

- All relevant improvements have been made;
- High cost;
- Wall insulation;
- Third party consent;
- Property devaluation;
- Temporary exemption for 6 months.

2.1.5 Further information on the exemptions is contained within the [Government guidance](#) and MEES Regulations.



- 2.1.6 If the property meets the criteria for any of the exemptions, it may be let once the exemption has been registered on the PRS Exemptions Register.
- 2.1.7 Exemptions and registering an exemption are defined in the legislation. The Council does not define exemptions or register them, but may check their validity.
- 2.1.8 Exemptions from the prohibition on letting sub-standard property may not pass over to a new owner or landlord upon sale or other transfer of that property. If a let property is sold or otherwise transferred with an exemption in place, the exemption will cease to be effective and the new owner will need to either improve the property to the minimum standard or register an exemption themselves.

## 2.2 Penalty levels

2.2.1 The maximum level of penalty varies depending on the breach. Where a decision is taken to impose a financial penalty, the Council has discretion to decide the amount of the penalty, up to maximum limits set by the Regulations.

2.2.2 The maximum penalties set by Regulation are as follows:

Offence	Maximum penalty
Where the landlord has let a sub-standard property in breach of the Regulations for a period of less than 3 months.	£2,000
Where the landlord has let a sub-standard property in breach of the regulations for 3 months or more.	£4,000
Where the landlord has registered false or misleading information on the PRS Exemptions Register.	£1,000
Where the landlord has failed to comply with compliance notice, the Local Authority may impose a financial penalty.	£2,000
Where two or more Penalty Notices apply, the combined Maximum per property per breach.	£5,000

## 3. Our approach

3.1.1 Where we become aware of a landlord renting a property with an EPC of F or G, we will advise them that they do not meet the minimum energy efficiency standard, offer advice and point them towards financial assistance and further support where it is available. They will also where appropriate, be advised to register an exemption or update their existing EPC.

- 3.1.2 Landlords will be given appropriate time to make any necessary changes and will be advised that continued non-compliance may result in an investigation and formal enforcement action.
- 3.1.3 Where a landlord has a history of non-compliance with housing legislation or is resistant to compliance, the Council may take formal action without giving an informal opportunity to comply.
- 3.1.4 The Council has discretion to serve Compliance Notices to request information from the landlord to help it decide if there has been a breach. As required, the Council will Serve Compliance Notices where additional information is required. The Council will consider serving a Penalty Notice where a landlord fails to comply with the Compliance Notice.
- 3.1.5 As part of the process, the Council will check the [National PRS Exemptions Register](#) and if it believes a landlord has registered false or misleading information it will consider serving a financial penalty.
- 3.1.6 If offences under these Regulations are committed the Council will, where appropriate, serve a Penalty Notice. Our approach to determining the appropriate level of penalty in line with the legislation is provided below.

#### 4. Criteria for determining the amount of a financial penalty charge

- 4.1.1 When determining the financial penalty, the level of culpability and the level of harm will be considered. The key factors to be considered when determining level of culpability and harm are indicated below.

Key factor	Definition
<b>Culpability</b>	<p><b>High</b></p> <p>Landlord has a previous history of non-compliance with housing related regulatory requirements;  Landlord has failed to comply with requests to comply with these regulations;  Deliberate breach of or flagrant disregard for the law;  Knowingly or recklessly providing incorrect information in relation to exemptions to these regulations.</p> <p><b>Low</b></p> <p>First offence under these regulations, no previous history of non-compliance with Housing related regulatory requirements;  Complex issues partially out of control of the landlord have led to non-compliance;  Failings were minor and occurred as an isolated incident.</p>
<b>Harm</b>	<p><b>High</b></p> <p>Very Low EPC score;  Vulnerable tenants occupying property for an extended period during and since non-compliance.</p>

	<b>Low</b> Higher EPC score close to minimum accepted EPC rating; No vulnerable tenants.
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4.1.2 As a guide to determine the appropriate level of penalty, SW&T will use the following matrix:

	Low culpability	High culpability
Low harm	25% of maximum	50% of maximum
High harm	50% of maximum	100% of maximum

4.1.3 Potential penalty levels for each offence are shown below:

<b>Breach is less than 3 months MAX £2,000</b>	Low Culpability	High Culpability
Low Harm	£500	£1000
High Harm	£1000	£2000

<b>Breach is more than 3 months MAX £4,000</b>	Low Culpability	High Culpability
Low Harm	£1,000	£2,000
High Harm	£2,000	£4,000

<b>Providing False and Misleading information MAX £1,000</b>	Low Culpability	High Culpability
Low Harm	£250	£500
High Harm	£500	£1000

<b>Failing to comply with a Compliance Notice MAX £2000</b>	Low Culpability	High Culpability
Low Harm	£500	£1000
High Harm	£1000	£2000

## 4.2 Aggravating and Mitigating Factors

4.2.1 The penalty levels may be adjusted from the matrix if there are aggravating or mitigating factors.

4.2.2 Where factors come to light during the investigation, adjustments may be made to the Financial Penalty. Details of these factors will be included in the Penalty Notice.

4.2.3 In addition, the landlord on whom the notice has been served may make representation against the level of fine or relevant to the offence. The Council will review the level of fine when representation is received and may adjust the penalty up or down as appropriate. The landlord will be served a Notice after the review with an explanation of any adjustment made.

### **4.3 Right of review and right of appeal**

4.3.1 The Landlord has the right to ask for a Penalty Notice to be reviewed. Any request for review must be submitted in writing to the Council within one calendar month of the Penalty Notice being served.

4.3.2 Reviews will usually be undertaken by a senior officer not involved in the original decision. The landlord will be informed of the outcome in writing, at the earliest opportunity.

4.3.3 If the Council uphold the penalty notice, the landlord may appeal to the First-tier Tribunal.

### **4.4 Recovery of financial penalties**

4.4.1 If a landlord does not pay a financial penalty imposed on them, the Council may take the landlord to court to recover the money.

### **4.5 Publication penalty**

4.5.1 In cases where there is a breach, the council may choose to impose a publication penalty. This will include publishing some details of the landlord's breach on a publicly accessible part of the PRS Exemptions Register. Where this step is taken as appropriate to the circumstances of the case, the information will be published for a period not exceeding 12 months.

## **5. Associated documents**

- [The Energy Efficiency \(Private Rented Property\) \(England and Wales\) Regulations 2015](#)
- [The Energy Efficiency \(Private Rented Property\) \(England and Wales\) \(Amendment\) Regulations 2019](#)
- [Domestic private rented property: minimum energy efficiency standard - landlord guidance](#)
- [The Domestic Private Rented Property Minimum Standard](#)

Report Number: SWT 145/22

# Somerset West and Taunton Council

## Executive – 16 November 2022

### Low Carbon Retrofit Strategy and Delivery Plan

This matter is the responsibility of Executive Councillor Francesca Smith, Portfolio Holder for Housing

Report Author: Chris Brown, Assistant Director Development & Regeneration

#### 1 Executive Summary / Purpose of the Report

- 1.1 Somerset West and Taunton Council (SWT) declared a climate change emergency in 2019 committing the local authority to achieving carbon neutrality ahead of the Government's 2050 requirement.
- 1.2 As a social landlord the Council must comply with a requirement for its c5700 homes to achieve EPC C or better by 2030 and zero carbon by 2050.
- 1.3 The strategy sets out the baseline position of the Council's housing stock and sets ambitious targets which will progressively help SWT achieve zero carbon for its homes.
- 1.4 The Strategy identifies a significant number of risks which need to be navigated over the next two decades to achieve milestones and ultimately zero carbon.
- 1.5 A comprehensive delivery plan accompanies the strategy which outlines key principles to deliver the strategy. The delivery plan also confirms the funding available 2022-2029 to make the first significant steps towards achieving 2030, 2040 and 2050 targets.
- 1.6 The strategy places significant emphases on placing tenants at the heart of zero carbon and creating pathways to zero carbon for homes.
- 1.7 Officers have considered the finding of the Community Scrutiny's Retrofit Working Group and this strategy has many synergies with the view proposed by members.

#### 2 Recommendations

That the Executive Committee recommends to Full Council the following report recommendations:-

-Full Council approve the Low Carbon Retrofit Strategy and Delivery Plan. The delivery of the strategy will need to be managed within the annual budget setting process, including the Medium Term Financial Plan and 30-Year Business Plan, to ensure the overall affordability of the schemes being proposed each year.

-The Portfolio Holder for Housing and the Director of Homes and Communities to progress the steps identified in the delivery plan and to promote the approach with Somerset County Council colleagues

### 3 Risk Assessment

3.1 Below are the main risks relating to the proposal:

Risk	Score out of 25 based on probability x impact	Mitigation
Unaffordable costs placed on HRA business plan.	12 (4 x 3)	There are 8 risks in the risk assessment which are under this theme. The risk assessment and delivery plan offers mitigations to minimise additional unaffordable costs placed on the HRA business plan including alignment of decent homes and retrofit programmes and maximising grant opportunities
Failure to collect appropriate data.	8 (4 x 2)	There are 2 risks in the risk assessment which are under this theme. The risk assessment and delivery plan offers mitigations to ensure decisions are based on good quality data including greater use of the PAS 2035 quality assurance approach, open housing software and pathways to zero carbon based on archetype studies.
Failure to engage tenants	15 (5 x 3)	There are 3 risks in the risk assessment which are under this theme. The risk assessment and delivery plan offers mitigations to ensure tenants are at the heart of zero carbon. The approach will include more personalised approaches to engage tenants before, during and after capital works and improved procedures when delivering capital programmes directly or through sub-contractors. The mitigations also propose greater engagement with leaseholder.
Procurement and capital delivery	8 (2x4)	The economy is very challenging and this has seen significant inflation including building cost inflation. The council has also experienced the increasing risk averse nature of contractors and a more selective approach when tendering. SWT need to generate certainty for contractors and continuity of work. The strategy and delivery plan identifies some opportunities to mitigate the procurement challenges.
Failure to achieve targets	12 (3x4)	There are 3 risks in the risk assessment which are under this theme. The risk assessment and delivery plan offers mitigations to maximise the opportunity to achieve targets. The target most at risk is the services ability to reduce heat demand to 50kWh/m2/yr for all homes. Failure to achieve this ambitious level of heat demand will place more pressure on customers fuel costs as homes move from fossil fuel (gas) to electric heat. The main mitigations are additional yet uncoded fabric measures and / or additional onsite renewable heat and power. The strategy also highlights the need to conduct option appraisals on the worst performing stock t risk of missing the target.
External Risk Factors	10 (2x5)	There are 2 risks in the risk assessment which are under this theme. The risk assessment and delivery plan offers

Risk	Score out of 25 based on probability x impact	Mitigation
		mitigations which provide the council with greater control in relation to achieving target. These include placing more emphases on low heat demand rather than SAP/ EPCs as a measure to achieve zero carbon.

#### 4 Background and full details of the report

- 4.1 SWT In 2019 SWT declared a climate change emergency. Since 2019 SWT has been working with other Somerset Councils on a Climate Resilience plan (CDCM plan) and the Somerset Climate Change Emergency Strategy to help the County and District combat climate change and reduce carbon (CO<sub>2</sub>) emissions. Housing has a critical role in helping the council respond to the climate change emergency. To tackle the climate crisis, the UK government has legislated that the UK will reach net zero carbon emissions by 2050, meaning the UK will be putting no more carbon into the air than it is taking out. Homes account for about 14% of the UKs CO<sub>2</sub>.
- 4.2 The Council's housing stock is a small percentage of the District's stock however it generates a significant amount of CO<sub>2</sub>. SWT homes account for 9,144tCo<sub>2</sub> pa which is an average of 1.7tCO<sub>2</sub> per annum per property. SWT homes accounts for approximately one third of the CO<sub>2</sub> generated from SWT assets or activity. This amount of CO<sub>2</sub> excludes tenants goods and appliances which are difficult to measure and influence.
- 4.3 The UK and the world is experiencing unprecedented fuel price inflation and uncertainty. The District will see thousands of households experiencing fuel poverty for the first time during 2022 and a dramatic cost of living crisis is emerging. In the short term this strategy encourages energy saving advice and sign-posting tenants to further information sources to help manage energy costs. While these activities are useful they are unlikely to make a significant impact on the rapidly rising energy costs to customers. The council can make a huge impact as landlord in the medium and long term through an investment strategy which reduces the heat demand required by the Council's homes though fabric measures . This approach could see by 2040 over c60%-70% less fuel required to heat council homes.
- 4.4 The five main goals of the strategy and delivery plan are;
- a. Tenants at the heart of zero carbon
  - b. All SWT homes to achieve EPC C by 2030 (c1850 homes) or have an alternative investment option identified. Our current estimation is c300 homes could miss the target.
  - c. Aim to reduce heat demand on average from 135kWh/m<sup>2</sup>/yr. to 50kWh/m<sup>2</sup>/yr. by 2040 through a 'fabric first' approach. This is a very ambitious target and many homes may require additional investment which will increase the cost of zero carbon significantly above the £135m or require more disinvestment options.
  - d. Replace fossil fuel in SWT homes with electric based heat and power by 2050 at a pace to ensure affordable energy for tenants and in line with available funds. This does not prevent replacing fossil fuel with electric heat and power immediately where their heat demand is sufficiently low and funding is available.

- e. The investment remains affordable within the constraints of the Housing Revenue Account's annual, medium term and thirty year financial plans.
- 4.5 The strategy will progress a fabric first approach prioritising insulation and the reduction of heat demand over fuel switch from gas to electricity. Fuel switch away from gas will gain greater momentum once homes achieve a good level of insulation. It is likely
- 4.6 The costs of achieving zero carbon is estimated at c£135m over 28 years. This is based on today's prices. The strategy and delivery plan recognise that zero carbon is only affordable to the landlord under its current business plan if it adopts new approaches, including;
- a. Align Decent Homes Standard capital improvements with retrofit investment
  - b. Maximise grant and subsidy
  - c. Place tenants at the heart of zero carbon
  - d. Ensure good data influences decisions
  - e. Embrace a no regrets approach (this includes; correct specification of works for each individual property, improving ventilation and avoiding cold bridging and damp, progressive investment steps, selective demolition and disposal where targets cannot be achieved)

## **5 Links to Corporate Strategy**

- 5.1 In 2019, the Council declared a climate emergency and committed to working towards achieving carbon neutrality and climate resilience by 2030.
- 5.2 Maximising affordable housing remains a Corporate objective. Retaining and improving existing stock supports this objective.

## **6 Finance / Resource Implications**

- 6.1 Finance Officers have not undertaken any due diligence on the financial content of this report. The high-level estimated cost analysis of this strategy, which has been undertaken by the service, excludes any additional investment should customers require decanting, pre works and early replacement of components outside the decent homes lifetime lifecycles.
- 6.2 The delivery plan proposes a number of schemes over the next 10 years and these are currently contained within the proposed HRAs 10-Year Capital Programme and 30-Year Business Plan assumptions from 2022/23. The delivery plan has highlighted a number of grant opportunities 2023-2026 which are as yet unconfirmed and therefore at risk of not being achieved.
- 6.3 This is a significantly ambitious delivery plan within the current economic climate where there will be a real affordability challenge that could be aggravated if there is a divergence between rent increases and the cost inflation, as well as the cost of financing the capital programme placing further pressure on the business plan.
- 6.4 The delivery of this strategy will be highly dependent on external grant funding to make this affordable to deliver. Additional resource will be required to manage the administration and compliance of the terms and conditions of the grant(s).



- 6.5 The delivery of the strategy will need to be managed within the annual budget setting process, including the Medium Term Financial Plan and 30-Year Business Plan, to ensure the overall affordability of the schemes being proposed each year. This may require the annual review of the delivery plan to be flexed to meet key financial performance indicators e.g. interest rate cover. The risk here would be that EPC C is not met by 2030 which means that those properties will not be lettable and will lose the business rental income.
- 6.6 Members are not being asked to commit resources to the strategy and delivery plan through this report but to consider investment within the annual HRA budget request.

### **Unitary Council Financial Implications and S24 Direction Implications**

- 6.7 This report does not require SWT to obtain consent of Somerset County Council's (SCC) executive in relation to the strategy. A number of the investment lines identified in the delivery plan have already received support through the council budget setting in or before February 2022. S24 consent would be required should any new contracts in excess of £1,000,000 be required prior to a unitary council in April 2023.
- 6.8 In terms of ongoing implications, the strategy and delivery plan will continue across the years and onwards under the new unitary authority. Continued management and oversight of the strategy and delivery plan will therefore continue far beyond vesting day. The Council's housing stock and all of the ongoing assets, liabilities, costs and income, and rights and obligations will transfer to the unitary on 1 April. The new council will be required to maintain a Housing Revenue Account for this service, as SWT does currently.

## **7 Legal Implications**

- 7.1 No legal issues to report.

## **8 Climate and Sustainability Implications**

- 8.1 In 2019, the Council declared a climate emergency and committed to working towards achieving carbon neutrality and climate resilience by 2030.
- 8.2 This strategy and delivery plan will provide the guidance for officers to delivery carbon reduction measures and ultimately zero carbon.

## **9 Equality and Diversity Implications**

- 9.1 The strategy and delivery approach will support customers experiencing or at risk of experiencing fuel poverty in the medium and long term by a fabric first approach aims at reducing heat demand (fuel usage) by c60%-70%. The strategy also suggests additional measures such as onsite renewable heat and power where properties do not reduce heat demand sufficiently to allow fuel switch to take place without financial burden. The strategy proposes a review of processes when delivering capital programmes to better support tenants and especially vulnerable tenants.

## **10 Social Value Implications**

- 10.1 The capital programme will introduce practical measures to capture social value during investment in decent homes and low carbon retrofit programmes.

## **11 Health and Wellbeing Implications**

- 11.1 The right home environment is the foundation from which we can build healthy and fulfilling lives. Housing affects our wellbeing, risk of disease and demands on health and care services. We need warm, safe and secure homes to help us to lead healthy, independent lives and to recover from illness. The strategy and targets proposed will improve the quality of homes and the health quality of our customers. Affordable warmth and good ventilation are two benefits which the strategy emphasises.

## **12 Asset Management Implications**

- 12.1 The HRAs portfolio will improve through the adoption of the strategy and delivery plan. There are positive benefits such as greater investment in homes and pursuing a 'no regrets' approach as well as negative impacts for example some properties will require extra investment which may not be value for money. The strategy and delivery plan recognise that some properties may have costs which cannot be justified, and demolition or sale required. It is assumed these instances will be limited and only after full option appraisals are conducted.

## **13 Consultation Implications (if any)**

- 13.1 Consultation has taken place and is ongoing with tenants especially through the low carbon retrofit working group. There has been support from the tenants working group who have emphasised the need to ensure better and more personalised communication with tenants before during and after capital works.
- 13.2 Tenants have also emphasised the need for consistency in delivering works to customer's homes whether directly delivered by SWT staff or subcontractors. The strategy and delivery plan contain a number of recommendations which will be progressed by the service.

## **14 Scrutiny/Executive Comments / Recommendation(s)**

- 14.1 Community Scrutiny Committee supported the recommendation of the report.
- 14.2 The Scrutiny Committee was informed that the baseline for heat demand in the strategy would be changed prior to presenting to the Executive Committee as additional surveys have been analysed.
- 14.3 In response to questions raised by the committee the strategy has been refreshed to be more specific on the year (2035) that SWT will no longer replace gas boilers with new gas boilers and will switch fuel to electric. This date aligns with the decent homes investment cycle for boilers but will still be subject to properties having achieved a

suitably low heat demand. The delivery plan has amended the KPI section to confirm the service will collect and monitor as a KPI the number of homes using fossil fuels.

**Democratic Path:**

- Full Council – 6<sup>th</sup> December 2022

Reporting Frequency: Once Only

**List of Appendices**

Appendix 1	Delivery Plan
Appendix 2	Architype Studies
Appendix 3	Risk Assessment
Appendix 4	Equality Impact Assessment

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Somerset West and Taunton  
Low Carbon Retrofit Strategy & Delivery Plan 2022-2028  
November 2022

Executive Summary

1. Introduction
  - a) What is low carbon retrofit
  - b) National Strategy
2. SWT housing stock baseline
  - a) Architype studies
  - b) Party Portfolio scenarios
  - c) Data collection and PAS 2035
3. Retrofit targets
  - a) Achieving 2030 target – EPC C
  - b) Achieving 2040 target – 50 kWh/m<sup>2</sup>/yr.
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4. Customers are the heart of zero carbon retrofit
5. Fuel Poverty and Health
  - a) Fuel Poverty Gap
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6. Ensuring affordability to the HRA business plan
  - a) Alignment of decent homes programme and retrofit
  - b) Maximise subsidy and grant
  - c) Ensure good quality data influences decisions
  - d) Tenants at the heart of zero carbon
  - e) A no regrets approach to zero carbon
7. Conclusion

Appendix 1 - Delivery Plan

Appendix 2 – Architype studies

Appendix 3 – Risk Assessment

Appendix 4 – Equality Impact Assessment

## Executive Summary

In 2019 SWT declared a climate change emergency. Since 2019 SWT has been working with other Somerset Councils on a Climate Resilience plan (CDCM plan) and the Somerset Climate Change Emergency Strategy to help the County and District combat climate change and reduce carbon (CO<sub>2</sub>) emissions. Housing has a critical role in helping the council respond to the climate change emergency. To tackle the climate crisis, the UK government has legislated that the UK will reach net zero carbon emissions by 2050, meaning the UK will be putting no more carbon into the air than it is taking out. Homes account for about 14% of the UK's CO<sub>2</sub>.

Although most homes in the District are private dwellings there is a significant proportion of social housing of which c5700 are owned and managed by the Council. SWT homes account for 9,144tCO<sub>2</sub> pa which is an average of 1.7tCO<sub>2</sub> per annum per property. SWT homes accounts for approximately one third of the CO<sub>2</sub> generated from SWT assets or activity.

This strategy will form an appendix of the Housing Revenue Account's Asset Management Strategy. A revision of the main body of the Asset Management Strategy and will be considered by Members in 2023. SWT's Low Carbon Retrofit Strategy 2022-2028 sets out the principles and practical steps to allow SWT homes achieve EPC C by 2030 and zero carbon by 2050. The strategy is supported by a delivery plan which identifies some of the short and medium term opportunities that will provide early momentum to achieve the estimated £135m investment required to achieve zero carbon.

The social housing environment is ever changing with the need to respond to national and local factors. This strategy recognises outside factors, such as new legislation and new technology, will bring opportunity and challenge to the delivery of zero carbon. The strategy and delivery plan will help guide decisions to help the Council steer an efficient path to zero carbon. The available technologies and grants in relation to low carbon retrofit will vary dramatically over the next twenty years meaning the Council must have a strategy, data and capacity able to respond.

The UK and the world is experiencing unprecedented fuel price inflation and uncertainty. The District will see thousands of households experiencing fuel poverty for the first time during 2022 and a dramatic cost of living crisis is emerging. In the short term this strategy encourages energy saving advice and sign-posting tenants to further information sources to help manage energy costs. While these activities are useful they are unlikely to make a significant impact on the rapidly rising energy costs to customers. The council can make a huge impact as landlord in the medium and long term through an investment strategy which reduces the heat demand required by the Council's homes through fabric measures. This could see tenants by 2040 using c63% less fuel on average to heat their homes.

To reflect the changing environment the strategy will be reviewed every five years as the council progresses towards zero carbon and the delivery plan will be reviewed annually to feed into the housing revenue accounts annual budget setting cycle.

The five main goals of the strategy and delivery plan are;

1. Tenants at the heart of zero carbon

2. All SWT homes to achieve EPC C by 2030 (c1850 homes) or have an alternative investment option identified. Our current estimation is c300 homes could miss the target.
3. Aim to reduce heat demand from 135kWh/m<sup>2</sup>/yr. to 50kWh/m<sup>2</sup>/yr. by 2040 through a 'fabric first' approach. This is a very ambitious target and many homes may require additional investment which will increase the cost of zero carbon significantly above the £135m or require more disinvestment options.
4. Replace fossil fuel in SWT homes with electric based heat and power by 2050 at a pace to ensure affordable energy for tenants and in line with available funds. This does not prevent replacing fossil fuel with electric heat and power immediately where their heat demand is sufficiently low and funding is available.
5. The investment remains affordable within the constraints of the Housing Revenue Account's annual, medium term and thirty year financial plans.

The costs of achieving zero carbon is estimated at c£135m over 28 years. This is based on today's prices. The strategy and delivery plan recognise that zero carbon is not affordable to the landlord under its current business plan and therefore it needs to;

- Align Decent Homes standard improvements with retrofit programmes
- Maximise grant and subsidy
- Place tenants at the heart of zero carbon
- Ensure good data influences decisions
- Embrace a no regrets approach (correct specification of works for each individual property, improving ventilation and avoiding cold bridging and damp, progressive investment steps, selective demolition and disposal where targets cannot be achieved)

The housing service is transforming the decent homes capital programme to fully integrate a zero carbon 'no regrets' approach. Once achieved, this will permit the current business plan capital programme to contribute significantly towards zero carbon in both the specification of products it delivers and the timing of the replacement components. In addition, the service will build on the Council's success of bidding for grant and substantially increase its investment plans with available grants and steer away from investment where the investment contradicts the pathway to zero carbon identified for that archetype or individual property.

The Council has invested in the new 'Open' databases, which includes Open Housing and Open Assets, and retrofit software (Parity Portfolio). It has also employed specialist retrofit advisors and PAS2035 coordinators. Through good data and surveying the Council has been able to create archetype studies by property form. SWT has identified 12 pathways to zero carbon which cover 96% of the Council's properties. SWT is able to carry out modelling of different pathways to zero carbon for sub archetypes as investment opportunities emerge. Through archetype studies and pathways to zero carbon SWT understand the specification and types of components required to achieve a c60%-70% heat demand reduction and the timing of fuel switch away from fossil fuel. As a result the service is able to better align the council's decent homes investment and retrofit investment.

The council has been working with specialist retrofit consultants to guide our delivery plan and invest significantly in specialist PAS 2035 co-ordination and individual property PAS2035 assessments and design. In addition, most contractors will be required to be TrustMark registered which provides a significant level of confidence in their skills, design, the recording of data and warranties for of products.

As a result of this approach SWT and tenants confidence will increase and the council will have evidence of success in delivering measures to reduce CO2 and fuel use. Monitoring success pre and post works is essential. New SMART heating controls and energy monitoring technology will be introduced into more homes to help tenants manage their heat and power consumption better. The service is also seeking to install monitoring technology which will help the tenants and council if there are problems with the property such as high humidity, excessive fuel costs and will identify properties behaving better or worse than the average.

Our approach will maximise grant opportunities by identifying the pathways to zero carbon which provides the service with the transparency to identify properties which qualify for grant and which would benefit from the grant.

SWT has developed this strategy with tenants. In particular the council has worked with tenants through the Low Carbon Retrofit Working Group. However, the strategy is also influenced by the Strategic Tenants Group (TSG), members of the tenants working group (TWG) the Damp and Mould Working Group and the NTWP Works and Low Carbon Working Group. Engagement and communication with tenants is critical if SWT is to achieve zero carbon. Communication prior and during work programmes must be of a high standard and personalised to localities and customers need. The Tenant Engagement Plan and Vulnerable Persons Policy has been developed to assist SWT staff, tenants and contractors with the aim of preparing tenants with the information and support they need to participate in works. The policies are aimed at increasing access at the first time of asking to ensure the council and its contractors carry out surveys and works. In addition, customers will need to understand any new technology which is in their home, especially boiler controls and performance data. To this end the service will need to enhance the knowledge of all front line staff to offer timely and accurate advice. It is also considered beneficial to introduce tenant feedback processes and remote monitoring to help identify any problems, for example, under performance against the anticipated improvement from investment.



## 1 Introduction

### What is low carbon retrofit

Responding to climate change requires the need to reduce energy consumption and improve the resilience of the built environment. Buildings account for 30%-40% of the energy consumed and 20%-36% of energy related greenhouse gas emissions across the European Union, United Kingdom and US. Increases in flooding and extreme weather triggered by climate change pose heightened risks to assets like buildings and property. Governments, landowners, property managers and investors alike are recognising these challenges and looking for solutions to safeguard buildings and users, shore up their investments and respond to policy imperatives. One area where they have found common ground is the huge and urgent need for upgrades to improve the energy efficiency, affordability, comfort and resilience of housing and building stock. Retrofit is simply the process of making changes to existing buildings so that energy consumption and emissions are reduced.

SWT in developing its approach to new build zero carbon affordable homes and zero carbon affordable housing retrofit builds on some of the knowledge and experience. SWT has considered good practice and the advice of leading organisations such as the London Energy Transformation Initiative (LETI) and the Good Homes Alliance. This strategy has interpreted LETI's retrofit 2021 guidance to meet the challenges of SWT's stock and has gone further by calculating the estimated financial cost of achieving zero carbon. The strategy does welcome LETI's good practice guidance and endorses the LETI definition as presented in its Climate Emergency Retrofit Guide;

'Retrofit isn't just about reducing carbon emissions. A best practice retrofit should reduce fuel bills and also improve health and wellbeing. Retrofit at scale would also generate significant employment opportunities and stimulate the economy'.

A massive transformation is needed to meet the demand for energy efficient homes and buildings and to keep climate change within the bounds of the Paris Accords. The scale of the retrofit challenge is significant with roughly 15,000 houses across Europe needing to have retrofit works carried out every day for the next 30 years to achieve the target.

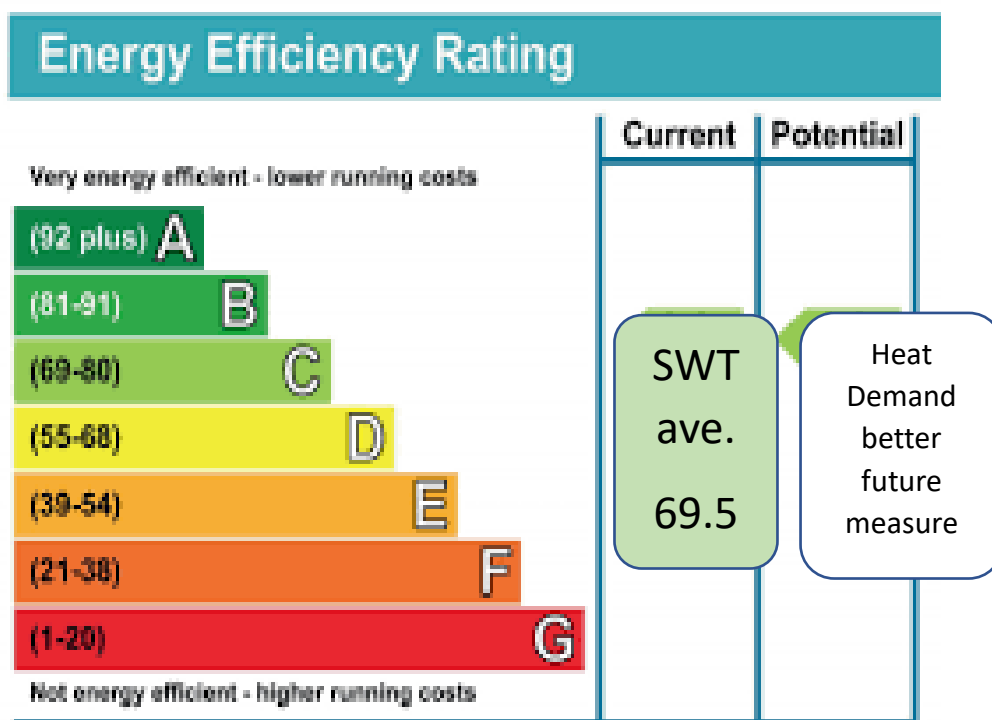
SWT has set down a strategic ambition to achieve zero carbon ahead of 2050 and is making investment decisions to progress carbon reduction in all aspects of its work and influence. In the UK 80% of the homes which exist today will be in use in 2050. Officers forecast that c80% of SWT's affordable homes will be Council affordable homes in 2050 with c20% of the stock new build homes built to a zero carbon standard. The Council will lose c20% of homes through the Right to Buy, selective disposal and selective demolition. Retrofitting SWT homes by 2050 is a challenge proportionate to the national challenge and requires transformation in how we invest and provide our services.

### National Targets

There are two main low carbon retrofit targets which the council must achieve or risk being unable to let the properties.

The UK Government passed the Climate Change Act 2019 which committed the UK to a legally binding target of net zero by 2050. In addition, social landlords are required to achieve EPC C or better (B, A) as measured through the Standards Assessment Procedure (SAP) for all households in their homes suffering from fuel poverty by 2030. The revised definition of fuel poverty is someone living in a property rated D, E, F or G and therefore the council in practice have to bring their homes up to EPC C by 2030. Image 1 shows the efficiency rating bands and the Standard Assessment Procedure (SAP) points for each band. Band A is considered Excellent (high SAP points) and Band G is considered very poor (low SAP points) in terms of energy efficiency. Although EPC Bands allow properties energy efficiency to be compared very easily this strategy proposes heat demand and fuel source as the critical measures as we seek to achieve zero carbon.

Image 1 – Energy Efficiency Rating System and SWTs average SAP rating



To achieve zero carbon by 2050 we will need to remove the use of fossil fuels from homes and switch to fossil free renewable sources of energy primarily electric. However, without reducing the heat demand of our homes through improved insulation, often referred to as a fabric first approach, or without a significant reduction in the cost of electricity a fuel switch strategy would be unaffordable for many tenants. Government recognise that a fabric first approach has the opportunity to reduce heat demand in homes to allow the switch for many homes to affordable electric heat and power.

The strategy has considered the SWT Community Scrutiny Committees Task and Finish Group's report on Council Housing Zero Carbon Retrofit 2022. The report

included a wide range of recommendations including a fabric first, whole house approach to retrofit, learning from local and national best practice, removal of fossil fuels and building customer awareness. This strategy embraces and reinforces many of the sentiments of the Task and Finish Group.

The London Energy Transformation Initiative (LETI) is a leading zero carbon collective which produces excellent guidance which officers have used in the development of zero carbon new build and retrofit standards. The LETI principles are:

- Reduce energy consumption
- Prioritise occupant's health
- Have a whole house retrofit plan
- Measure performance
- Think Big

This strategy follows the principles but not the absolute letter of the London Energy Transformation Initiative (LETI) guidance or retrofit blueprint (image 2). SWT will apply these principles to our archetypes and property forms (houses, bungalows and apartments).

Image 2 – LETI's retrofit blueprint (this image is to illustrate the complexity and connected considerations which a best practice approach to retrofit requires, a readable version can be found online at <https://www.leti.uk/retrofit>)

## A blueprint for retrofitting the UK's homes to meet the climate challenge

A policymaker's summary of the LETI Climate Emergency Retrofit Guide

### LETI's six principles for good retrofit

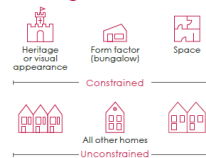
Follow these principles to maximise the multiple benefits of retrofit and minimise the risks. For example: reducing energy consumption is key to reducing carbon emissions, tackling fuel poverty and improving national energy security.

- 1: Reduce energy consumption
- 2: Prioritise occupant and building health
- 3: Have a whole building Retrofit Plan
- 4: Measure the performance
- 5: Think big!
- 6: Consider impact on embodied carbon

### LETI's recommended energy performance targets

The current industry measurement of energy performance is an EPC. However a good EPC score does not necessarily indicate a building with high levels of energy efficiency.

LETI has defined what good retrofit looks like through best practice and exemplar energy targets for constrained and unconstrained buildings.



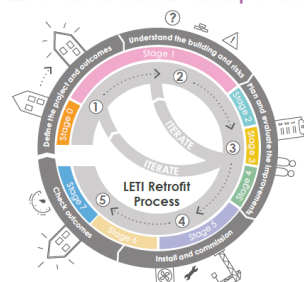
### LETI's whole house Retrofit Plan

LETI recommends a whole house approach to retrofit rather than retrofitting individual elements in isolation. A whole house Retrofit Plan should:

- Set out the key building information, constraints, risks and opportunities.
- Define the key works proposed along with related strategies and details.
- Define the sequence of work.
- Be appropriate in its level of detail and intervention for the building size, context, use, owner and occupants, scope of work and heritage value.
- Include a plan for monitoring and reporting energy consumption.
- Keep your retrofit plan with the building for future occupants.

This is similar to PAS 2035's risk-based paths; avoiding abortive work and minimising risk.

### LETI's recommended retrofit process



	LETI best practice retrofit	LETI exemplar retrofit
Fossil fuel free	Fossil fuel free home	Fossil fuel free home
Energy Use Intensity	50 kWh/m <sup>2</sup> /yr +10 kWh/m <sup>2</sup> /yr additional allowance for constrained retrofit	40 kWh/m <sup>2</sup> /yr
Space heating demand	50 kWh/m <sup>2</sup> /yr +10 kWh/m <sup>2</sup> /yr additional allowance for constrained retrofit	25 kWh/m <sup>2</sup> /yr
Hot water demand	20 kWh/m <sup>2</sup> /yr +5 kWh/m <sup>2</sup> /yr additional allowance for homes <75m <sup>2</sup>	20 kWh/m <sup>2</sup> /yr +5 kWh/m <sup>2</sup> /yr additional allowance for homes <75m <sup>2</sup>
Renewable energy	40% of total energy covered by renewables Maximise renewables where conditions are suitable	40% of total energy covered by renewables Maximise renewables where conditions are suitable

### New build vs retrofit

It is generally preferable to retrofit than demolish and build new, because of the much greater embodied carbon in new build than in retrofit.

For retrofits that include a new build element, or any new builds, we recommend you look at LETI's [Climate Emergency Design Guide](#) and the [Embodied Carbon Primer](#).

For new buildings, there is consensus that a huge shift is needed in policy to produce net zero carbon compliant buildings - please see LETI's response to the Future Homes and the [Future Buildings Standard](#).

It is hoped that this strategy and delivery plan is further evidence of the council leading by example. Social housing providers have emerged as innovators of low carbon transitions in the UK residential sector. Research published in the *Energy and Buildings Journal (Vol 177)* suggested social housing providers tend to have a

significant amount of influence over large housing stocks, have opportunities to access funding to retrofit on a large scale, can make explicit connections between reduced carbon emissions and improved quality of life for low-income residents, and foster a close relationship with the place and communities they serve. In effect, social housing providers are not only facilitators but also realise low carbon transitions through various strategies.

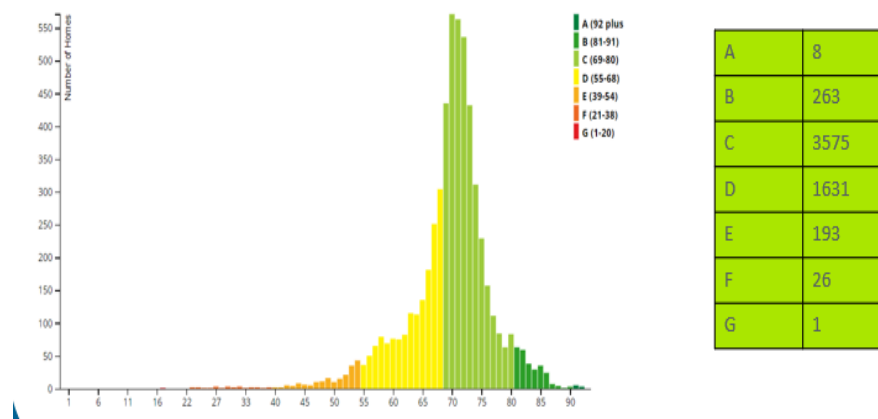
## 2. SWT housing stock baseline

The Council's c5,700 homes are estimated to account for nearly one third of the Council's own carbon footprint. In 2018/19 12,000 tCO<sub>2</sub>e was the estimated volume of carbon released from SWT homes and in 2021/2022 we are now calculating this at 9,860tCO<sub>2</sub> using Parity Portfolio software. Our modelling predicts that an investment of £135m will achieve zero carbon by 2050 with a significant number of archetypes and properties unable to meet our ambition of zero carbon using a heat demand of 50kWh/m<sup>2</sup>/yr. However, some of these properties will achieve zero carbon with additional measures and interventions or with ongoing higher than desired fuel usage.

SWT's retrofit investment must be based on robust data and analysis. The housing service has invested in Parity Portfolio and Open Housing and Open Assets software as well as developing pathways to zero carbon through archetype studies. Although our data is constantly improving there is sufficient confidence in the data to allow investment priorities and principles to be created. Our data sets allow the Council to create pathways to zero carbon for 12 different property archetypes covering 96% of the stock. Our data has significantly improved over the past 12 months and will continue to improve through surveys, use of software and new staff capacity to analyse data. The service is also changing to better capture the data following decent homes and retrofit capital investment programmes.

SWT's baseline has been created through our own resources and by the use of specialists, Parity Portfolio software and our own stock condition and EPC records. Our 'Parity Portfolio' modelling which uses EPC's, capital investment data, such as boiler replacements and other indicators, is able to provide many insights into our stock profile and retrofit requirements. Chart 1 shows that although 1851 SWT homes do not meet the 2030 target the average SAP rating across the stock as a whole does achieve EPC C (69.5). Of those homes not achieving EPC C 86% are in EPC Band D and a small number of low cost interventions such as quality windows low energy lighting, improved loft insulation or gas boiler upgrade will bring the majority of these homes up to the standard will move these homes to band C. It should be noted that pre works assessments will identify the accuracy of the data we hold and this may lead to retrofit solutions being reconsidered. Please note that EPC's and SAP are not a measurement fit for purpose to identify carbon reduction.

Chart 1 – Profile of SWT properties 2022 in relation to EPC bands



Although EPC's and SAP measurements are not appropriate for measuring carbon reduction the data does suggest that 3845 properties are EPC A, B or C. We can therefore assume that 66% of council homes already meet the 2030 target and governments fuel poverty measure.

The average cost of bringing SWT homes up to EPC C is £3.2k which is a moderate business plan investment. SWT do have some outliers such as Woolaway and Cornish non-traditional properties, pre 1930 homes and solid wall properties. The Council will need to consider if these homes offer value for money on a cluster or individual basis and if a retention or disposal strategy should be pursued. In addition, some stock will become tiered and not merit investment but offer opportunities for demolition to create sites for new build council homes or disposal.

Chart 2 shows SWT stock profile by age. SWT has recognised the need to make disinvestment decisions such as demolition and disposal where an overriding case is presented. SWT have recently experienced the need to disinvest in woolaway and Wordsworth Drive Flats as the properties have been recognised as uneconomic to bring to a decent homes and zero carbon standard. Although the HRA investment pre 2030 to achieve EPC C is significant the greater challenge is to bring homes up to the 2050 zero carbon standard. On average homes will cost c£24k. This cost does not include any complementary work such as support for customers, decanting, refixing of components disturbed during work or early replacement of components before their anticipated failure date.

Chart 2 – Stock profile by age

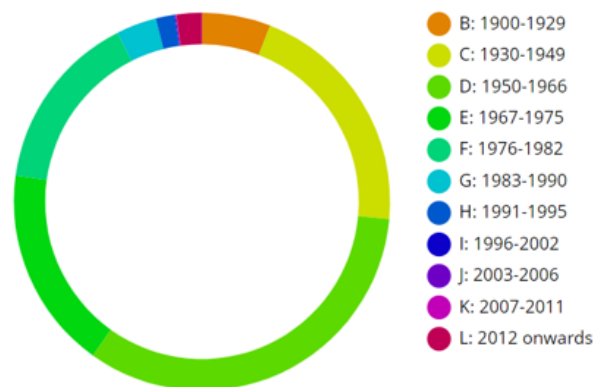


Table 1 below provides a summary of some of the baseline stock data which is helpful when considering low carbon retrofit and investment options. The baseline data suggests each home on average produces 1.7 tons of CO2 annually which is 9,685 tons of carbon annually from all SWT homes. A key baseline measure important in the strategy is heat demand. Officers using archetype studies based on a limited number of property survey's have estimated the average heat demand of 135 kWh/m2/yr. This measure excludes household domestic energy appliances, equipment or vehicles as the landlord can only influence but not control these items. It should be noted that as more homes are surveyed pre works the baseline will

change. Reducing heat demand along with switching fuel to electricity will be key indicators when measuring success of the strategy.

Table 1 – SWT Baseline Stock Data

	2022 Baseline
SWT Properties (excludes leaseholders)	5697 (100%)
Houses	2848 (50%)
Apartments	1994 (35%)
Bungalows	855 (15%)
Leaseholder	450 (100%)
Properties above EPC C (C, B, A) (excludes leaseholders)	3846 (65.78%)
Properties EPC D or below (D, E, F) (excludes leaseholders)	1851 (33.2%)
Average SAP	69.5 (EPC C)
Archetypes	14
% of stock covered by Archetype studies	96%
% of stock covered by PAS surveys (or other retrofit assessment)	0.004%
Average CO2 per units	1.7 tCO2 pa
Total CO2	9,685 tCO2
Average Heat demand per property	135 kWh/m2/yr

*\*note data will change as more property surveys are conducted pre works*

## Archetype Studies

SWT is creating c12 high level archetype pathways to zero carbon (table 2) which also consider a properties form (bungalow, house, apartment). This strategy places significant emphasis on the archetype studies to establish our base line, targets and pathways to zero carbon. As more individual property studies are conducted baselines, targets and pathways will be refined. The importance of zero carbon pathway modelling is critical to understand the investment decisions including the sequence of investment based on a fabric first approach. These high level studies cover 96% of SWT homes and will ultimately be transparent to allow tenants, staff and Members to understand how SWT plan to achieve zero carbon and reduce fuel usage for each home/archetype. Table 3 shows the 14 SWT property archetypes and tables 2, 3 and 4 are examples of how these archetype template help officers understand the measures to achieve zero carbon. These studies show the importance of considering each archetype on its merit and these high level studies are followed by whole house and block surveys often using the PAS 2035 assessment process.

Table 2 – Property Archetype Studies

SWT Architype Studies 2022						
Architype		% of SMT Stock	Units	Heat demand Baseline (kWh/m2/yr)	Ambitious 2040 Heat demand (kWh/M2/yr)	Modelled 2040 heat demand as % of 2022 heat demand
1	Conventional House	77.40%	4417	130	49.75	30.62%
2	Conventional Apartment				25	
3	Conventional Bungalow				41.25	
4	Woolaway House semi	3.80%	218	170	37	29.41%
5	Woolaway House Terrace				37	
6	Cornish House	6.30%	359	160	65	40.63%
7	Cornish Apartment				65	
8	Cornish bungalow				65	
9	Easiform House	7.10%	407	139	57	38.13%
10	Easiform Apartment				53	
11	Easiform maisonette				53	
12	BISF House Semi	1.30%	77	159	56	35.22%
13	Others	4.10%	228	No Architype studies planned assume 130	50	38.46%
		100.00%	5706	135	42	32%

**Table 3 - Profile of SWT stock by architype**

Architype	SWT Units
Conventional	4417
Easiform	407
Cornish PRC	359
Woolaway*	218
Airy	24
BISF	77
HSG REV AC	1
Relocat	10
Special PP	3
Rema PRC	43
Stanard WIC	8
Tru-steel	24
Concrete	63
Timber	52
	5706

\* Some woolaways are currently under demolition

The Council's most common property architype is a brick build conventional semi detached house. This example below is has a heat demand of 110kWh/m2/yr. With external wall insulation, improved windows and doors and mechanical ventilation this property will achieve a reduced heat demand of 45kWh/m2/yr. This property could achieve an even better heat demand of 24kWh/m2/yr. however this would require greater disruption to the household and significantly higher costs.



**Table 4 – Archtype 1 – Pathway to Zero Carbon – Conventional cavity wall semi-detached house**

Property: Drive	Baseline	Fabric <90 kWh/m <sup>2</sup>	EPC-B	EPC-A
<b>EPC Information</b>		EWI/DOORS & WINDOWS/AP50/MEV	...plus PV	...plus FLOOR/MVHR/ASHP/LOFT
Existing EPC	<b>D-68</b>			
Full SAP EPC Rating	<b>D-63</b>	<b>C-75</b>	<b>B-85</b>	<b>A-92</b>
Final Heat Demand (kWh/m <sup>2</sup> /year)	<b>110.75</b>	<b>45.5</b>	<b>45.5</b>	<b>24</b>
Floor U Value	0.5	0.5	0.5	0.18
Wall U-Value	1.55	0.18	0.18	0.18
Roof U-Value	0.2	0.2	0.2	0.13
Door U-Value	2.9	1.2	1.2	1.2
Window U-Value	2.8	1.2	1.2	1.2
Air Tightness	11.88	3	3	3
Solar PV KWP			3	3
ASHP				YES
Ventilation Type	IEV	MEV	MEV	MVHR
Thermal Efficiency				90%

(a larger version of this table is available at appendix 2)

Table 5 again shows an Easiform property archetype which is a non traditional apartment often 3-4 storeys. The circles on table 5 shows the baseline and optimum investment to ensure the home is affordable to the tenant and zero carbon once the grid is decarbonised. This archetype has the potential to reduce its heat demand from 138kWh/m<sup>2</sup>/yr. to 35.5kWh/m<sup>2</sup>/yr. which is 28% of its current fuel consumption. This archetype only achieves the target heat demand of 50kWh/m<sup>2</sup>/yr with the addition of external wall insulation and triple glazing.

**Table 5 – Archtype 2 – Pathway to Zero Carbon – Easiform Non traditional apartment**

Property: Flat	Baseline	Phase 1A < 90kWh/m <sup>2</sup> /yr	Phase 1B – EPC C	Gas Option	Phase 2 – EPC B	Phase 3 – NET Zero Future
<b>EPC Information</b>		CWI + Openings	Phase 1A + MVHR	Phase 1B – Gas boiler** instead of ASHP	Phase 1B + Solar	Phase 2 + EWI
Existing EPC	<b>D-56</b>					
Full SAP EPC Rating	<b>D-60</b>	<b>C-69</b>	<b>C-72</b>	<b>C-73</b>	<b>B-82</b>	<b>B-85</b>
Final Heat Demand (kWh/m <sup>2</sup> /year)	<b>138.7</b>	<b>65.4</b>	<b>56.9</b>	<b>62.9</b>	<b>56.9</b>	<b>35.5</b>
Floor U Value	0.80	0.80	0.80	0.80	0.80	0.80
Wall U-Value Level*	1.23	<b>0.52</b>	0.52	0.52	0.52	<b>0.18</b>
Roof U-Value	N/A	N/A	N/A	N/A	N/A	N/A
Door U-Value	3.00	<b>1.20</b>	1.20	1.20	1.20	1.20
Window U-Value	2.80	<b>1.00</b>	1.00	1.00	1.00	1.00
Air Tightness (AP50)	4.99	<b>3.00</b>	3.00	3.00	3.00	3.00
Solar PV KWP					<b>1.5 (SW)</b>	1.5 (SW)
ASHP	Daikin	Daikin	Daikin		Daikin	Daikin
Ventilation Type	None	None	<b>MVHR</b>	MVHR	MVHR	MVHR
Thermal Efficiency						

(a larger version of this table is available at appendix 2)

Table 6 is again a common property archetype which is a brick build conventional bungalow. The circles on table 6 shows the baseline and optimum investment to ensure the home is affordable to the tenant and zero carbon once the grid is decarbonised. This archetype has the potential to reduce its heat demand from

188kWh/m<sup>2</sup>/yr. to 41.25kWh/m<sup>2</sup>/yr. This archetype requires an insulated floor to achieve a maximum heat of 50 kWh/m<sup>2</sup>/yr. If a property has a concrete foundation insulated floors can be expensive and intrusive. This example allows asset managers to consider if bungalows and ground floor apartments merit having their floors insulated when a property becomes void and/or when it requires a new kitchen and bathroom to limit the extra disruption to tenants and limit what would be expensive additional costs. Please note that insulating concrete floors create additional costs such as replacing/realigning existing fixtures including skirting, stairs, kitchen, bathroom, ramps and steps. These additional costs as well as rent loss and decant costs are not included in the £135m investment to achieve zero carbon.

Table 6 – Architype 2 – Pathway to Zero Carbon – conventional brick built Bungalow

	Baseline	Fabric <90 kWh/m <sup>2</sup>	EPC-B	EPC-A
<b>EPC Information</b>		EW/DOORS & WINDOWS/AP50/MEV	...plus PV	...plus FLOOR/MVHR
Existing EPC	E-43			
Full SAP EPC Rating	<b>E-45</b>	<b>C-73</b>	<b>B-91</b>	<b>A-94</b>
Final Heat Demand (kWh/m <sup>2</sup> /year)	<b>188</b>	<b>83.25</b>	<b>83.25</b>	<b>41.25</b>
Floor U-Value	0.77	0.72	0.72	0.18
Wall U-Value	1.55	0.18	0.18	0.18
Roof U-Value	0.27	0.13	0.13	0.13
Door U-Value	3.05/4.5*	1.2	1.2	1.2
Window U-Value	2.8	1.2	1.2	1.2
Air Tightness	6.57	3	3	3
Solar PV KWP			2.5	2.5
ASHP	YES**	YES**	YES**	YES**
Ventilation Type	IEV	MEV	MEV	MVHR
Thermal Efficiency				90%

(a larger version of this table is available at appendix 2)

### Parity Portfolio Software

Parity Portfolio software helps landlords model options to improve the energy and carbon performance of the existing housing stock. The software includes the latest RdSAP method, with additional and enhanced analysis using georeferenced data. The parity software uses SWTs stock condition data and other relevant data sources to produce property profiles made up of all c5700 SWT homes. The collation and cleansing of data will usually involve some cloning and highlight conflicting or missing data. As the data analysis is done automatically and at individual property level, when new data is updated for example following surveys or capital works the baseline and scenarios update automatically.

The data is available for SWT to run an unlimited number of scenarios to help the Council consider a broad range of approaches to achieve zero carbon. The software has numerous property component options which its intelligence can match to the scenario. The service has restricted the choices available when running scenarios to avoid too many component combinations which would be too bespoke to deliver and maintain and /or lead to greater tenant disruption and cost. A fabric first approach excluding internal wall insulation (IWI) and limited floor insulation followed by fuel switch was the preferred scenario which has provided our investment cost estimates.

## Data collection and PAS2035 Surveys

The council has a new asset database called Open Assets which sits within the new Open data base for the housing service. The data base is populated with our stock condition data which supports the decent homes programme. The retrofit programme and decent homes programme are now coming together as the single capital programme with the aim of timely investment to ensure all SWT homes are achieving the decent homes standard and also achieving the low carbon and zero carbon standards.

Landlords conduct EPC surveys as part of the lettings process to ensure incoming tenants are aware of the energy efficiency rating of homes. Landlords also carry out stock condition surveys to understand the investment needs of their homes to keep them to the decent home's standard. Increasing both Government and landlords have been concerned about the problems which have arisen as bi-products of inappropriate Decent Homes retrofit works, specifications, design or components. Issues such as damp and mould or cold bridging are examples of these failings. To support a 'no regrets' approach the government require local authorities to follow the PAS 2035 process and appoint TrustMark accredited contractors if they wish to receive government grant. PAS 2035 is a new, comprehensive domestic retrofit standard which will protect landlords and tenants and ensure works are identified and specified correctly. Certified organisations who have the TrustMark accreditation deliver the installations, record and lodge information correctly and issue the appropriate warranties and guarantees.

SWT will follow the PAS2035 requirements and use PAS coordinators and PAS qualified assessors and designers as it develops its programmes of capital works where it is likely the property will qualify for government grant.

## SWT low carbon retrofit Targets

Good customer engagement and communication, a fabric first approach and proactive pursuit of subsidy will be embraced to maximise the delivery of;

- a) the greatest CO2 reduction in the shortest time,
- b) a sustainable reduction in average fuel consumption
- c) affordability of retrofit works to the HRA business plan.

Table 7 shows some key baseline data, and the low carbon retrofit targets for 2030, 2040 and 2050. The targets show that the Council can become compliant with the 2030 target at relative low costs and moderate costs (c£3.2m per units). It will incur significantly more cost to reduce heat demand to c50 kWh/m<sup>2</sup>/yr. (c13k per unit).

The period 2040-2050 will focus on removing fossil fuels (c9k per unit) and resolving challenges to properties unable to achieve the target. There are a large number of properties which will fail to achieve a heat demand below 50kWh/m<sup>2</sup>/yr. which will require either additional fabric measures or additional on site renewable energy solutions to ensure the fuel costs are sustainable for the tenant.

Table 7 – SWT 2022 baseline and targets 2030, 2040 and 2050.

	2022 Baseline	2030 Target EPC C	2040 target Fabric first 50 kWh/m2/yr	2050 Target Zero Carbon
SWT Properties (excludes leaseholders)	5697 (100%)	5500 (100%)*	5200 (100%)*	5000 (100%)*
Houses	2848 (50%)			2250 (45%)*
Apartments	1994 (35%)			1895 (37%)*
Bungalows	855 (15%)			855 (18%)*
Leaseholder	450 (100%)			727 (100%)*
Properties above EPC C (C, B, A) (excludes leaseholders)	3846 (65.78%)	5397 (95%)	5200 (100%)	5000 (100%)
Properties EPC D or below (D, E, F) (excludes leaseholders)	1851 (33.2%)	c300 (c5%)	0 (0%)	0 (0%)
Average SAP	69.5 (EPC C)	TBC	TBC	91.9 (EPC B)**
Archetypes	14	14	14	14
% of stock covered by Archetype studies	96%	96%	100%	100%
% of stock covered by PAS surveys (or other retrofit assessment)	0.004%	20%	75%	100%
Average CO2 per units	1.7 tCO2 pa	TBC	0.63 tCO2	0 tCO2 pa
Total CO2	9,685 tCO2	TBC	3,587 tCO2	0 tCO2
Average Heat demand per property	kWh/m2/yr	95 kWh/m2/yr	50 kWh/m2/yr	50 kWh/m2/yr
Properties anticipated to miss target	0	223	664	664
Total investment for stock to achieve target***	0	£6,000,000	£66,000,000	£135,000,000
Average investment per property to achieve EPC C	0	£3,270	£12,638	£23,697
<i>* assumption 'best guess' based the potential variance due to Right to Buy Sales plus disposals and demolitions plus new build homes</i>				
<i>** does not assume additional increase due to stock reduction (EPC A is likely)</i>				
<i>*** Do include associated costs such as decanting, environmental works, replacement of components in advance of their renewal date, surveys, etc</i>				

A key concern for many Members and observers is the pace which fossil fuel is being replaced by on site or grid renewable heat and power. Image 3 provides a picture of the relative progress of key measures which supports a fabric first approach within a restricted budget. The position taken by the strategy is based primarily on the following assumptions:

- The Housing Revenue Account will have insufficient funds to deliver all required measures for Zero Carbon through a one off whole house approach. The housing service will need to revisit many properties over the next 28 years to achieve the standard.
- A fabric first approach will reduce the heat and power required for a property regardless of fuel source. When a properties heat demand is reduced through insulation measures the amount of fossil fuel used to heat and power the property reduces. If a 50 kWh/m2/yr. target is achieved the housing stock will reduce fuel usage by 70%+. In theory this means fuel regardless of type will reduce by 70%. This would be a significant achievement and avoid higher electricity costs for many customers.
- A fabric first approach means that when fossil fuel is replaced in SWT homes the specification for the new electric heating system will be based on the lower heat demand required to keep the property warm. This means boilers will be more efficient and smaller. If heating system require less electricity then any demands on the grid or PV will be less.

- Some SWT properties will receive a whole house approach with multiple measures which will include renewable heat and power between 2022. An estimate is that c1100 properties could benefit from early replacement of fossil fuel. A gas boiler has a 15 year assumed life and therefore SWT will plan to stop upgrading gas heating systems from 2035 and upgrade with mains electric systems. However, a low heat demand for a property will be required to switch fuel pre 2040.
- Significant progress has been made by the grid in decarbonising over the past ten years and this will continue. The heat demand target of <50 kWh/m<sup>2</sup>/yr. is set as it is thought for a household with average income electric heating from the grid will be affordable. For some low income / vulnerable customers SWT would like to go further through on site renewable heat and power providing greater cost efficiency. The strategy recognises that the largest contribution to reducing CO<sub>2</sub> and fuel usage in the short term within the assumed financial resources is an ambitious target.
- The government are emphasising the fabric first approach through the various grant and obligations they control. This means that in the short term SWT can deliver more fabric measures as more subsidy is available for fabric than renewable heat and power measures.

Image 3 - Why Fabric First -



Achieving 2030 Targets

SWT will strive to achieve EPC C for all SWT homes by 2030. This will require 1891 homes to receive investment in low carbon measures primarily through three work packages and some will need to be considered as part of an asset management option appraisal. As new grant opportunities are introduced more new investment packages will be introduced. The three work packages are:

1. Multiple measures usually moving properties two EPC bands through multiple fabric measures including improved wall, loft, window, door insulation, improved air tightness and ventilation and where funding permits renewable

heat and power – Examples of this would be plans being progressed for some non-traditional properties including some Woolways, Cornish, Easiform and apartment blocks. The service has a significant funding pledge from an energy provider to deliver comprehensive improvements to public and private dwellings with c£6m estimated for SWT homes between 2022 and 2026. This initiative will use a neighbourhood based social housing led approach to delivering energy company obligation. Properties in this category should require few future measures following works to achieve zero carbon.

2. Windows replacement scheme with a minimum insulation value of U1.2 supported by a wraparound energy package where the property will receive complementary draught proofing, loft insulation, low energy lighting, improved boiler controls and property monitoring technology. The service hopes to improve 1100 homes from EPC D to EPC C between 2022 and 2026 using this approach and is commencing on a priority list of 617 homes.
3. Continuation of our boiler replacement scheme with the replacement of inefficient gas, electric or solid fuel with more efficient heating. The majority of replacement systems will be new gas combi boilers but some electric and renewable systems. Properties improved with a new boiler will also be supported by a wraparound energy package where the property will receive complementary draught proofing, loft insulation, low energy lighting, improved boiler controls and property monitoring technology. The service hopes to upgrade c250 homes from EPC D to EPC C between 2022 and 2024. These properties will still require fabric first measures to achieve a heat demand of 50 kWh/m<sup>2</sup>/yr. and zero carbon.

### Achieving 2040 Targets

SWT will strive to achieve 50 kWh/m<sup>2</sup>/yr. for all SWT homes by 2040. This will require circa 5000 homes to receive significant fabric investment and frequent use of high performing double or triple glazing and doors, greater attention to air tightness and draught proofing measures and increased use of mechanical ventilation. The stock will also see an increase in the use of external wall insulation. The service is investing in software and staff capacity to help analyse retrofit and decent homes data to identify properties able to cost effectively receive multiple fabric first measures through a whole house approach. Between 2028 and 2040 the alignment of decent homes and retrofit will remain in significant focus as multiple measures delivered simultaneously will reduce prelim costs. The nature of the interventions will mean a significant uplift in the average cost of works. It is likely that during this period some additional measures such as floor insulation will be introduced within the void programme in particular for bungalows and some apartments in order to minimise any decants required as a result of retrofit. The decanting of tenants will significantly increase the complexity of the works programme and incur additional costs and major disruption for tenants. The service is preparing block investment plans which will place the Council's 440 housing blocks within timelines for investment and also allow consultation with leaseholders and tenants on comprehensive block refurbishment packages.

### Achieving 2050 Targets

SWT will strive to achieve zero carbon by switching fuel away from fossil fuel once properties heat demand is significantly low to minimise the impact of fuel affordability. Some fuel switching is taking place at the moment as some heating systems need replacing and the tenant should be no financially worse off after fabric works. Solid fuel systems and inefficient electric systems will be replaced by more efficient electric systems such as quantum or Air Source Heat Pumps. However, switching tenants from gas prior to significantly reducing heat demand or a significant change in the cost of electricity compared to gas will have the potential to increase fuel poverty for more tenants and exaggerate the cost of living crisis. It would also be the case that the property would require the specifying of a larger/more powerful boiler than would be required post fabric first insulation works as the system would be specified for heating more colder air. It is worth noting that c650 (11%) Air Source Heat Pumps have been installed in SWT homes although there is significant variation in the heat demand for those properties leading to both good and poor user experiences. All homes which use electric heating and no fossil fuel will automatically be zero carbon as soon as the national grid is decarbonised. Therefore c1700 homes are already compliant albeit with insufficient insulation to make the homes efficient to heat.

In order to achieve zero carbon in the most cost economic way whilst saving the greatest amount of carbon and fuel in the shortest time fuel switching should in the majority of cases take place once a property has achieved its optimum heat demand as close to 50 kWh/m<sup>2</sup>/yr. possible. In some cases where grants become available and the heat demand is sufficiently low immediate investment in fuel switch would be progressed. For example 37 Woolaway properties are proposed for an all walls out refurbishment improving their heat demand from 170kWh/m<sup>2</sup>/yr to 39 kWh/m<sup>2</sup>/yr. This has coincided with a grant guidance being announced which will permit the additional costs of Air Source Heat Pumps to be met.

#### Asset management plans to manage investment and disinvestment

The service will refine its asset strategy to identify properties at risk of not achieving zero carbon at an affordable fuel cost to the tenant by 2050. Our experience has highlighted that exploring low and zero carbon for some of our stock can identify shortfalls in the value for money investment would provide. Our recent experience at Wordsworth Drive flats turned an investment opportunity into a disinvestment project as the properties were not of sufficient build quality to merit investment to the decent homes and zero carbon standard. It is inevitable that the council will need to consider if some homes should be retained and if not should they be sold or demolished.

#### Customers at the Heart of Zero Carbon Retrofit

Achieving zero carbon, tenancy sustainment and fuel affordability are just three of the reasons for the Council and tenants to work ever closer. The Council must work with tenants to ensure our staff and contractors can carry out surveys, works and maintain properties in an efficient and timely manner. Through this cooperation tenants will benefit from lower energy bills and healthier homes. Tenants guidance and insight about their homes and neighbourhoods is extremely valuable in ensuring the Council is able to deliver information, works and services appropriately. The service



experiences a high number of access refusals and by working with tenants the Council will deliver capital schemes faster, more economically and more efficiently.

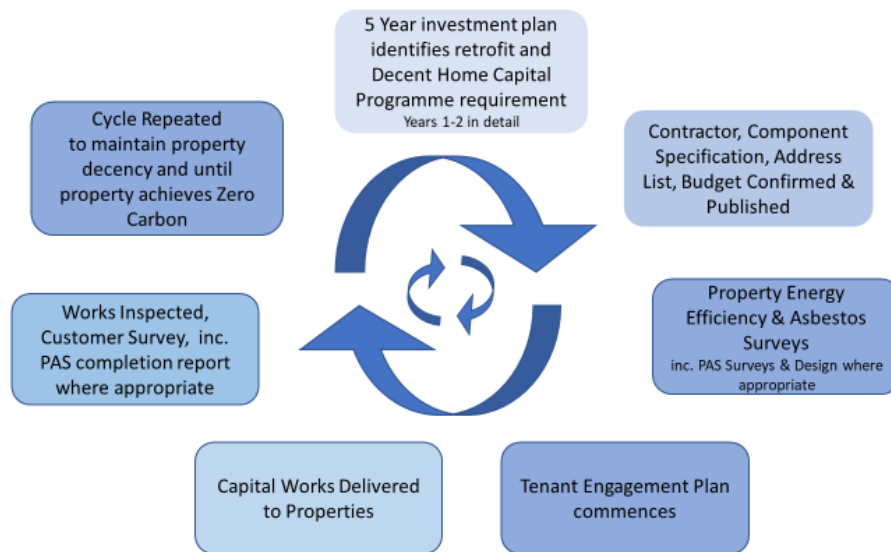
SWT has been working with tenants through the Tenants Strategic Group (TSG), members of the Tenants Working Group (TWG), Damp and Mould Working Group and through two Low Carbon Working Groups including one looking in detail at the 256 zero carbon new build and retrofit homes in North Taunton and the other District wide working group with tenants representing tenants from all over the district to specifically help guide officers on this retrofit strategy and delivery plan. Customers are shaping the procedures we seek to adopt during the retrofit programmes. Below is a list of the most common themes which tenants have raised through these forums:

- Good communication to promote low carbon and zero carbon retrofit in different formats is essential – face to face, newsletters, websites and social media, local open events or drop in opportunities, show houses, tenant liaison officers, housing officers, call centre
- Good communication and doing what is promised will develop more trust and encourage more tenant interest.
- A standardised approach to tenant consultation, engagement and support before, during and after capital works from the Council and its contractors
- Promotion of the benefits of well insulated, warm, healthy and affordable homes to tenants needs to be prominent
- A more personalised approach during consultation with more opportunities for face to face contact and advice prior and during works, such as tenant liaison officers and open events. Easy to read guides and face to face inductions are important to allow tenants to become familiar with any new technology in their homes
- Better use of technology to inform and support tenants including web based information, smart controls, feedback from remote monitoring to evidence homes are more efficient following works
- Timely publication of capital investment programmes enabling tenants to access to information about their home such as an online carbon or fuel calculator.
- Standard policies to be issued at the tender stage to potential contractors which set out SWTs requirements on matters such as customer engagement, additional support for vulnerable customers before and during works and a social value requirement.
- Ensuring homes are left tidy following works
- Showing what works and the benefits for tenants of retrofit through virtual means and show houses
- Joined up messages from SWT officers, trades and contractor about works, the benefits of retrofit and use of components
- Ensuring staff and contractors are wearing the appropriate identify badges when calling on tenants
- A dedicated person (tenant liaison officer) to call or meet when there are questions
- More jobs completed on first visit or within the same programme of work
- Clarity of start and end dates for works prior to work commencing
- Tenants to act as champions promoting the benefits to other tenants



As a result of these themes a number of new initiatives and practices will be actioned. Chart 3 is a circular process which will become common in order to deliver capital works and ensure customer information, engagement and feedback is built into the delivery of capital programmes. The process is cyclical as many homes will need visiting several times to deliver retrofit works over the next two decants and properties also move in and out of decent homes standard as components wear out.

Chart 3; Circular Capital Programme Process



These include:

- The production and use of a number of policy statements when procuring contractors or during capital works carried out by SWT or their contractors. These will include; expected standards of tenant engagement to inform a contractor’s tenant engagement plan. a statement on the expected standard of additional support for vulnerable customers during work programmes and a standard approach to collecting customer satisfaction data. These policies will reflect the need to target the tenant and not the property.
- Work programmes to be designed and agree earlier to allow the timely promotion of works, ensure a good lead in time for consultation in advance of work, reduce access problems and help align more work programmes and surveys to reduce the number of visits to tenants homes
- Build in funding and time to capital programmes to support vulnerable tenants with preparatory works ahead of installation e.g. cleaning lofts and moving furniture.
- The launch of a show house in early spring 2023 to promote low carbon components to tenants, staff, Members and contractors. The show house will include displays and virtual tours of other SWT zero carbon new build and retrofit projects as well as showing materials and technology commonly used in retrofit.
- Identify additional capacity to ensure SWT can prepare and deliver programmes of work in a timely way.

- Set up a leaseholder forum to ensure leaseholders understand the implications of zero carbon for them and the financial contributions they may have to make.
- The development of standardised written information to be used at specific stages of consultation. Ensure we are able to explain why things are needed, and who will be doing them and when they will take place.
- A mechanism to ensure the landlord and its contractors can have better customer insight when engaging customers during works by making best use of the data available through our open system.
- Grown skills and the capacity of the Councils workforce to deliver low carbon works.
- Training and support for SWT colleagues to ensure joined up messages during customer contact
- Ensure contract specifications are clear and the council works with contractors to ensure technical information is clear, correct, and easy to understand.
- Include tenant representatives in the selection of smart controls and devices prior to contract award.
- Continue with the Tenants Low Carbon Working Group in order to support tenant retrofit champions and guide officers as we deliver works, agree work programmes, appoint contractors, and engage with other customers.

## 4. Fuel Poverty and Healthy Homes

### Healthy Homes

The right home environment is the foundation from which we can build healthy and fulfilling lives. Housing affects our wellbeing, risk of disease and demands on health and care services. We need warm, safe and secure homes to help us to lead healthy, independent lives and to recover from illness

Generally speaking, the health of older people, children, disabled people and people with long term illnesses is at greater risk from poor housing conditions. The home is a social determinant of health and as a result is a key driver of health inequalities. Those living in poverty are more likely to live in poorer housing, precarious housing circumstances or lack accommodation altogether.

Tenure is also a key social determinant of health. Generally speaking, 63% of people are owner occupiers, 17% live in social homes, whilst 20% are in the private rented sector

- Owner occupied homes: a shrinking resource and the most (by number) of unhealthy homes. Many are inaccessible and a significant proportion are under-occupied. Many elderly residents own their homes but are income poor
- Social homes: a shrinking resource but the most healthy and accessible homes. Highest proportion of overcrowding. The range of issues will vary dependent on location and provider
- Private rented sector: The biggest proportion of unhealthy homes: The least affordable and least stable. Occupiers have a younger demographic compared to other

Interventions on housing standards are essential to remove health inequalities

The right home environment can:

- Protect and improve health and wellbeing and prevent physical and mental ill-health;
- Enable people to manage their health and care needs, including long-term conditions, and ensure positive care experiences by integrating services in the home;
- Allow people to remain in their own home for as long as they choose. In doing so it can:
  - Delay and reduce the need for primary care and social care interventions, including admission to long-term care settings;
  - Prevent hospital admissions;
  - Enable timely discharge from hospital and prevent re-admissions to hospital;
  - Enable rapid recovery from periods of ill-health or planned admissions.

Key features of the right home environment (both permanent and temporary)

- It is warm and affordable to heat and has adequate ventilation to support good air quality and thermal comfort in extreme conditions.

- It is free from hazards, safe from harm and promotes a sense of security;
- It enables movement around the home and is accessible, including to visitors;
- There is support from others if needed.
- Tenure that is stable and secure

## Fuel Poverty

As noted above, the ability to live in thermal comfort is essential to health, especially for those who are vulnerable by reason of age or disability

The UK and many parts of the world are undergoing significant fuel inflation and both the UK and SWT district have a cost of living crisis which is under-pinned by fuel price inflation and an uncertain economic environment. Many households in the district will experience fuel poverty for the first time this year leading to choices between basic household requirement. A household's fuel poverty status depends on the interaction of three key variables

- Energy efficiency of the home
- Income
- Energy prices

The government have recently (2021) changed the definition of fuel poverty. Fuel Poverty in England is now measured using the Low Income Low Energy Efficiency (LILEE) indicator, which considers a household to be fuel poor if:

- It is living in a property with an energy efficiency rating of band D, E, F or G as determined by the by the most up-to-date Fuel Poverty Energy Efficiency Rating (FPEER) Methodology\*
- Its disposable income (income after housing costs (AHC and energy needs) would be below the poverty line (defined as an equivalised disposable income of less than 60% of the national median)

The definition of fuel poverty has become more nuanced over time. Between 2013 and 2021, the definition was based on variables relating to fuel cost and income. This was the Low Income/High Costs definition. This definition took no regard to the energy efficiency of the home. Prior to 2013, the definition was based purely on the proportion of income that was spent on heating.

A critical factor of the new definition is that, should the home have an energy efficiency rating of A to C, then the residents are regarded as not being within fuel poverty, regardless of income. Key partners have adopted the recent Government change in definition. This includes the Centre for Sustainable Energy (CSE) who are important partners within Somerset Independence Plus (SIP), providing advice on warm homes, as well access to grants

## Low Income Low Energy Efficiency (LILEE) Indicator

The ONS has recently published a detailed analysis of fuel poverty across England, using the LILEE indicator (Annual Fuel Poverty Statistics in England, 2022 (2020

data)). The LILEE indicator is based on statistics collected in the English Housing Survey (EHS) which is a continuous national survey commissioned by the Department of Levelling Up, Housing and Communities (DLUHC). It collects information about people's housing circumstances and the condition and energy efficiency of housing in England.

### Fuel Poverty Gap

Within the recent ONS analysis, it was observed that the average fuel poor household would require a reduction of £223 to their fuel costs to be moved out of fuel poverty, this is the average fuel poverty gap. The average gap in 2020 is 2.3% lower than 2019 (£229) and 34% lower than in 2010 (£339) in real terms. The main reason for the reduction in fuel poor households in 2020 was energy efficiency. 52.1% of low income homes achieved an energy efficiency rating of band C or higher, up from 47.8% in 2019 and just 14.6% in 2010.

Fuel costs for the least efficient properties (band G) are almost three times higher than costs for the most efficient properties (bands A-C) in 2020. It is important to note that, since the publication of the ONS report, the cost of living crisis has impacted many of our poorer households and, undoubtedly, these figures will now be in reverse. This should be considered when reading the following paragraphs.

### Targets

The Government has in place a statutory fuel poverty target which is: To ensure that as many fuel poor households as reasonably practicable achieve a minimum energy efficiency rating of band C by 2030 (currently 52.1% nationally and 68.4% of SWTs stock), with interim targets of band E by 2020 (currently 97.2% nationally and SWT 99.5% ), and band D by 2025 (currently 90.1% nationally and SWT 96%).

The ONS report contains a detailed analysis of fuel poverty data, illustrating many points including:

- The cumulative number of energy efficiency measures installed has increased significantly between 2013 and 2020
- The average gap and proportion of households in fuel poverty is highest for those living in properties with uninsulated walls
- The average fuel poverty gap is highest for detached properties despite these having the lowest rate of fuel poverty
- Smaller properties are more likely to be occupied by the fuel poor
- Households living in properties built before 1919 have the highest share of fuel poverty
- Households living in the South West had the highest average fuel poverty gap (£287)
- Rural households have a much larger fuel poverty gap
- Fuel poor households are more likely to be off the gas grid and have an average fuel poverty gap three times higher than gas households

- The proportion of households in fuel poverty was highest for private renters at 25% whilst owner occupiers (outright owners) have the highest average gap at £292. The lowest gap (£150) was within the social housing sector
- Single parents have the highest proportion of households in fuel poverty and couples aged over 60 have the highest average gap

More detail about fuel poverty across Somerset (and the districts) can be found on the Somerset Intelligence Network (SINe) website, although the data on here is dated 2016 and relates to the previous definitions of fuel poverty.

\* FPEER methodology is based primarily on the Government's Standard Assessment Procedure (SAP) for assessing the energy performance of domestic properties. Building on SAP, the FPEER Methodology also accounts for the impact of policy interventions that directly affect household energy costs. In the same way as SAP, the methodology generates an energy efficiency rating from 0 (lowest) to 100 (highest). This rating is then translated into an energy efficiency 'Band' from G (lowest) to A (highest), in a way that is analogous to a SAP rating being used to generate an overall energy efficiency Band (again from G to A) for Energy Performance Certificates.

#### Fuel Poverty recommendations

It is recommended that SWT adopts the Government definition (EPC C) as a means of measuring those in fuel property. An abbreviated definition for SWT is:

A household is considered to be fuel poor if;

- i). The property has an energy efficiency band rating of D, E, F or G

The council will strive towards achieving EPC C for all SWT rented homes by 2030 in line with the government target. Using this measure SWT can compare itself with national performance and align with key partners for the convenience of funding bids and joint working arrangements. In addition;

- ii). This strategy is recommending that a fabric first ambition of 50kWh/m<sup>2</sup>/yr by 2040 is recognised as an ambitious target for Council homes in order to allow the council to achieve zero carbon and minimise fuel poverty in the District. Achieving a fabric first target of 50kWh/m<sup>2</sup>/yr will allow households with an average regional income to afford to run an electric heating without the additional benefit of Air source heat pump or solar photovoltaic panels and battery storage. The fabric first target would reduce average heat demand by circa two thirds. properties which do not achieve this heat demand target should be automatically for additional energy reduction measures such as Air Source Heat Pumps, Photovoltaic Panels and batteries.

Neighbourhood based programme will be encouraged where certain properties or localities are statistically likely to be more vulnerable.

The council cannot impose on customers rules in relation to the purchase and use of appliances and electrical equipment which they use in their homes. However, over time the Council will replace gas with electric only supply and therefore fossil fuel will not be an option for tenant to heat their home or cook. The Council will;

- Help customers understand how they can save energy in the home through providing advice and information
- Promote the work of other agencies who are seeking to improve resident's health and help people as the cost of living crisis affects more households
- Provide an induction on the low carbon energy saving components of a home during lettings process
- Introduce SMART devices in the customers home to allow customers greater awareness of energy use and the ability to manage their heat and in some cases remote monitoring to allow early intervention.
- Create a more aware workforce which can direct tenants to the support they need should they have questions relating to the energy efficiency of their homes or use of the home's components

## 5. Ensuring affordability to the Housing Revenue Account

The Housing Revenue Account (HRA) of the Council is ring fenced and its income comes from tenants' rents. Most Council rents are set at a 'social rent' which uses a formula which typically sets social rents between 50% and 60% of market rent. SWT for new build homes has recently used 'affordable rent' which is around 80% of market rent. These properties generate more income for the HRA which compensates to a greater degree for the additional costs of building a zero carbon home. The HRA in recent years has been subject to a government imposed rent cap and a cap is also being consulted on by government. Depending on the level at which a rent cap is set the HRA can find that it has to make hard choices and where it priorities spending. In addition, the Right to Buy will mean some homes receiving additional investment will be sold with the sale price unlikely to compensate the council for the additional investment. Local authority and housing association landlords have also adopted higher standards in many areas of their work including compliance and Health and Safety works leading to more costs.

The Council annually sets rent levels within the constraints of the formula. Funding the retrofit strategy will be one of the many considerations for the council when setting rents. Constraints on rents may reduce immediate financial pressures on tenants however this benefit may be offset by a greater proportion of energy inefficient homes for longer.

The cost of achieving zero carbon for the 5797 homes is estimated at £135m which is an average of c£23,700 per property. With little opportunity to create new income the HRA will need to be very efficient in managing its business. Although the general fund is able to provide subsidy to the HRA to deliver the council zero carbon ambition as soon as possible it is assumed this opportunity is remote. The solutions to HRA business plan affordability are to be found in;

- Alignment of decent homes and retrofit programmes
- Maximise subsidy / grants
- Ensure good data influences decisions
- Tenant at the heart of zero carbon
- Selective property disposal or demolition.
- Delivering the retrofit strategy will be one of the considerations for the council when rents are set annually.

### Alignment of decent homes and retrofit programmes

The decent homes programmes have c£50m over the next 5 years (c£10m per year) and has investment built in throughout the HRA business plan. Some spending will be required on essential component replacement of items unrelated to retrofit such as kitchens and bathrooms, but the majority of decent homes components can be specified to contribute to the retrofit strategy.

In considering the decent homes, compliance and retrofit programme as one programme asset managers can make decisions which provide dual purpose. There are a number of components such as windows, doors, ventilation, insulation, lighting,



roofing as well as heating systems and controls which could be installed with a specification appropriate for decent homes, compliance and retrofit requirements. In addition, there are a few retrofit works that could be efficiently done when a property is void and between tenancies although these opportunities should be limited due to the diseconomies of scale.

The 30 year business plan assumes significant levels of funding for these items which can be enhanced to achieve a retrofit specification. The alignment of decent homes, compliance and retrofit works would contribute to reducing the additional cost of delivering zero carbon retrofit. In addition, there may be efficiencies by delivering multiple measures to a property using a whole house approach or package of complementary works. Efficiencies could come from streamlining surveys, tenant consultation and liaison, contract management and collecting post works data and satisfaction.

The delivery plan (appendix 1) provides examples of how retrofit is being aligned to decent homes and compliance programmes.

#### Maximise subsidy and grants

The Council need to be enthusiastic and proactive in pursuing relevant subsidy which is often in the form of government grant or energy company obligation. There are and will continue to be for many years a number of grants each set up to achieve benefits for different tenures (Private Sector, Social Housing) or encourage the delivery of different measures (Insulation, fabric first, fuel switch, tackle solid wall properties, renewable heat and power, etc). Subsidies keep changing and grant rules will keep changing and therefore it is critical that the HRA has an explicit pathway to zero carbon for each property archetype and form.

However, grants should not be pursued without a clear purpose in mind which means the Council asset management service using software such as open assets and archetype pathways to zero carbon must be able to match opportunities with properties. It is also critical that opportunities can be matched swiftly as funders often provide very limited time windows to submit grant and deliver works. Currently we see many grants aimed at a fabric, worst first approach and this reflects the current UK need to reduce the heat demand of homes. Reducing heat demand will have the dual benefit of saving the most carbon for the least investment for the majority of homes and reduce the amount of electricity on a nation scale required for residential use. It should be noted that fossil fuels are still being used to generate a significant amount of grid electricity so a switch early to electricity may not save initially as much carbon as in future years. It is likely that once heat demand reduces, and the grid decarbonises more grants for fuel switch will be introduced to remove fossil based gas domestic heating with mainly electric powered systems. It is also likely that technology will advance significantly over the next twenty years and new components will be encouraged by making grants available.

The delivery plan (appendix 1) provides examples of how SWT is making use of current grants and aligned to decent homes investment to match fund grant requirements. The council is also progressing energy company obligation funding to

provide the capacity, skills and 100% resources to deliver some of the 'worst first' homes.

### Ensure good data influences decisions

In previous sections the strategy has outlined the approach to data collection and analysis. As the council's Open Assets data base becomes more established and more property data is collected and verified the council will be able to be more sophisticated in aligning its investment and disinvestment. Additional resources are being priorities over the next few years to ensure our data is robust, validated, and ready to support grant applications and capital programmes. Although the use of the PAS2035 coordination and assessment will introduce additional surveying costs this approach reduces the likelihood of expensive problems such as damp and mould and failure to achieve the expected energy efficiency improvements (performance gap). The strategy is also encouraging the use of SMART controls on boilers and technology to identify early underperforming properties.

The delivery plan (appendix 1) provides examples of how good data is leading to better use of decent homes capital programme funds and early identification of properties likely to be suitable for subsidises such as Social Housing Decarbonisation Fund 1 & 2 and ECO4.

### Tenant at the heart of zero carbon

In previous sections of this strategy it has been emphasised that the tenant must be at the heart of delivering zero carbon. Where the council and customers both see the merits of zero carbon communication and access to deliver programmes of investment will be more efficient and tenants will benefit from reduced fuel consumption sooner.

It is critical that leaseholders are also engaged early and become aware of the opportunities and potential cost of retrofit works. It is likely that external wall insulation will be one of the opportunities to ensure apartments achieve a low heat demand. The service is aware that leaseholders may have a property asset but may also be on a limited income.

The delivery plan (appendix 1) is promoting the introduction of a number of policies aimed at providing customers with the communication and support they require to welcome retrofit and other capital and compliance works.

### A no regrets approach to zero carbon

Through the greater use of the PAS 2035 approach to surveying homes and designing out problems the council will pursue a no regrets approach. This approach should benefit the service by avoiding issues such as damp and mould by designing these problems out pre investment. The service will need to take a no regrets approach including considering in more detail the large number of homes which are at risk of not achieving 50 kWh/m<sup>2</sup>/yr by 2050 or 2050. Selective disposal of some homes will pass the liability of some of the most expensive properties to retrofit to the private sector but

generate a capital receipt which will strengthen the business plan. The council's ambition is to grow its housing stock rather than dispose of properties will remain foremost when considering options for investment and disinvestment. Additional investment is the likely outcome for many homes. However, to invest in retrofit and new build zero carbon homes the selective sale of some homes following a clear appraisal process is part of a comprehensive asset management and investment strategy.

Although homes are built to last for many years and the council invests in capital programs to maintain them properties do eventually deteriorate with age. Some properties reach a point where the benefit of investment is outweighed by the benefit of demolition. SWT must now consider zero carbon retrofit alongside compliance and decency. The council has experience of demolish homes due to investment in the homes failing to achieve value for money and would not provide quality homes in terms of health or quality of accommodation. It is noted that the demolition and replacement by new build homes has a carbon impact as the carbon already captured in the existing building is lost and the carbon used to build a new home is incurred.

It is recognised that when disposing of a property the private sector may not invest in retrofit works however legislation and grant funding may be available to the private sector which the social housing sector cannot access.

## Conclusion

The Strategy accompanied by its delivery plan will make a significant contribution towards reducing CO<sub>2</sub> from the district housing stock. Housing has a critical role in helping the council respond to the climate change emergency. SWT are setting through this strategy ambitious targets in relation to the retrofitting of its own homes. The three main targets are:

- 2030 SWT homes to be EPC C
- 2040 SWT to strive for a heat demand of 50 kWh/m<sup>2</sup>/yr.
- 2050 All homes to be Zero Carbon

Through the creation of zero carbon pathways for all of the Council's homes based on archetype studies and individual property assessments SWT has a blueprint to guide its investment over the next 20 years and inform customers of the changes their home are likely to undergo. In achieving targets the council believe it will reduce CO<sub>2</sub> by 9,144t pa and make fuel switch away from fossil fuel affordable to customers.

As data and technology improve so the strategy and delivery plan will need to adapt. To reflect the changing environment the strategy will be reviewed every five years as the council progresses towards zero carbon and the delivery plan will be reviewed annually to feed into the housing revenue accounts annual budget setting cycle.

The five main goals of the strategy and delivery plan are;

1. Tenants at the heart of zero carbon
2. All SWT homes to achieve EPC C by 2030 or have an alternative investment option identified. Our current estimation is c300 homes could miss the target.
3. Aim to reduce CO<sub>2</sub> and fuel consumption on average from 135kWh/m<sup>2</sup>/yr. to 50kWh/m<sup>2</sup>/yr. by 2040 through a 'fabric first' approach.
4. Replace fossil fuel in SWT homes with electric based heat and power by 2050 at a pace to ensure affordable energy for tenants and in line with available funds.
5. The investment remains affordable within the constraints of the Housing Revenue Account's annual, medium term and thirty year financial plans.

The estimated cost of delivering this strategy is £135m over twenty-eight years with half the cost in fabric measures (Insulation) and half the cost in fuel switch and renewable heat and power. The estimated costs does not include pre-works, any cost of decanting tenants, early replacement of components and works required as a result of damage or works to facilitate low carbon works. There are a large number of risks associated with delivery this strategy and its targets. If the Council is unable to mitigate these risks the costs and timescales to achieve targets will grow.

The strategy and delivery plan recognise that zero carbon is not affordable to the landlord under its current business plan and therefore it needs to;

- Align Decent Homes Standard improvements with retrofit programmes

- Maximise appropriate grant and subsidy
- Place tenants at the heart of zero carbon
- Ensure good data influences decisions
- Embrace a no regrets approach

SWT has developed this strategy with tenants. In particular, the Council has worked with tenants through the Low Carbon Retrofit Working Group. However, the strategy is also influenced by the Strategic Tenants Group, the Damp and Mould Working Group and the NTWP Works and Low Carbon Working Group. Engagement and communication with tenants is critical if SWT is to achieve zero carbon. Communication prior and during work programmes must be of a high standard and personalised to localities and customers need.



## Low Carbon Retrofit Delivery Plan 2022-2028

October 2022

1. Introduction
  
- 2 Five key delivery principles
  - a) Alignment of decent homes programme and retrofit
  - b) Maximise subsidy and grant
  - c) Ensure good quality data influences decisions
  - d) Tenants at the heart of zero carbon
  - e) A no regrets approach
  
- 3 Risks and challenges to delivery Zero Carbon Retrofit
  
- 4 Achieving targets
  
5. Measuring progress and KPIs

## 1. Introduction

The Council's c5,700 homes are estimated to account for nearly one third of SWTs own carbon footprint. Our modelling predicts that an investment of £135m will achieve zero carbon by 2050 through a fabric first approach (insulation) and then switching fuel from fossil fuel to electric heating systems. The Council has identified £9m-£12m investment through the HRA over the next seven years although if it is successful in partnerships which provide grant the investment over the same period of time is c£31-£57m, see section 2b.

The strategy identified five delivery principles which should be progressed to achieve zero carbon.

- Alignment of decent homes programme and retrofit
- Maximise subsidy and grant
- Ensure good quality data influences decisions
- Tenants at the heart of zero carbon
- A no regrets approach

The critical consideration in the delivery of zero carbon retrofit is the additional financial pressures place on the Housing Revenue Account (HRA). The HRA of the Council is ring fenced and its income comes from tenants' rents. The HRA has limited opportunities to increase its income and there are many pressures on expenditure. The HRA business plan has very limited capacity to manage the scale of investment identified in the strategy whilst keeping within good financial parameters.

Most Council rents are set at a 'social rent' which uses a formula that typically sets social rents between 50% and 60% of market rent. SWT for new build homes has recently set rents at 'affordable rent' levels which is around 80% of market rent. These properties generate more income for the HRA which compensates to a greater degree for the additional costs of building zero carbon homes. The Council cannot switch social rented homes to affordable rented homes to increase income.

The environment social landlords operate within, including the Council, continues to change. Recently there have been requirements to adopt higher standards in areas such as compliance and fire safety and there is new legislation requiring higher service standards and greater tenant engagement. In addition to new pressures investment in replacement components in an aging stock through its capital programme is essential to maintain homes to the decent home's standard. The service losses c35 homes per year through the Right to Buy and although the council will be increasing its investment in zero carbon measures some homes will be sold with the sale price unlikely to compensate the council for the additional investment. Most business plan commitments are essential to be a good landlord and comply with statute and therefore there are few aspects of spending which are optional and could be curtailed. New build homes in general support the long term HRA business plan especially if 'affordable rents' are applied and where demolition is not required.

The cost of achieving zero carbon for the c5700 homes is estimated at £135m by 2050 which is an average of £23,700 per property. With little opportunity to create new income the HRA will need to be very efficient in managing its business. The general fund is legally able to provide financial support to the HRA to deliver the council zero carbon ambition or deliver works at a faster pace. However, it is assumed this



opportunity is remote as the general fund has many calls on its income. The recommended solutions to delivering zero carbon retrofit is to apply the five key delivery principles. Embracing these principles will be challenging and require commitment and capacity.

This delivery plan is not set in stone and will be reviewed annually as more is understood about our homes, grants evolve, new technologies develop and the council grows in confidence at delivering zero carbon retrofit. There are many challenges and risks and the strategy is extremely ambitious in its targets in particular the lowering of heat demand to c50kWh/m<sup>2</sup>/yr. Nonetheless the opportunity to move towards zero carbon at a faster pace than many landlords exists for SWT and the service is seeking to embrace the change required.

## 2. The Five Key Delivery Principles

### a) Alignment of decent homes and retrofit programmes

Through aligning programmes the service will deliver low carbon measures through existing business plan funding. In addition, this existing funding acts as match funding for grant applications. The specifications of Decent Homes items such as windows, doors, insulation, roofs, boilers and ventilation would be varied to reflect the low carbon pathway requirement of homes. In addition, a “no regrets” approach would be progressed through the use of PAS 2035 standards and pathways reducing the risk of replacing components before their decent home’s life expectancy has ended. This approach allows existing budgets to be maximised in the pursuit of retrofit as well as decency.

The decent homes capital programmes has c£50m investment identified over the next five years in the HRAs Medium Term Financial Plan (MTFP) and the business plan allocates decent homes funding throughout the 30 year business plan. Some spending will be required on essential component replacement of items unrelated to retrofit such as kitchens and bathroom but the majority of decent homes components can be specified to contribute to the retrofit strategy. Each year the council approve the HRA capital programme budget. The annual budget round will need to approve the budget and any grant match funding available to the service to deliver on its decent homes, retrofit and new build targets. Delegations of authority to ensure grants can be accessed without lengthy governance requirements will be essential to help submit grant applications. Whilst working to deliver retrofit targets the council must also maintain compliance and stock decency (decent homes standard). To align decent homes and retrofit there is a need to:

- Better define the roles of asset management and capital investment team
- Resource the service in particular the asset management team to ensure data is accurate, surveys to check assumptions and to create specifications, support and capacity for contract procurement
- Recalculation of budget for different decent homes components bringing some items forward and placing some items in later years.

- Create a packaged approach to capital works delivery in place of the single item only approach.

In considering the decent homes capital programme and retrofit programme as one programme asset managers can make decisions which provide a dual purpose. There are a number of components such as windows, doors, ventilation, insulation, lighting, roofing as well as heating systems and controls which could be installed with a specification appropriate for decent homes, compliance and retrofit requirements. In addition, there are a few retrofit works that could be efficiently done when a property is void and between tenancies although these opportunities should be limited due to the diseconomies of scale.

Some components have limited overlap with low carbon retrofit such as kitchens and bathrooms and therefore programmes of replacements can continue generally separate to retrofit investment. It should be noted that as the council's retrofit delivery becomes more advanced even bathrooms and kitchens capital programmes may change to allow greater low carbon benefits for example allowing bungalows with concrete floors to benefit from floor insulation when kitchen and bathrooms are being replaced. However, in the short term the service recognises that the majority of decent homes components such as surveys, roofs, windows, doors, insulation, ventilation and heating systems can be specified differently to provide retrofit as well as decent homes.

Ideally many components would be replaced simultaneously to provide the greatest benefit for the customer and ensure components are designed in a way which are complementary. However, one of the challenges of optimising decent homes and retrofit alignment is the life cycle of components. Components which are replaced before their life cycle due date will cost the HRA business plan more and therefore inflate the investment needs. Table 1 sets out some of the consideration now required to align decent homes and retrofit.

Table 1 – Some considerations when aligning decent homes and low carbon retrofit

Decent Homes components and their potential to contribute to low carbon retrofit		
Component	Decent Homes Life Cycle	Potential contribution
Surveys	N/A	Surveys could capture retrofit benefits as well as stock condition and EPC data. The use of the PAS 2035 approach will be required when requesting government grant/subsidy
Kitchens	20 yrs	The timing of the replacement and plumbing can help ensure external wall insulation is not disturbed or spoilt. Where there are bungalows with concrete floors needing floor insulation the insulation abortive costs will be avoided if delivered simultaneously with kitchen and bathroom replacement.
Bathrooms	30 yrs	
Roofs inc. insulation, rainwater goods, scaffold, pointing	50 year+	External Wall insulation will be an essential requirement for many homes achieving retrofit targets. There may be cost savings by aligning wherever possible roof replacement and external wall insulation as well as windows and doors. However the more components included in a programme the greater the likelihood that components will be replaced before their anticipated life cycle end date. Additional loft insulation up to 400mm will be the standard in pitched roofs and flat roofs will need a higher insulation quality than present. Grant regimes which allow many components to be replaced simultaneously will be enthusiastically explored.
Windows	30 yrs	Increasing the U value of windows from standard building regulations of 1.4 to 1.3, 1.2, 1.1 or 1 will improve efficiency of homes. Many SWT homes have U values of 1.8 due to their age creating an opportunity for improvement. However the replacement of windows where external wall insulation will follow overtime will lead to design challenges and aesthetic problems for example wider frames. Grant regimes which allow many components to be replaced simultaneously will be enthusiastically explored.
External Doors	30 yrs	Increasing the U value of Doors to 1.2 or less will improve efficiency of homes. Many SWT homes have U values of 1.8 due to their age creating an opportunity for improvement. However the replacement of Doors where external wall insulation will follow overtime will lead to design challenges and aesthetic problems for example wider door frames. Grant regimes which allow many components to be replaced simultaneously will be enthusiastically explored.
Insulation	N/A	Significant increased investment in external wall insulation, cavity insulation, replacement cavity insulation, floor and loft insulation will be required to achieve heat demand targets. Grant regimes which allow many components to be replaced simultaneously will be enthusiastically explored.
Ventilation	N/A	pre works surveys and component specification will consider ventilation in significant detail to avoid problems such as damp and mould as homes become better insulated. Some properties will require mechanical ventilation and heat recover and this would be disruptive.
Heating	10-15 yrs	SWT have a well established low energy specification for replacement boilers. This has a significant benefit on a properties EPC rating/ SAP rating. Where a property is well insulated and grants are available fuel switch to Air Source Heat Pumps or quantum heater will be considered. However more homes will see their gas heating renewed as part of cyclical programmes over the next few years and then at their next renewal cycle fuel with will be more likely.

The service is also seeking to provide a wraparound package of simple works when delivering window and boiler replacement programmes. This 'Fuel Saving Box' will consist of components and one visit installation service. The visit will check against the 'Fuel Saving Checklist' and install if components are not present. The checklist includes:

- Thermostatic radiator valves (TRVs)
- Boiler SMART controls and potentially remote monitoring
- Loft insulation (400mm)
- Simple draught proof measure

- Low energy light bulbs
- Energy powerdowns
- Mechanical ventilation where passive systems are in place
- The package will also provide the customer with a 100 ways to save energy booklet

A new EPC would be carried out shortly after the visit and the council shall develop a means of customers accessing energy performance data on their home.

b) Maximise subsidy and grants

The Council should be enthusiastic and proactive in pursuing relevant subsidy which is often in the form of government grant or energy company obligation. There are and will continue to be for many years a number of grants each set up to achieve benefits for different tenures (Private Sector, Social Housing) or encourage the delivery of different measures (insulation, fabric first, fuel switch, tackle solid wall properties, renewable heat and power, etc). Subsidies keep changing and grant rules will keep changing and therefore it is critical that the HRA has an explicit pathway to zero carbon for each property archetype and form. The housing service will also need the resources to apply and manage multiple grant programmes. To allow access to grant the service requires sufficient delegated authority to allow grant funding to be progressed as the time window and requirements may not fit current approval timescales and increase the risk of bid failure or delivery failure.

However, grants should not be pursued without a clear purpose in mind which means the Council asset management service using software such as open assets and reference to archetype pathways to zero carbon must be able to match opportunities with properties. Currently we see many grants aimed at a fabric, worst first approach and this reflects the current local and nationwide need to reduce the heat demand of homes. It may also be the case that grants come with conditions and contracts. Sometimes the benefits of the grant funding will be significantly offset by the contract conditions especially where the grant does not align to the council's strategic priorities and stock requirements.

Currently the main subsidies for social housing are:

- Social Housing Decarbonisation Fund Wave 1 & 2 . This grant is aimed at worst first homes moving them to EPC C and a heat demand of 90kWh/m<sup>2</sup>/yr. Wave 2 is significantly less beneficial than Wave 1 as cost caps have been lowered and match funding requirements increased. Wave 1 provided 2/3 grant contribution and a property cap of £10k-£16k. Wave 2 provides a 50% contribution and cost cap of £5k-£10k. With both waves an additional revenue grant of 15% of the grant share can be claimed for both waves. Obviously, the capital grant is a smaller proportion in Wave 2 and therefore more dwellings are required in the bid if the revenue element is to be significant. The service has struggled to deliver Wave 1 outcomes and it is critical that both resources and procedures need to be considered in order to be successful.

ECO4 – Energy company obligation ECO4 is replacing ECO3. This is a 100% grant and can be used to move properties two EPC bands. This will often require

some form of wall insulation plus other fabric and potentially renewable heat measures. The funding is likely to be ideal for solid wall, non traditional and block properties as well as properties which require cavity wall insulation. The service is finalising a £25m neighbourhood ECO4 scheme with E-ON and their contractors. If successful, this may benefit council stock in excess of c£6m-£19m and private rented accommodation by c£5m-£19m. The service has identified the first scheme area which contains significant local authority homes and the contractor is ready to carry out surveys on a second potential scheme area if the contract is completed. The Neighbourhood scheme with E-ON is important to the service as it requires limited capacity from the council who will mainly agree measures and quality checks. The funding is comprehensive and the works will take properties closer to zero carbon than SHDF which has a more limited ambitions.

To illustrate the importance of grant tables 2 summaries the number of units and value of the programme with or without grant based on three delivery plan scenarios. The HRA business plan without grant could invest c£9m and benefit 937 homes over seven years. Within seven years £12m HRA funding could deliver a £31m programme and benefit 2001 homes. Should grant cease after 2026 the HRA would need to invest proportionally more to continue along the pathway to zero carbon. In the third scenario £19m of grant would be supported by £37m of HRA investment and benefit 2701 homes.

Table 2 – HRA investment strategy with grant 2022-2029 (Low)

Comparison of programme with and without grant 2022-2029			
	No Units	Programme Value	% funded by grant
Without Grant (HRA funding only)	937	£9,000,000	0.00%
With Grant and £12m HRA contribution	2001	£31,000,000	60.35%
With Grant and £37m HRA Contribution	2701	£57,100,000	33.68%

Tables 3 and 4 provide two scenarios (high grant low HRA funding scenarios) of the potential investment levels 2022-2029 with grant. The illustrations only include grant funding for the first four years as grants post 2025 are unknown although it is highly likely they will be available.

In table 3 (high grant but low HRA investment scenario) we see how c£31m of decent homes, capital programme, energy company obligation and social housing decarbonisation fund Wave 1 & 2 could deliver retrofit improvement to 2001 units 2022-2029 of which 701 units would have received significant whole house retrofit works in one visit. The service has identified c£18.74m of grant funding for the delivery of works up to 2025. Grant programmes by their design tend not to be know many years in advance and therefore more grants are likely in years 2025-2029. The annual capital programme budget approval, MTFP and 30 year business plan are the mechanisms to be used to ensure funding requests are affordable to the HRA.

**Table 3 – HRA investment strategy with grant 2022-2029 (high grant and low HRA investment scenario)**

Low Carbon Retrofit Investment scenario 2022-2029 (High grant, low HRA investment)						
		UNITS	SUB TOTAL	GRANT	SWT Cost Total	% of grant
2022	2023	223	£2,269,250	£825,000	£1,444,250	36.4%
2023	2024	517	£8,770,750	£6,520,000	£2,250,750	74.3%
2024	2025	554	£8,799,000	£6,490,000	£2,309,000	73.8%
2025	2026	389	£7,353,000	£4,905,000	£2,448,000	66.7%
2026	2027	109	£1,698,000	£0	£1,698,000	0.0%
2027	2028	109	£1,560,750	£0	£1,560,750	0.0%
2028	2029	100	£600,000	£0	£600,000	0.0%
TOTAL		2001	£31,050,750	£18,740,000	£12,310,750	60.35%
AVE OVER 7 YEARS			£4,435,821	£2,677,143	£1,758,679	

In table 4 (high grant and high HRA investment scenario) we see how c£57m of decent homes, capital programme, energy company obligation and social housing decarbonisation fund Waves 1 & 2 could deliver retrofit improvement to 2701 homes before 2029. The number of homes receiving significant whole house retrofit works in one visit would also be 701 units although 500 more homes would receive at least one new measure. The grant funding would be slightly higher at £19.2m. The table tries to emphasis the importance of grant in delivering the scale of investment required to achieve zero carbon. Although the HRA could continue to align decent homes funding and retrofit it is unable to sustain the pace of change without maximising grant. As in table 3 grant has not been assumed from 2026-2029 although it is likely grant funding will be available for SWT to submit bids.

**Table 4 – HRA Investment Strategy with grant 2022-2029 Summary (High grant and high HRA investment scenario)**

Low Carbon Retrofit Investment scenario 2022-2029 (High Grant/High HRA investment)						
		UNITS	SUB TOTAL	GRANT	SWT Cost	% of
2022	2023	223	£2,269,250	£825,000	£1,444,250	36.4%
2023	2024	517	£8,770,750	£6,520,000	£2,250,750	74.3%
2024	2025	554	£8,799,000	£6,490,000	£2,309,000	73.8%
2025	2026	489	£11,078,000	£5,405,000	£5,673,000	48.8%
2026	2027	309	£9,148,000	£0	£9,148,000	0.0%
2027	2028	309	£9,010,750	£0	£9,010,750	0.0%
2028	2029	300	£8,050,000	£0	£8,050,000	0.0%
TOTAL		2701	£57,125,750	£19,240,000	£37,885,750	33.68%
AVE OVER 7 YEARS			£8,160,821	£2,748,571	£5,412,250	

### c). Ensure good quality data influences decisions

The strategy has outlined the required approach to data collection and analysis. As the Council's Open Assets data base becomes more established and more property data is collected and verified the council will be able to be more sophisticated in aligning its investment and disinvestment. Additional resources are being prioritised over the next few years to ensure our data is robust, validated, and ready to support grant applications and capital programmes. Although the use of the PAS2035 quality assurance process will introduce additional survey and design costs this approach reduces the likelihood of expensive problems such as damp and mould and failure to achieve the expected energy efficiency improvements (performance gap). The strategy is also encouraging the use of SMART controls on boilers and technology to identify underperforming properties early and remotely.

The council's open assets database is populated with our stock condition data which supports the decent homes programme. The retrofit programme and decent homes programme are now coming together as the single capital programme with the aim of timely investment to ensure all SWT homes are achieving the decent homes standard and also achieving the low carbon and zero carbon standards.

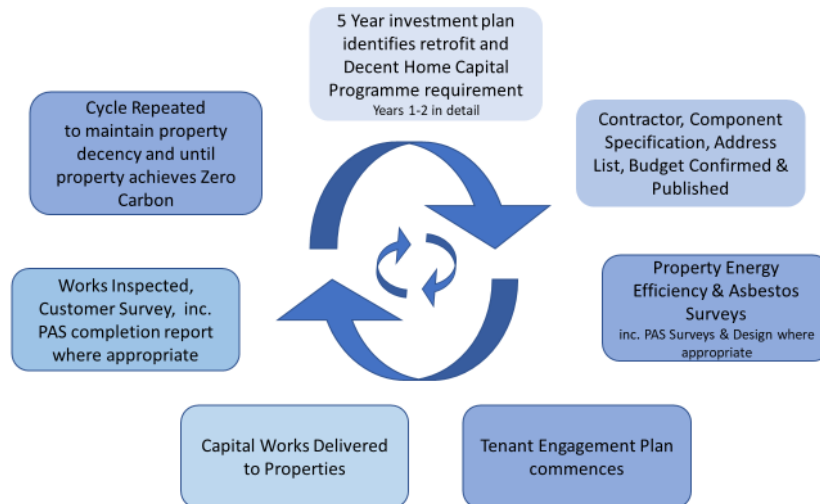
The service has identified a significant budget in its capital programme to carry out appropriate surveys to ensure capital investment can be delivered efficiently and to the appropriate standard.

### d) Tenants at the Heart of Zero Carbon

In previous sections of this strategy, it has been emphasised that the tenant must be at the heart of delivering zero carbon. Where the council and customers both see the merits of zero carbon communication and access for deliver teams will be more efficient and tenants will benefit from reduced fuel consumption sooner.

The strategy has emphasised the need to have high levels of customer support and awareness to ensure works can be delivered in homes efficiently. This will require improvements to the current practices including surveying, stock analysis, procurement, communication, engagement, quality of delivery, tenant support including to the most vulnerable, leaseholder engagement and monitoring post works. Diagram 1 presents a picture of perpetual engagement, learning, data refinement, surveying, programme delivery and quality checks. This continuous cycle and joined up approach provides significant efficiency when delivering the landlords ongoing investment.

Diagram 1; Customers are the key to successfully achieving Zero Carbon



It is critical that leaseholders are also engaged early and become aware of the opportunities and potential cost of retrofit works. It is likely that external wall insulation will be one of the opportunities to ensure apartments achieve a low heat demand. The service is aware that leaseholders may have a property asset but may also be on a limited income.

SWT will continue to work with Tenants to agree improvement in communication and the delivery process. As a result of tenants suggestions, the following actions will be progressed:

- Personalise tenant engagement when planning, delivering and evaluating works.
- The production and use of a number of policy statements when procuring contractors or during capital works carried out by SWT or their contractors. These will include; expected standards of tenant engagement to inform a contractor’s tenant engagement plan. a statement on the expected standard of additional support for vulnerable customer during work programmes, a standard approach to collecting customer satisfaction data, a social value statement/requirement. These policies will reflect the need to target the tenant and not the property.
- Work programmes to be designed further in advance to allow the timely promotion of works, ensure a good lead in time for consultation in advance of work, reduce access problems and help align more work programmes and surveys to reduce the number of visits to tenant’s homes
- Build in funding and time to capital programmes to support vulnerable tenants with preparatory works ahead of installation e.g. cleaning lofts and moving furniture.
- The launch of a show house in early spring 2023 to promote low carbon components to tenants, staff, Members and contractors. The show house will include displays and virtual tours of other SWT zero carbon new build and retrofit projects as well as showing materials and technology commonly used in retrofit.
- Identify additional capacity to ensure SWT can prepare and deliver programmes of work in a timely way.



- Set up a leaseholder forum to ensure leaseholders understand the implications of zero carbon for them and the financial contributions they may have to make.
- The development of standardised written information to be used at specific stages of consultation. Ensuring the council is able to explain why things are needed, and who will be doing them and when they will take place.
- A mechanism to ensure the landlord and its contractors can have better customer insight when engaging customers during works by making best use of the data available through our open system.
- Grown skills and the capacity of the Councils workforce to deliver low carbon works.
- Training and support for SWT colleagues to ensure joined up messages during customer contact
- Ensure contract specifications are clear and the council works with contractors to ensure technical information is clear, correct, and easy to understand.
- Include tenant representatives in the selection of smart controls and devices prior to contract award.
- Continue with the Tenants Low Carbon Working Group in order to support tenant retrofit champions and guide officers as we deliver works, agree work programmes, appoint contractors, and engage with other customers.

#### e). A no regrets approach to zero carbon

A no regrets approach is one where the investment of the council does not lead to unexpected and negative consequences such as damp and mould, unsustainable household fuel costs or the early replacement of retrofit measures due to specifications not being joined up with compliance or decent homes or insufficient foresighted enough.

Landlords conduct EPC surveys as part of the lettings process to ensure incoming tenants are able to be informed of the energy efficiency of their home. EPCs are based on SAP and have traditionally be used as the key measure to understand the stocks energy efficiency. SWT will continue to collect EPC data as this is important to bid for grant and remains a requirement when letting homes. However, the council will turn increasingly towards measuring success by measuring a homes heat demand.

Government and landlords have been concerned about the problems which have arisen as bi-products of inappropriate Decent Homes surveys, works, work specifications, design or components. Issues such as damp and mould or cold bridging are examples of these failings. The service will identify a means of evidencing right first time and no regrets.

To support a 'no regrets' approach SWT will use the PAS2035 assessment and design approach in all projects involving grant and extend this where it is felt the works are sufficiently complex to merit the investment. The service will without many exceptions require contractors to have the TrustMark accreditations which sets standards for works delivery, warranties and quality.

Through the use of the PAS 2035 approach when surveying homes and greater consideration in designing the works the service will reduce problems and pursue a

no regrets approach. This approach should benefit tenants and the service by avoiding issues such as damp and mould pre investment.

A no regrets approach will also have to consider getting financial investment 'Right First Time'. This will mean greater analysis to join up compliance, decent homes and retrofit programmes and option appraisals to consider disposal of properties which will not provide value for money through investment. Although homes are built to last for many years and the council invests in capital programs to maintain them properties do eventually deteriorate with age. Some properties reach a point where the benefit of investment is outweighed by the benefit of demolition. SWT must now consider zero carbon retrofit alongside compliance and decency. The council has experience of needing to demolish homes as retaining homes would not provide quality homes in terms of health or quality of accommodation. It is noted that the demolition and replacement by new build homes has a carbon impact as the carbon already captured in the existing building is lost and the carbon used to build a new home is incurred. Selective disposal of some homes will pass the liability of some of the most expensive properties to the private sector but generate a capital receipt which will strengthen the business plan and in so doing protect investment in new or existing homes. The council's ambition is to grow its housing stock rather than dispose of properties will remain foremost when considering options for investment and disinvestment. Additional investment is the likely outcome for many homes although the extra funding would need to be identified. It is recognised that when disposing of a property the private sector may not invest in retrofit works however legislation and grant funding may be available to the private sector which the social housing sector cannot access.

### 3. Risks and the challenges of delivering zero carbon retrofit

The strategy and delivery plan recognises that delivering zero carbon retrofit is very complex. National experience has shown good examples of retrofit but also many challenges. A significant number of risks have been identified and appendix 3 of the Strategy contains a comprehensive list of risks and mitigations. In addition, low carbon retrofit is one of the risks within the directorates risk register. Risks tend to fall into the following main themes:

- Zero carbon retrofit could be unaffordable to the HRA business plan
- Failure to collect appropriate data
- Inability to achieve low heat demand for the majority of homes leading to challenges in relation to fuel poverty when switching fuel
- Failure to engage tenants and leaseholders affectively
- Inability to procure contractors
- Failure of the national grid to be decarbonised
- Lack of appropriate grant opportunities

### 4. Achieving 2040 Targets

Although the investment pre 2030 is moderate the greater challenge is to bring homes up to the 2050 zero carbon standard.

The average cost of bringing SWT homes up to EPC C is £3.2k which is a moderate business plan investment. According to our data SWT has c1300 homes which are in EPC band D (SAP 55-69) but within 0.5 - 6 SAP points of EPC C (SAP 69.5 - 80). Properties receiving a combination of small measures could benefit from 0.5 - 6 SAP points. The service aim to use the following two approaches to move many properties to EPC C:

- A large window replacement programme replacing double glazed windows due for replacement pre 2030 with higher quality double glazed windows which have an improved thermal efficiency standard minimum 1.2U value. Some doors will also be replaced to a higher thermal standard and a wraparound package of small measures called the 'Fuel Saving Box' will be installed where possible.
- A structured boiler replacement programme replacing heating systems with more efficient heating system. The service will also investigate new SMART controls to help customers manage their fuel usage and some technology to help the service remote monitor the house to identify properties not conforming to the expected efficiency. The boiler replacement programme will also receive a wraparound package of small measures called the 'Fuel Saving Box'.

On average homes will cost c£24k to bring to the zero carbon standard. This costs does not include any disruption costs or complementary work such as decanting, refixing of components disturbed during work, early replacement of components before their anticipated failure date or inflation. The council do have some outliers which will cost substantially more such as Woolaways, Cornish and some of the other non-traditional properties as well as pre 1930 stock and solid wall properties. These properties will be the hardest and most expensive to fund and accessing schemes such as ECO4 becomes very important to ensuring affordability to the HRA.

SWT will strive to achieve 50 kWh/m<sup>2</sup>/yr for all SWT homes by 2040. This will require c£66m of investment in Fabric measures. Around c5000 homes will receive c22,000 fabric measures which are assumed to include:

- £31m Improved wall insulation such as External Wall insulation
- £31m Glazing
- £1.6m Roof insulation
- £1.7m Ventilation including mechanical ventilation
- £100k low energy lighting

The stock will see an increase in the use of external wall insulation. The service will need to invest in software and staff capacity to help analyse retrofit and decent homes data to identify and cost programmes delivering multiple fabric first measures and a whole house approach. Between 2028 and 2040 the alignment of decent homes and retrofit will remain in significant focus as multiple measures delivered simultaneously will reduce costs and reduce tenant disruption. It is likely that to achieve the ambitious heat demand targets some additional measures will be introduced during void works such as floor insulation in particular for bungalows. The decanting of tenants will significantly increase the complexity of the works programme and incur significant costs and complications and therefore most measures identified will be carried out whilst tenants remain in their homes.

## 5. Measuring progress and KPIs

The service has a Programme Board and a Performance Board. The annual capital programme is reported to the programme Board and this structure will continue to monitor the progress of elements of the capital programme which have a low carbon benefit including boiler replacement, window, door, roof and insulation. In addition, any grant funded programme will be reported through the Programme Board.

The Performance Board will receive updates from the asset management team on progress against KPI target. Proposed KPI targets include:

- Average stock SAP and EPC score (initially from parity software but eventually from SWTs own records, annual or biannual KPI)
- Number of units with an EPC score 69 or less (EPC D, E, F, G) (initially from parity software but eventually from SWTs own records, annual or biannual report)
- Number of units moving from EPC D, E, F, G to C, B or A within quarter/year (initially from parity software but eventually from SWTs own records, annual or biannual report)
- Grant awarded and % of grant claimed
- Average stock Heat Demand (this will be an annual report and will be based on archetype studies and post works surveys)
- Number of units with a heat demand 91 or higher, 90-71, 70-50, 50 or less (this will be an annual report and will be based on archetype studies and post works surveys)
- Number of properties with electric heat and power / Number of units with fossil fuel.
- Number of homes with PV
- Number of homes with Air/Ground Source Heat Pumps
- Number of homes predicted to fall out of decency for each of the next 5 years under agreed MTFP

## Archetype Studies – Zero Carbon Pathways

- 1 SWT is creating c12 high level archetype pathways to zero carbon (table 2) which also consider a properties form (bungalow, house, apartment). This strategy places significant emphasis on the archetype studies to establish our base line, targets and pathways to zero carbon.
- 2 The importance of zero carbon pathway modelling is critical to understand the investment decisions including the sequence of investment based on a fabric first approach.
- 3 The Council has 14 SWT property archetypes (Table 1). These high level studies cover 96% of SWT homes and will ultimately be transparent to allow tenants, staff and Members to understand how SWT plan to achieve zero carbon and reduce fuel usage for each home/archetype. As more individual property studies are conducted baselines, targets and pathways will be refined.

Table 1 - Profile of SWT stock by archetype

Archetype	SWT Units
Conventional	4417
Easiform	407
Cornish PRC	359
Woolaway*	218
Airy	24
BISF	77
HSG REV AC	1
Relocat	10
Special PP	3
Rema PRC	43
Stanard WIC	8
Tru-steel	24
Concrete	63
Timber	52
	5706

\* Some woolaways are currently under demolition

- 4 Table 2 is a summary of the baseline for archetypes and the optimum reduced heat demand each archetype could achieve following its Zero Carbon Pathway. These archetype templates help officers understand the measures and sequence of investment to achieve zero carbon. These studies show the importance of considering each archetype on its merit and these high level studies are followed

by whole house and block surveys often using the PAS 2035 assessment process.

**Table 2 – Property Architype Studies**

SWT Architype Studies 2022						
Architype	% of SMT Stock	Units	Heat demand Baseline (kWh/m2/yr)	Ambitious 2040 Heat demand (kWh/M2/yr)	Modelled 2040 heat demand as % of 2022 heat demand	
1	77.40%	4417	130	49.75	30.62%	
2				25		
3				41.25		
4	3.80%	218	170	37	29.41%	
5				37		
6	6.30%	359	160	65	40.63%	
7				65		
8				65		
9	7.10%	407	139	57	38.13%	
10				53		
11				53		
12	1.30%	77	159	56	35.22%	
13	4.10%	228	No Architype studies planned assume 130	50	38.46%	
	100.00%	5706	135	42	32%	

- 5 Below are a number of examples of Zero Carbon Pathways. Each pathway provides a guide to the investments required to achieve the optimum reduced heat demand.
- 6 The tables shown in the left hand column the main retrofit components and their baseline qualities. Reading to the right the low carbon qualities of the architype improve with the right hand column considered the best low carbon standard.
- 7 The strategy has set a heat demand of c50kWh/m2/yr and therefore the optimum investment and measures will be to the right of the table but not necessarily the furthest right. It must be remembered that if the architype is using electric heat and power then with a decarbonised grid the property will be Zero Carbon.
- 8 Architype studies are helpful in modelling and creating broad investment decisions. However each property will need to be surveyed and considered on its own merit and peculiarities. Individual property assessments will often lead to low carbon property designs.
- 9 The architype studies have identified some common requirements for example most of SWTs homes will require external wall insulation, double glazing with a minimum u value of 1.2 and doors with a U value of between 1 and 1.2, loft insulation to a depth of 450mm and some form of mechanical ventilation.

- 10 The archetype studies have also identified that disruptive floor insulation can be avoided in all properties except bungalows if walls, windows, roofs and doors achieve the higher standard. Insulating under wooded floors is significantly more practical than insulating on top of concrete floors. Insulating concrete floors require surface insulation which raises the floor level and has an impact on many other components such as kitchen units, skirting, stairs and their falls, door heights and bathroom furniture.
- 11 On the following pages are a sample of archetype studies and pathways to zero carbon

Pathway to Zero Carbon – System Built non traditional semi-detached house

Project Ave	Baseline	Fabric <90 kWh/m <sup>2</sup>	EPC-B	EPC-A
<b>EPC Information</b>		EWI/DOORS & WINDOWS/APS0/MEV	...plus PV	...plus FLOOR/ASHP/MVHR/APS0
Existing EPC	<b>E-48</b>			
Full SAP EPC Rating	<b>E-48</b>	<b>C-73</b>	<b>B-89</b>	<b>A-95</b>
Final Heat Demand (kWh/m <sup>2</sup> /year)	<b>193</b>	<b>49.75</b>	<b>49.75</b>	<b>25</b>
Floor U-Value	0.73	0.73	0.73	0.18
Wall U-Value (Sys Build)	2	0.2	0.2	0.2
Roof U-Value	2.4	0.13	0.13	0.13
Door U-Value	2.85	1.2	1.2	1.2
Window U-Value	2.7	1.2	1.2	1.2
Air Tightness	9.78	5	5	3
Solar PV KWP			3	3
ASHP				YES
Ventilation Type	IEV	MEV	MEV	MVHR
Thermal Efficiency				90%




Pathway to Zero Carbon – Easiform non traditional apartment

Property: Flat 	Baseline	Phase 1A < 90kWh/m²/yr	Phase 1B – EPC C	Gas Option	Phase 2 – EPC B	Phase 3 – NET Zero Future
EPC Information		CWI + Openings	Phase 1A + MVHR	Phase 1B – Gas boiler** instead of ASHP	Phase 1B + Solar	Phase 2 + EWI
Existing EPC	<b>D-56</b>					
Full SAP EPC Rating	<b>D-60</b>	<b>C-69</b>	<b>C-72</b>	<b>C-73</b>	<b>B-82</b>	<b>B-85</b>
Final Heat Demand (kWh/m²/year)	<b>138.7</b>	<b>65.4</b>	<b>56.9</b>	<b>62.9</b>	<b>56.9</b>	<b>35.5</b>
Floor U Value	0.80	0.80	0.80	0.80	0.80	0.80
Wall U-Value Level*	1.23	<b>0.52</b>	0.52	0.52	0.52	<b>0.18</b>
Roof U-Value	N/A	N/A	N/A	N/A	N/A	N/A
Door U-Value	3.00	<b>1.20</b>	1.20	1.20	1.20	1.20
Window U-Value	2.80	<b>1.00</b>	1.00	1.00	1.00	1.00
Air Tightness (AP50)	4.99	<b>3.00</b>	3.00	3.00	3.00	3.00
Solar PV KWP					<b>1.5 (SW)</b>	1.5 (SW)
ASHP	Daikin	Daikin	Daikin		Daikin	Daikin
Ventilation Type	None	None	<b>MVHR</b>	MVHR	MVHR	MVHR
Thermal Efficiency						


Pathway to Zero Carbon – conventional brick built Bungalow

	Baseline	Fabric <90 kWh/m <sup>2</sup>	EPC-B	EPC-A
<b>EPC Information</b>		EW/DOORS & WINDOWS/AP50/MEV	...plus PV	...plus FLOOR/MVHR
Existing EPC	E-43			
Full SAP EPC Rating	<b>E-45</b>	<b>C-73</b>	<b>B-91</b>	<b>A-96</b>
Final Heat Demand (kWh/m <sup>2</sup> /year)	<b>188</b>	<b>83.25</b>	<b>83.25</b>	<b>41.25</b>
Floor U Value	0.77	0.72	0.72	0.18
Wall U-Value	1.55	0.18	0.18	0.18
Roof U-Value	0.27	0.13	0.13	0.13
Door U-Value	3.05/4.5*	1.2	1.2	1.2
Window U-Value	2.8	1.2	1.2	1.2
Air Tightness	6.57	3	3	3
Solar PV KWP			2.5	2.5
ASHP	YES**	YES**	YES**	YES**
Ventilation Type	IEV	MEV	MEV	MVHR
Thermal Efficiency				90%

## Pathway to Zero Carbon – Carvity Wall Semi detached Bungalow

	Baseline	Fabric <90 kWh/m <sup>2</sup>	EPC-B	EPC-A
EPC Information		EWI/DOORS & WINDOWS/AP50/MEV	...plus PV	...plus FLOOR/ASHP/MVHR/AP50
Existing EPC	<b>D-65</b>			
Full SAP EPC Rating	<b>D-58</b>	<b>C-70</b>	<b>B-86</b>	<b>A-93</b>
Final Heat Demand (kWh/m <sup>2</sup> /year)	<b>159.75</b>	<b>76.25</b>	<b>76.25</b>	<b>27.75</b>
Floor U-Value	0.67	0.67	0.67	0.18
Wall U-Value	1.55	0.18	0.18	0.18
Roof U-Value	0.2	0.13	0.13	0.13
Door U-Value	2.9	1	1	1
Window U-Value	2.8	1	1	1
Air Tightness	7.82	3	3	3
Solar PV KWP			3	3
ASHP				YES
Ventilation Type	IEV	MEV	MEV	MVHR
Thermal Efficiency				90%

Pathway to Zero Carbon – conventional brick built Semi detached


Property Drive 	Baseline	Fabric <90 kWh/m <sup>2</sup>	EPC-B	EPC-A
EPC Information		EWI/DOORS & WINDOWS/AP50/MEV	...plus PV	...plus FLOOR/MVHR/ASHP/LOFT
Existing EPC	<b>D-68</b>			
Full SAP EPC Rating	<b>D-63</b>	<b>C-75</b>	<b>B-85</b>	<b>A-92</b>
Final Heat Demand (kWh/m <sup>2</sup> /year)	<b>110.75</b>	<b>45.5</b>	<b>45.5</b>	<b>24</b>
Door U Value	0.5	0.5	0.5	0.18
Wall U-Value	1.55	0.18	0.18	0.18
Roof U-Value	0.2	0.2	0.2	0.13
Door U-Value	2.9	1.2	1.2	1.2
Window U-Value	2.8	1.2	1.2	1.2
Air Tightness	11.88	3	3	3
Solar PV KWP			3	3
ASHP				YES
Ventilation Type	IEV	MEV	MEV	MVHR
Thermal Efficiency				90%

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Pathway to Zero Carbon – Top floor flat non traditional 3 story block

Property: <span style="background-color: #4a7ebb; color: white; padding: 2px;">[REDACTED]</span> Rd	Baseline	Fabric <90 kWh/m <sup>2</sup>	EPC-B	EPC-A
<b>EPC Information</b>		CWI/FLAT ROOF/MEV	...plus Solar	...plus EWI/W&D/MVHR
Existing EPC	<b>D-64</b>			
Full SAP EPC Rating	<b>D-56</b>	<b>C-73</b>	<b>B-89</b>	<b>A-94</b>
Final Heat Demand (kWh/m <sup>2</sup> /year)	<b>187</b>	<b>60</b>	<b>60</b>	<b>25</b>
Floor U-Value	N/A	N/A	N/A	N/A
Wall U-Value	1.55	0.55	0.55	0.18
Roof U-Value	2.03	0.19	0.19	0.19
Door U-Value	2.9	2.9	2.9	1
Window U-Value	2.8	2.8	2.8	1
Air Tightness	4.17	4.17	4.17	3
Solar PV KWP			2.5	2.5
ASHP				
Ventilation Type	IEV	MEV	MEV	MVHR
Thermal Efficiency				90%

Pathway to Zero Carbon – Woolaway non traditional terrace

Property 	Baseline	Fabric <90 kWh/m²	EPC-C	EPC-B	EPC-A	LETI – Best Practice	LETI - Exemplar	Net Zero
<b>EPC Information</b>		EWI, Windows, Doors, Roof & MEV	EWI, Windows, Doors, Roof & MEV	EWI, Windows, Doors, Roof, PV & MEV	EWI, Windows, Doors, Roof, Floor, PV & MVHR	LETI Retrofit Standard (Best Practice)	LETI Retrofit Standard (Exemplar)	LETI New Build Standard
Existing EPC	E-46							
Predicted EPC (as tested)	E-46							
Predicted EPC (with evidence)								
Full SAP EPC Rating	E-43	C-72	C-72	B-86	A-92	A-93	A-97	A-97
<b>Heat Demand:</b>								
Final Heat Demand (kWh/m²/year)	222.43	80.4	83.6	83.6	52.14	47.02	44.03	42.17
<b>Model Inputs:</b>								
Floor U Value	0.77	0.77	0.77	0.77	0.2	0.15	0.15	0.15
Wall U-Value (System Build)	2.16	0.15	0.15	0.15	0.15	0.18	0.15	0.13
Roof U-Value	0.5	0.13	0.15	0.15	0.13	0.12	0.12	0.1
Door U-Value	3	1.2	1.6	1.6	1.4	1	0.8	0.8
Window U-Value	2.7	1.2	1.4	1.4	1.2	0.8	0.8	0.8
Air Tightness	11.92	3	3	3	3	2	1	1
Thermal Mass Parameter	High	High	High	High	High	High	High	High
Thermal Bridging	35.72	32.85	32.85	32.85	18.14	18.14	18.14	18.14
Solar PV KWP				2.5	2.5	2.5	2.5	3.0
<b>Ventilation Inputs:</b>								
Ventilation Type	IEV	MEV	MEV	MEV	MVHR	MVHR	MVHR	MVHR
Thermal Efficiency					90%	90%	90%	90%

## Low Carbon Retrofit Strategy and Delivery Plan Risk Assessment

Appendix 3

Risks & Mitigations						
	Risk	Description	Impact	Probability	Risk Score	Mitigation
1	Unaffordable costs placed on HRA business plan.	Failure to align decent homes spending with retrofit budget requirements.	4	2	8	Asset management service tasked with aligning component replacement, additional resources (analysts) being introduced to the team, joined up working of capital delivery team and asset management team, MTFP to reflect investment alignment
2	Unaffordable costs placed on HRA business plan.	Aligning decent homes spending with retrofit budget requirements leads to early component replacement and repeated investment. In efficient use of budgets.	3	4	12	Asset management service tasked with aligning component replacement as best as possible to minimise early replacement, asset management working with capital delivery, void and compliance teams to agree component specification, additional resources (analyst) being introduced to the team, stock condition data will be tracked to understand early component replacement, grant bids will build in component lifetime value loss where possible.
3	Unaffordable costs placed on HRA business plan.	Inability of HRA income (rents) to keep pace with services costs and budget requirements.	4	3	12	The Council sets rent annually, and the housing service will present a case to Member which highlights the financial pressures within the service including market conditions, statutory requirements and inflationary pressures. The retrofit programme will be designed to allow works to come forward or be held back depending on available funding. Reprofiting delivery dates will impact on the expected date to achieve targets.

4	Unaffordable costs placed on HRA business plan.	Resourcing asset management and delivery teams. To deliver retrofit some new skills and capacity is required. The main areas are asset management, capital programme delivery and tenant liaison but communication/press and grant administration is also critical.	4	3	12	Current resources are being flexed to provide some additional capacity in the asset management team and capital budgets for surveys established in the MTFP. As grants are pursued consideration will be given to the revenue funding available. Capitalisation of salaries will be considered where staff are transforming the service or improving an asset. Social Housing Decarbonisation Fund provides a 15% revenue contribution. As more grant funds are introduced the service will need to increase resources unless the works displace other decent homes or compliance works. The Council has also agreed an MoU with E-ON introducing significant energy company obligation funding and third party capacity to deliver a large element of the 2022-2025 programme. This partnership will allow learning from a third party and limit the growth of directly employed staff.
Page 152	Unaffordable costs placed on HRA business plan.	Addition maintenance costs as a result of introducing low carbon technology	3	4	12	Component specifications will be agreed between Asset management, capital programme delivery, voids team, compliance team and repairs. Replacement costs will be noted and considered in the 30 year business plan and MTFP.
Page 152	Unaffordable costs placed on HRA business plan.	Failure to attract grant to subsidise works.	3	3	9	The service will constantly need to understand the grant opportunities and create capacity to apply for grant. SWT has been successful in attracting grant as a WECA consortium member and individually via a partnership with E-ON. Resources will be required to administer grant requirements and delegated authority will need to reflect the timescales often demanded by grant providers. The 2022-2026 retrofit programme is forecast to benefit from £12-£28m grant or subsidy. There is no subsidy identified to support the period 2026-2029 as grants are usually launched for shortly before the delivery period.
7	Unaffordable costs placed on HRA business plan.	Increase costs of works due to additional preparation works such as decanting customers, structural works, joinery, plumbing and utility connections/disconnections.	4	3	12	The delivery plan has selected a limited range of components to avoid additional disruption to customers or the property wherever possible. Some components such as internal insulation and floor insulation may require the decanting of customers, changing to carpentry, doorways and the reconfiguration of stairs at significant expense. External insulation has been preferred to internal insulation wherever possible.



8	Unaffordable costs placed on HRA business plan.	Stock Reduction. Some properties will be coming to the end of their life expectancy and/or have significant costs. Options appraisals will be required to understand if investment, demolition or disposal is the best financial option for the Council. The sale or demolition of property places additional cost pressure on the residual stock units/rental income.	2	4	8	The service will use option appraisals on properties anticipated to cost significantly more than the average to meet structural, decent homes and zero carbon requirements.
9	Failure to collect appropriate data.	Failure to collect appropriate data.	4	2	8	The service has invested in open Assets and parity software data bases. The service is seeking to employ additional asset management analysts to ensure better data inputting and accuracy. The service will work hard to ensure improvements to homes are recorded swiftly following capital works. The MTFP has included significant budgets for survey works.
10	Failure to collect appropriate data.	Failure to survey and design solutions appropriately.	4	2	8	The service is introducing PAS 2035 assessments wherever grant funding is being used. The PAS approach includes quality assurance in design and implementation. Surveys will be pre and post works and allow the service to measure changes in property performance in EPC, SAP and Heat demand.
11	Failure to engage tenants	Failure to bring customers on the journey to zero carbon.	5	3	15	The service is developing communication and engagement strategies to raise awareness of the benefits of low carbon retrofit. The service has secured funding to develop a show house Spring 2023 and video clips of low carbon works are being collected. The service will learn from the approach being taken by E-ON as they deliver neighbourhood based ECO4 projects.

12	Failure to engage tenants	Failure to access customers' homes. The council has 1891 homes failing the 2030 target and the majority of these homes require very marginal works to achieve target.	5	3	15	The service is developing communication and engagement strategies to raise awareness of the benefits of low carbon retrofit. The service has secured funding to develop a show house Spring 2023 and video clips of low carbon works are being collected. The service will learn from the approach being taken by E-ON as they deliver neighbourhood based ECO4 projects. New procedures are being introduced to ensure more timely communication and work standards.
13	Failure to engage tenants	Failure to support tenants in a timely way when delivering works.	5	3	15	The service is reviewing and refining its tenant engagement and communication processes to ensure customers have the right communication and support when surveys and works are to take place in their home. The service is introducing policy statements during the contract stage to ensure contractors bidding to work for the council will understand expectations and deliver in a more consistent way.
14	Failure to engage with leasehold and private owners	The council has xx leaseholder who homes are spread throughout the 440 blocks owned by SWT. The leaseholder and council (as freeholder) both have rights however the council will need to agree access and financial contribution towards investment with the leaseholder. Considering the scale of investment to achieve zero carbon this process could be challenging. Some components such as external wall insulation needs to wrap the whole of a block when being applied.	4	4	16	The council will commence its investment on houses and bungalows to allow additional time to prepare block investment strategies and commence consultation with tenants and leaseholders in blocks, the council will investigate the creation of sinking funds allowing more leaseholders to build up funds to support capital investment contributions. The council will consider grants which could benefit leaseholders as well as tenants. The ECO4 partnership is an example of where this may be possible.

15	Blocks	The council has 440 buildings which it classifies as blocks ranging from 4 units to xx units. Block will have extra complications such as flat roofs, common areas, extra access challenge and some properties will be leasehold and permissions and costs have to be agreed with owners.	4	3	12	The service will prepare block investment strategies. It will refine its architype studies to provide greater clarity in relation to the 440 blocks owner by the council. The capital investment plan will create a block investment investment strategy which will feed into the MTFP and annual HRA budget request to Council. The service will work towards developing a leaseholder working group. The service will seek to join up compliance, cyclical maintenance, decent homes and retrofit requirements through a single block investment plan. Grants such as ECO4 will be used to explore efficient delivery approaches.
16	Procurement & capital programme delivery	Failure to procure in line with grant pressures.	4	4	16	The service is developing standard specifications for components and plan capital programmes over five years. These actions should overtime allow the service to procure contractors who are able to deliver works over several years and reduce the frequency of procurement. Over time the service should be able to use the strategy and delivery plan to forecast the range of contractors required to support the delivery plan.
17	Failure to procure & deliver programme	Failure to attract contractors. The environment is very challenging and there are risk that contractors will not commit to tendering or tender with excessive costs.	4	4	16	The strategy and delivery plan allows the council service to provide more certainty to contractors in terms of the type, volume and timing of contracts which the council will be seeking. The transparency of our programme should allow more engagement with the market to encourage companies to bid for contracts.
18	Procurement & capital programme delivery	Shortage of skills and materials . The market has seen the costs of some components and labour increase due to their scarcity. As a result, prices have increased, more of the risk has been placed on the client and some contracts have no or limited bidders.	4	4	16	The strategy and delivery plan allows the council service to provide more certainty to contractors in terms of the type, volume and timing of contracts which the council will be seeking. The transparency of our programme should allow more engagement with the market to encourage companies to bid for contracts.

19	External Risks	The national Grid does not decarbonise by 2050. This would mean the council would not achieve zero carbon or it would need to offset some of its carbon. The strategies aim is to replace all fossil fuel (Gas/solid Fuel/Oil) by 2050 with electric based heating systems. If electricity continues to use fossil fuel in its production the council will not achieve its goal.	5	2	10	This is an external factor and cannot be controlled by the council. The strategy is introducing a fabric first approach and an ideal heat demand of 50kWh/m2/yr. The reduced heat demand will significantly reduce fossil fuel use even if the grid is not fully decarbonised. The use of ASHP and energy efficient quantum heaters will further reduce the amount of energy.
Page 156	External Risks	Introduction of a new SAP calculation methodology. The government is proposing to introduce a new methodology for calculating SAP. This may impact on EPC and other methods of comparing a properties energy efficiency.	4	2	8	The strategy proposes to move away from EPC and SAP as the main forms of energy assessment to Heat Demand. This will allow the council to assess more accurately progress towards zero carbon. EPCs based on SAP calculation may still be important in relation to grant applications however as the details are unknown of the methodology other impacts are hard to assess.
21	Failure to achieve Targets	Failure to achieve EPC C by 2030	5	2	10	The delivery plan outlines over 2600 homes will receive low carbon capital works. This figure includes 1300 homes which are within 6 SAP points of EPC C. These homes should achieve target through window or boiler replacement combined with a package called the Fuel cost care box. The service is about to agree an MoU with E-ON to delivery multiple measures to the worst performing homes. It is envisaged a limited number of homes will struggle to achieve target.

22	Failure to achieve Targets	Failure to achieve a heat demand for homes of 50kWh/m2/yr. by 2040. This is a very real risk as the target is very ambitious. The service has projected the target using archetype studies which clone surveys to predict opportunity. The council ambition is to achieve 50kWh/m2/yr. should permit affordable warmth to tenants regardless of the electric heating system introduced. Homes which do not achieve this ambitious target will require additional fabric or power saving investment.	3	5	15	The strategy is ambitious in its goal of 50kWh/m2/yr. by 2040. Failure to achieve this target will lead to either higher fuel cost than desired when a property switches from fossil fuel to electric fuel and/or it will mean the council may wish to carry additional fabric measures or provide PV to compensate the tenant for some of the higher costs of fuel. The failure to achieve the target impacts primarily on the customer and their fuel costs.
23	Failure to achieve Targets	Failure to achieve zero carbon by 2050. The council has c 4000 homes which use fossil fuel for heat.	4	2	8	The council is able to switch fuel from fossil fuel to electricity through the replacement of gas, solid and oil boilers with ASHP, quantum heaters or other individual or community electric heating systems. The service is able to use its boiler replacement programme to switch fuel sources. Should grant become available for fuel switching then this will offset the additional cost of some electric heating systems such as ASHP.



Report Number: SWT 146/22

# Somerset West and Taunton Council

## Executive – 16 November 2022

### Governance arrangements for Taunton Garden Town

This matter is the responsibility of Executive Councillor Mike Rigby (Planning and Transportation)

Report Author: Jenny Clifford, Garden Town Implementation Manager

#### 1 Executive Summary / Purpose of the Report

1.1 This report seeks to establish formal governance arrangements for Taunton Garden Town (TGT) in order to create good collaborative working and effective decision-making among public and private sector partners and stakeholders. The proposals have consciously sought to keep things simple, allow for a strategic fit with other pre-existing groups and structures; transition through into Somerset Council; allow for continued formal decision making through existing Committee channels and accommodate political and community representation. The proposals have been designed to accommodate and acknowledge rather than duplicate or replace pre-existing governance associated with established projects and work streams.

1.2 Proposed as set out in **Appendix 1** is:

- **TGT Delivery Board** to provide strategic leadership and oversight of the project. Decisions by the Board are proposed to take the form of recommendations to Council decision-making bodies. Formal decision making would continue as existing in accordance with the Constitution.
- **Community/Stakeholder Forum** to bring together a range of local groups including community representatives and a range of local groups with an interest in delivering the TGT Vision.
- **Landowner/Developer Forum** would bring together land and development interests and provide an opportunity to engage more widely with TGT land and development interests than on individual schemes or planning applications where significant commercial interests would hinder wider discussion. Forum engagement would be fed up to the Delivery Board.
- **Project Team** structure within which the day-to-day management, monitoring, resourcing and delivery aspects of the TGT would be positioned. Reporting to the TGT Delivery Board, functions within the project team would include identification and overseeing aspects of the TGT programme/work as well as liaison with Homes England over the Garden Town project and grants/programmes including the Housing Infrastructure Fund. The creation of a TGT Project Team within the structure is not intended to suggest new staff, changes to staff line management or service structure.
- Below the Project Team and Forums would be positioned a wide **programme of TGT**

**delivery areas and projects**, many of which are well established and have their own project leads and agreed governance arrangements. It is not proposed to duplicate or replace these.

- **Technical working groups** could be established as needed to support delivery areas or projects. Flexibility of approach is proposed to reflect the wide range of projects, many of which are mature and at differing stages in delivery.
- A range of **existing growth and infrastructure bodies/boards** external to Somerset West and Taunton Council across different geographies are recognised in the proposed governance. They would provide advisory and steering functions as well as opportunity for wider discussion and dissemination of information which would pull through at Delivery Board level.
- A range of **Taunton interest groups** is also recognised within the proposals. Representatives of these groups would directly engage with the TGT project through the Community/Stakeholder Forum.
- Recognising the **Council as developer** on some TGT sites, the proposed governance structure allows for advisory and steering functions that are separate to the TGT Delivery Board. In this way the commercial interests of the Council are kept separate from the delivery of the TGT Vision via the Delivery Board.

1.3 No risks have been identified as directly arising from the proposals and there are no significant financial implications from the recommendations. Minor expenses anticipated in connection with the establishment of the proposals will be met through Government capacity funding, rather than service budgets. The proposals will bring increased partnership working together with stakeholder, community and local interest group participation. A stakeholder mapping exercise will inform initial non-Councils representation, until such time as the Delivery Board and Forums first meet and agree terms of reference, the latter to be drafted in advance.

1.4 Homes England has encouraged the establishment of formal governance arrangements for TGT and via its Garden Communities Toolkit, has identified a range of key benefits which are set out in the report. This proposal builds on initial work to set up the project, which has seen the adoption of a Vision for TGT in 2019. Should the proposals be agreed, it is likely that the first meeting of the Delivery Board would take place in January 2023.

## 2 Recommendations

2.1 That Executive Committee approve

- i) The Taunton Garden Town governance proposals.
- ii) That responsibility for the finalisation of initial non-political representation on the proposed Delivery Board and Forums is delegated to the Director of Development and Place in consultation with the Portfolio Holder for Planning and Transportation.
- iii) That delegated authority is granted to the Director of Development and Place in consultation with Legal Services to prepare initial governance documents for approval at the first meeting of the Delivery Board.



### **3 Risk Assessment**

- 3.1 The proposed governance structure is not considered to directly impact upon Corporate risks. However, robust and appropriate governance arrangements will assist in driving project progress and build relationships with the local community and stakeholders, thereby reducing risk. Effective governance arrangements will also ensure that best use is made of grant money and funding opportunities. The governance arrangements provide a structure within which the project will continue to develop and will increase reporting and accountability.

### **4 Background and Full details of the Report**

#### **4.1 Background**

4.1.1 Taunton was awarded Garden Town status by the Government in January 2017 following the submission of an expression of interest by Taunton Deane Borough Council (TDBC). The 2016 TGT expression of interest recognised the importance of governance arrangements but did not set out a proposed governance structure. Instead, it identified the need for clear links between governance for TGT and other local structures. To date the establishment of governance arrangements for TGT has not taken place. The current proposals are an important opportunity to address this outstanding area and bring greater clarity and structure to arrangements for the Garden Town.

4.1.2 Homes England has encouraged the Council to address governance. The Homes England Garden Communities Toolkit provides guidance on ensuring robust governance arrangements are in place in order to create good collaborative working and effective decision-making among public and private sector partners and stakeholders. It identifies the key benefits of clear project governance arrangements as:

- Ensuring common objectives and outcomes are shared by relevant parties.
- Giving various parties clarity on their roles and responsibilities.
- Speeding up the delivery programme with efficient decision-making processes.
- Involving relevant stakeholders in the decision-making process to increase buy-in.
- Providing strategic direction, so delivery of a garden community is moved forward.
- Identifying barriers and challenges to successful delivery of the project and find solutions.
- Supporting partnership working between the public and private sectors.
- Providing consistency and ensure delivery of the initial vision.

The toolkit also describes typical main tiers of governance structure as:

- A decision-making body or board
- A strategic steering group
- A project delivery team
- Stakeholder groups and /or specific project task and finish project areas typically used to feed into topic areas.

4.1.3 In 2017 consultants were commissioned by TDBC to provide advice and consultancy to support the delivery of TGT in a range of areas including governance arrangements and TDBC organisational design to support the Council's growth ambitions. An advice note

on governance arrangements was produced and followed a review of the Garden Town's context, stakeholder mapping and governance structures already in existence at that time. A workshop was held with TDBC officers to identify gaps in key stakeholders, consideration of the effectiveness of current arrangements and organisational capacity to support arrangements going forward. Still of relevance to current governance proposals were the following points:

- Consideration should be given to the establishment of a Developer Forum to attract interest and input from key delivery stakeholders relevant to TGT, vision and strategic growth ambitions.
- Consideration should be given to the establishment of a Community Forum to provide a collective community voice.
- The challenge of bringing competing landowners/developers together in an overall Developer Forum given their project specific focus.
- The relationship between any over-arching forums and individual project structures and existing community groups would require careful consideration.

4.1.4 The 2017 governance review also identified a series of broader issues, many of which remain relevant to this review and TGT work going forward:

- To recognise the contributory role of housing enabling and Council land/assets and regeneration activities to the delivery of successful place-shaping for the TGT.
- The need for an integrated and flexible approach to funding governance, especially for infrastructure.
- Ensuring the right balance between decision-making, communication and the capacity to deliver. The new Council will provide an opportunity to review the scope and extent of decision-making and financial spend delegations to assist delivery and be fleet of foot/ responsive as required.
- The need to ensure there is opportunity for TGT ambitions to be integrated into the approach over other plans and strategies from an organisational/governance perspective.
- Integration of communication, consultation and engagement activities including linked consultations, consultations 'branded' to support the delivery of TGT and promotion of the TGT brand with consistency of messaging. A future area of work which would seek to address many of these points would be the development of a TGT communications strategy.

4.1.5 At that time (2017) a range of pre-existing governance structures were in place with a growth and regeneration focus. It is clear from the current governance work that many of the previous structures identified in 2017 did not transition through the formation of Somerset West and Taunton Council or for other reasons are no longer in place. In addition, major projects had governance arrangements in place, for example a Memorandum of Understanding for Junction 25 M5 employment site and a Collaboration Agreement for Taunton Strategic Flood Alleviation Improvement Scheme.

## 4.2 Existing governance of relevance

4.2.1 With the establishment of Somerset West and Taunton Council in April 2019 the governance landscape relevant to TGT changed. Existing relevant governance arrangements include:

### **Somerset West and Taunton Council**

**Council, Executive and Planning Committee:** Formal decision making by the Council in accordance with responsibilities and terms of reference set by the Constitution. The proposed governance arrangements for TGT do not affect the mechanisms and structure of formal decision making on behalf of the Council.

**Corporate Scrutiny Committee:** To perform scrutiny function on behalf of the Council with remit for matters including the Development and Place Directorate including Taunton Garden Town, associated performance indicators and budget monitoring.

**Senior Management Team:** Led by the Chief Executive with Deputy CEOs/Directors, these senior managers are responsible for the running of the Council and provide strategic oversight and steer across all areas of the Council's activity.

**Development and Place Directorate Board:** Currently utilised to ensure the sharing of information and updates on the activities across the Directorate, there is an opportunity for this officer group to provide a more focussed steering function on growth and economy matters, including those associated with TGT.

**Innovation Leadership Group:** A district wide group focussed on growing innovation.

### **Somerset**

**Somerset Growth Board:** See above - this board continues since its establishment in 2014. A Somerset Recovery and Growth Plan was agreed in 2021.

**Joint Bridgwater, Taunton and Yeovil Infrastructure Board:** Officer Board to oversee the delivery of Somerset transport projects. Chaired by SCC Highways and Transport with attendance by District representatives.

### **Sub-Regional**

**HotSW Local Enterprise Partnership (LEP) Joint Committee:** Strategic public sector partnership providing political leadership and drawn together to approve and oversee the delivery of the HotSW Productivity Strategy with authority to progress discussions with Government for help to deliver its objectives. Its remit includes discussion/negotiation with Government and relevant agencies to secure the delivery of the Government's strategic infrastructure commitments. Reporting directly to the Joint Committee is the **Chief Executive's Advisory Group**, (the latter being supported by the **Chief Executive's Delivery Board**) and the **Policy and Technical Advisory Group** (officers).

**Peninsula Transport:** A shadow sub-national transport body bringing together the five lead transport authorities in the SW peninsula including the Peninsula Rail Task Force sub-group. The purpose being to ensure effective engagement between the partner authorities and the Department for Transport on strategic transport investment matters linked to growth ambitions. The transport body is supported by the Senior Officer Group and Transport Forum.

- 4.2.2 The proposed governance structure has sought to keep things simple, allow for a strategic fit with other pre-existing groups and structures; transition through into Somerset Council; allow for continued formal decision making through existing Committee channels and accommodate political and community representation. At this stage in the TGT project, it is recognised that representation within a formal governance structure for community groups and land/developer interests would be of benefit. The

proposals also identify that there are existing projects which could be considered to fall within the Taunton Garden Town (TGT) programme, many of which have existing governance arrangements in place. The proposals have been designed to accommodate and acknowledge rather than duplicate or replace pre-existing governance associated with established projects and work streams.

### 4.3 Governance proposals

4.3.1 The proposed governance structure is set out at **Appendix 1** to this report. One of the main proposals is the establishment of a **TGT Delivery Board** which would provide strategic leadership and oversight of the project. It would:

- Steer the direction of the project, its objectives and monitor progress.
- Provide opportunity for consultation with Board members.
- Monitor, manage and coordinate the overall delivery of TGT via project workstreams.
- Act as the forum for issue resolution in order to enable progress.
- Ensure effective community and stakeholder engagement.
- Make recommendations through the formal decision-making processes of the organisations represented on the Board.
- Ensure sufficient resources are in place to deliver against the Vision, programme and priorities.
- Coordinate the public sector contribution to the delivery of key programme elements.

The Project Team would report to the Board. It is also proposed that the thematic programme delivery areas, projects and forums would feed up to the Board.

4.3.2 Importantly, the proposed structure retains formal Council decision making in accordance with the Constitution via the Executive, Council and Planning Committee as appropriate. Accordingly, decisions by the Board are proposed to take the form of recommendations to those formal Council decision-making bodies.

4.3.3 The Board would comprise political leadership of SWT/SCC (Somerset Council) including Executive Portfolio holders, Taunton Mayor/Deputy Mayor, representative of Taunton Town Council (once established), representative of other Parish Councils within which garden community allocations are located (such as West Monkton, Creech St Michael and Trull). It is also recognised that the final make-up of political representation awaits the establishment of Taunton Town Council. TGT governance will initially engage with a representative of the Taunton Chartered Trustees / the Shadow Town Council until the new Council is established. Representatives from key stakeholders such as HotSW LEP, Homes England and National Highways would also be invited to sit on the Board. It is proposed that an invitation also be extended to the Member for Parliament. Given the maturity towards delivery of many of the TGT development sites, it is appropriate that a landowner/developer representative attends to act as a direct conduit between the Board and the Landowner/Developer Forum. Lead/senior officers would also attend in an advisory/steering capacity. As with similar garden community delivery boards elsewhere, an independent chair could be sought. This is the emerging preference.

- 4.3.4 The proposed structure includes the creation of a **Project Team** structure within which the day-to-day management, monitoring, resourcing and delivery aspects of the TGT would be positioned. Reporting to the TGT Delivery Board, functions within the project team would include identification and overseeing aspects of the TGT programme/work as well as liaison with Homes England over the Garden Town project and grants/programmes including the Housing Infrastructure Fund. The creation of a TGT Project Team within the structure is not intended to suggest new staff, changes to staff line management or service structure. Instead, it is intended to reflect the role of the Garden Town Implementation Manager, supplemented by other existing staff with relevant responsibilities including a Highway resource. The work of other officers will also be of relevance, dependent upon the projects and programmes being progressed. It is within this area of the proposed governance that work will be generated and momentum maintained.
- 4.3.5 Following the creation of Somerset Council, there is opportunity for the scope of work relevant to the Project Team to become more multi-disciplinary, drawing from both SWT and SCC work areas. However, care will be needed to ensure existing governance of wider work areas is not duplicated. Local Government Reorganisation (LGR) workstreams will need to capture and take account of this proposed governance, addressing the scope of work within the Project Team following establishment of Somerset Council.
- 4.3.6 Alongside the Project Team would be the creation of two forums for engagement, firstly the **Community/Stakeholder Forum** and secondly, **Landowner/ Developer Forum**. At this stage in the TGT project, there is a need to engage more comprehensively and in a more structured manner via these forums. It is through these forums that TGT relevant information would be circulated, discussions take place and views gained from the key external stakeholders including community representatives. Officer support would be provided from the TGT Project Team, through which outcomes from Forum engagement would be fed up to the Delivery Board. Ward Member participation is proposed via the Community/Stakeholder Forum.
- 4.3.7 The **Community Forum** would provide opportunity to bring together a range of local groups including community representatives and a range of local groups with an interest in delivering the TGT Vision and good quality of life for TGT existing and future residents.
- 4.3.8 The **Landowner/Developer Forum** would bring together land and development interests for updates on progress, key strategic issues and to explore common interests such as those affecting delivery. It would provide an opportunity to engage more widely with TGT land and development interests than on individual schemes or planning applications where significant commercial interests would hinder wider discussion.
- 4.3.9 Below the Project Team and Forums would be positioned a wide **programme of TGT delivery areas and projects**, many of which are well established and have their own project leads and agreed governance arrangements, which it is not proposed to duplicate or replace. **Technical working groups** could be established as needed to support these. Flexibility of approach is proposed to reflect the wide range of projects, many of which are mature and at differing stages in delivery. Thematically they can be grouped into different workstreams reflective of TGT Vision and garden city principles:
- Taunton town centre generation
  - New garden communities delivery

- Transport and movement
- Strategic infrastructure e.g. flooding
- Employment and innovation
- Climate change and sustainability
- Quality place and culture
- Community and health

4.3.10 Recognising the role of **the Council as developer** on some TGT sites, the proposed governance structure allows for the Council's Leadership Team and the Growth Directorate Board to operate in an advisory and steering capacity separate to the TGT Delivery Board. This recognises the need for the commercial interests of the Council to be considered separately from the delivery of the TGT Vision via the Delivery Board.

4.3.11 A range of **growth and infrastructure bodies/boards** exist external to Somerset West and Taunton Council across different geographies: Taunton, District, Somerset and sub-regional. These are recognised in the proposed governance as providing advisory and steering functions as well as opportunity for wider discussion and dissemination of information which would pull through at Delivery Board level.

4.3.12 The proposed governance structure also recognises the range of **Taunton interest groups**, with which discussion and engagement is valuable over TGT matters. Representatives of these groups will directly engage with the TGT project through the Community/Stakeholder Forum.

4.3.13 It is proposed that flexibility be retained over positions on the Board and Forums to reflect that the project and its key issues will continue to evolve. Upon establishment of those governance arrangements, terms of reference will be drawn up for agreement and will set out the stakeholders, groups and bodies to be represented. Periodic review of the terms of reference is anticipated. A proposed stakeholder mapping exercise against strands of the TGT Vision and work areas will inform which stakeholders, groups and bodies will be initially be invited to be represented. The recommendation at 2.1 ii) seeks to delegate the responsibility for the finalisation of initial non-Councils representation on the proposed Delivery Board and Forums to the Director of Development and Place in consultation with the Portfolio Holder for Planning and Transportation. This will allow for the initial establishment of the governance structure until terms of reference can be drafted and formally agreed.

## 5 Links to Corporate Strategy

5.1 The establishment of governance arrangements for TGT will assist in delivering the Council's Vision for the Garden Town 2019. This is considered to align with the objectives in the Council's strategic themes of "Our Environment and Economy," "A Transparent and Customer Focused Council" and "Homes and Communities."

## 6 Finance / Resource Implications

6.1 TGT is supported financially by capacity funding awarded by the Department of Levelling Up and Housing and Communities. This supports direct staff resources and the commissioning of vital work to bring forward the delivery of the Council's Vision for the garden town. Further capacity funding bid rounds are expected. In addition, funding from other sources has been awarded, including Government capital programmes to help

deliver infrastructure associated with the project. The establishment of a robust governance structure will focus project decision making and accountability.

- 6.2 Financial implications directly arising from the establishment of a governance structure are likely to be minimal, associated with administration of the proposed structure and legal advice over drafting of terms of reference. Funding will be through capacity awards rather than service budgets. Organisational resource will be required to operate the proposed structure. Care will be needed to ensure that there is capacity available for the administration of the proposed governance. It is likely that this resource will rest primarily with the staff most directly involved with TGT.

## **7 Unitary Council Financial Implications and S24 Direction Implications**

- 7.1 No direct financial implications for the new unitary council have been identified in connection with the proposed governance arrangements. However, the proposed governance is intended to provide structure and aid decision making over the life of the project. It has therefore been designed to transition into the new unitary council from 1st April 2023 and complement rather than duplicate other governance arrangements. Whilst the proposals will affect the new council, they are not considered to raise S24 Direction implications.

## **8 Legal Implications**

- 8.1 No legal implications arising from the proposed governance structure are anticipated at this time other than the need to draft suitable governance documents such as terms of reference to support the various groups identified in the structure. Once agreed, TGT governance will need to be captured by the relevant LGR workstreams.

## **9 Climate, Ecology and Sustainability Implications**

- 9.1 No direct carbon/environmental impacts arise from the recommendation, although the TGT project itself is expected to significantly contribute to the Council's climate, ecology and sustainability objectives, through work to deliver on the Vision. The establishment of formal governance arrangements will assist in realising positive project outcomes that align with this Vision through steering its direction, its objectives and monitoring progress. It is also expected to bring increased structure and focus around the response of the project to these issues.

## **10 Safeguarding and/or Community Safety Implications**

- 10.1 No direct safeguarding or community safety implications arise from the recommendation. The TGT project itself is expected to deliver improved community safety outcomes via the Vision in terms of quality of life, well-being and placemaking.

## **11 Equality and Diversity Implications**

- 11.1 No direct equality and diversity implications arise from the recommendation. The Vision for Taunton Garden Town is one of inclusion and quality of opportunity. All project activities and workstreams will need to have regard to the Public Sector Equality Duty.

## 12 Social Value Implications

12.1 No direct social value implications arise from the recommendation. TGT is expected to bring about added social value through the approach to placemaking and the aspiration within the Vision to create environments that people are proud of, want to spend time in and invest in. The benefits of the overall garden community project are economic, social and environmental. The establishment of formal governance arrangements will assist in realising positive project outcomes that align with this Vision as well as greater project representation by stakeholders including local interest groups. The Vision specifically references growing social value through strengths in knowledge, education, culture and business.

## 13 Partnership Implications

13.1 The proposed governance arrangements draw on a range of stakeholders and partners, providing a formal structure through which they can participate in and/or steer the Garden Town project.

## 14 Health and Wellbeing Implications

14.1 No direct health and wellbeing implications arise from the recommendation, although positive quality of life and well-being outcomes are at the heart of the TGT project as expressed through the Vision.

## 15 Consultation Implications

15.1 Prior to consideration of this report, informal briefing/consultation on the emerging governance proposals has been undertaken with representatives of affected Parish Councils and developers/promoters. Feedback from this has indicated developer experience of similar arrangements working positively elsewhere and their broad support for the proposals. Feedback from Parish Council representatives has been limited, with no concerns raised over the proposals.

### Democratic Path:

- **Corporate Scrutiny Committee – Yes (2<sup>nd</sup> November 2022)**
- **Executive – Yes (16<sup>th</sup> November 2022)**

**Reporting Frequency: Once only**

### List of Appendices (background papers to the report)

Appendix 1	Proposed Governance structure
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### Contact Officers

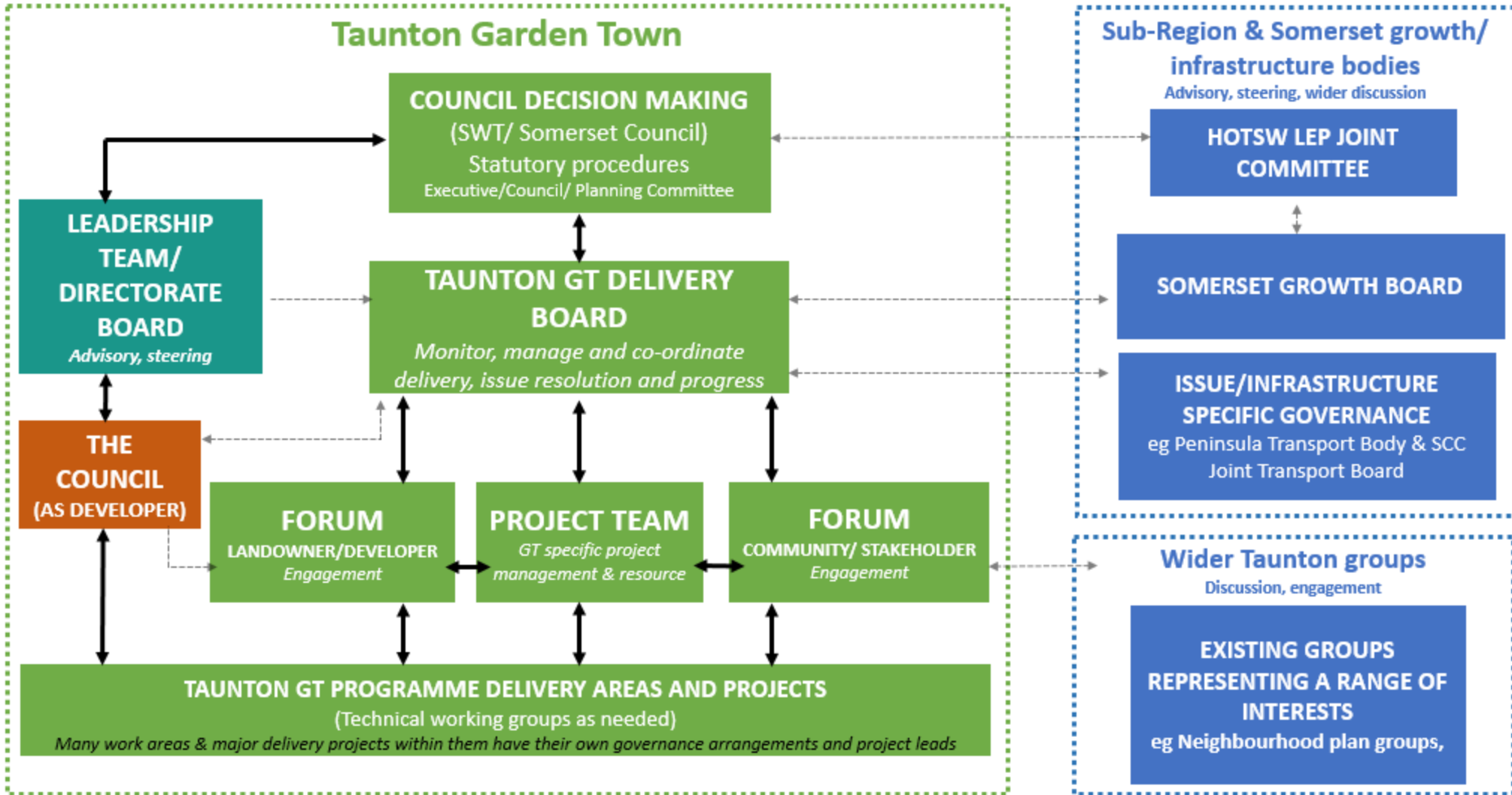
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Appendix 1 Proposed governance





Report Number: SWT 147/22

## **Somerset West and Taunton Council**

### **Executive – 16 November 2022**

#### **Firepool Masterplan – Public Consultation**

**This matter is the responsibility of Executive Councillor Mike Rigby (Planning and Transportation)**

**Report Author: Graeme Thompson, Principal Planning Policy Officer**

#### **1 Executive Summary / Purpose of the Report**

- 1.1 The Firepool Masterplan is intended to guide the development of the Firepool site, a large brownfield site owned by the Council on the edge of Taunton town centre. The Council has two distinct roles in relation to the site: as developer / landowner / asset holder; and as Local Planning Authority (LPA). The successful delivery of sustainable development on Firepool is key for the Council in both roles. The LPA intends to adopt the final version of the Masterplan as a material consideration in the determination of future planning applications. This report has been prepared by officers of the LPA and seeks approval of the Draft Firepool Masterplan for public consultation.
- 1.2 Firepool is a major regeneration area within Taunton town centre, for which there have been development aspirations for many years. Policy Fp1 of the adopted Taunton Town Centre Area Action Plan (TCAAP, adopted 2008) allocates the site for an office-led mixed-use development comprising offices, retail and leisure, residential, multi-storey car park, hotel and other uses. Policy Fp2 sets out the transport measures required to accompany the development. A number of circumstances have changed since the site was allocated in the TCAAP, and as such, the planning policy context for the site (primarily the development mix proposed by policy) is considered to be out of date. There is therefore a risk that future applications on Firepool may have to be dealt with as departures from the development plan, and as such (considering the primacy of the development plan), without an approved policy context it may be difficult to approve appropriate development which may better respond to the updated circumstances.
- 1.3 As such, a Masterplan is being prepared in order to:
  - a) provide the Council as Local Planning Authority – with an up to date, evidenced and justified planning policy context for regard to be had to as a material consideration in the determination of relevant planning applications, and
  - b) provide the Council as developer / landowner / asset holder – with greater certainty about what might constitute appropriate development proposals for the site going forward.
- 1.4 The Draft Firepool Masterplan (the Draft Masterplan, see Appendix A to this report) has been produced by the Firepool team and their consultants in the Council's role as developer. This follows consultation and engagement with key internal and external

technical stakeholders and review by the Quality Review Panel. Officers of the Local Planning Authority have been engaged along the way and are now recommending that the Draft Masterplan is approved for public consultation (see para 1.8 below). This approval for consultation should not be construed as final approval of the Masterplan. This report outlines a number of areas where further work is required for the LPA to be satisfied that the Masterplan is suitable for adoption, and feedback from the consultation exercise will need to be taken into account.

- 1.5 In summary, the Draft Masterplan proposes a mixed-use residential-led development comprising of:
- Approximately 430 dwellings with a mix of apartments, town houses and student flats.
  - An ambitious commercial / leisure quarter potentially capable of accommodating multi-purpose venue, hotel, cinema, bowling alley, limited commercial/retail floorspace, health hub and nursery.
  - Accommodation and integration of the already consented Innovation Centre and “Block 3” office and restaurant proposals.
  - A central boulevard linking from the station to the river with onward connections to the town centre incorporating sustainable urban drainage, tree planting and high quality public realm including an amphitheatre fronting the River Tone.
  - An improved and futureproofed walking and cycling connection along National Cycle Network route 3 on the north bank of the River Tone as well as other connections internal to the site.
  - Sustainability features including centralised cycle hub containing secure cycle storage, low traffic neighbourhood design and energy centre for potential heat network delivery.
  - Re-provision of the existing boat club.
  - Open space and play areas integrated into wider public realm and green infrastructure.
- 1.6 Whilst the development mix and some of the proposals are materially different to those in the existing adopted planning policy, Local Planning Authority officers are of the opinion that appropriate evidence is provided about changed circumstances to justify an alternative development solution for the site.
- 1.7 Of particular note, the Draft Masterplan is supported by a draft viability appraisal which demonstrates the significant challenges which the site faces in terms of enabling a viable and deliverable development. The draft appraisal is high level in nature, developed in line with the National Planning Practice Guidance specifically in relation to understanding viability and deliverability at the plan making stage and potential for securing policy compliant contributions from development of the site. This differs from a developer’s own commercial appraisal or business case development and from detailed assessment at the planning application stage. It is high level in nature and uses standardised inputs, including costs derived from published sources, in arriving at an assessment of whether there is likely to be sufficient residual value (i.e. land value) in a development to pay for the land assuming a benchmark land value. This reflects the market failure which has seen the site lay predominantly dormant and undelivered for the last 15 years as commercial developers have failed to deliver a commercially viable scheme which also responds well to the site’s context and local aspirations. This is why the Council is taking a proactive role in bringing the site forward itself. The viability appraisal demonstrates that the residential elements of the proposals included in the Draft Masterplan are

unlikely to be viable, resulting in negative residual values even without affordable housing, minimal developer contributions via S106, and a developer return. This does raise concerns over the deliverability of the residential development and its ability to satisfactorily address issues necessary to make development acceptable in planning terms. Whilst these are real and legitimate concerns and it is important that the Council are treated in exactly the same as any other developer for plan level viability purposes, in reality, the Council as landowner and developer has different options available to it which a commercial developer does not. These include preferential rates of borrowing, the land itself already being in public ownership, the securing of external public sector funding (i.e. grant), so there is no requirement from a developer perspective to ensure a benchmark land value is achievable, and lower levels of developer return may well be acceptable. Furthermore, the Council has wider interests in delivering increased economic, social and environmental value for the town centre. These benefits are not considered by such a standardised approach, but are key for the Council as evidenced in the Corporate Strategy and Garden Town Vision, and can therefore provide the LPA with greater confidence that a deliverable scheme will be possible on the site, than might be possible with a standard commercial developer. The non-residential elements are not included in the appraisal. For the purposes of high level plan level viability no value is attributed to these uses due to a lack of robust local evidence, so their inclusion could make it appear that they would only serve to reduce overall scheme viability further. However, this is not necessarily reflective of a real-world scenario where such uses do result in sales/rental values. The draft appraisal identifies ways in which detailed development proposals and delivery models for the site could improve the viability situation somewhat, suggesting a need for the Masterplan to have some flexibility. It highlights the importance of delivering a high quality scheme with high quality public realm and wider regeneration benefits in order to achieve the higher sales values that will be necessary for successful delivery. Critically, it demonstrates that fully policy compliant development is extremely unlikely to be viable. This means that policy compliant levels of affordable housing and other policy contributions and the full suite of corporate priorities for development on the site would appear at this stage to be very unlikely to be achievable. Furthermore, with no or minimal return on the residential elements of the scheme, delivery of the Multi-Purpose Venue is very likely to be reliant on securing significant additional public subsidy from elsewhere. More detail is included on these elements within the report below.

- 1.8 Public consultation is proposed to run for a period of 6 weeks (likely 21 November 2022 through to 2 January 2023). Details of the consultation proposals are included within the report below. Following the consultation period, comments will be reviewed and amendments made as considered necessary taking account of views received and work on the issues identified as being outstanding within this report. A final Masterplan is currently expected to be presented to Full Council in March 2023 seeking adoption as a material consideration in the determination of planning applications.

## **2 Recommendations**

- 2.1 That Executive Committee approve the Draft Firepool Masterplan and associated supporting evidence documents for public consultation.

## **3 Risk Assessment**

- 3.1 Delivery of Firepool is a key aspect of the Council's Corporate Strategy. "Major capital

programme and project delivery” are identified in the Council’s risk register. Firepool is central to these elements, and delivery of this key major project is identified within the Corporate Strategy. Approval of the Draft Firepool Masterplan for public consultation is an important and proactive step on the road to bringing forward sustainable development on this site. Approval of the final Masterplan by the LPA would be intended to help reduce risk associated with subsequent planning applications, smoothing the path towards delivery. However, it should be noted that the accompanying draft viability appraisal does clearly identify that delivery of a viable scheme will be challenging.

3.2 Working towards carbon neutrality by 2030 is a key aspect of the Corporate Strategy. “Not achieving carbon net zero by 2030” is identified in the Council’s risk register. The Draft Masterplan includes certain measures which assist in delivery against the Council’s climate targets. The accompanying draft viability appraisal highlights the difficulties in getting delivery of this site away. The viability evidence assumes delivery will be post 2025 and therefore compliance with the forthcoming Future Homes Standard is assumed. Whilst the draft viability appraisal recognises that building to higher standards that result in lower running costs does result in higher values, it is a risk that the scheme will not be able to viably achieve higher environmental building standards than this. This does not completely rule out the ability to achieve zero carbon on the site, and detailed understanding of the impact that a heat network for instance may make to whether this can be achieved or not is not yet known. However, it highlights that doing so is one of a number of challenges in bringing forward sustainable development on the site which will need to be balanced. Whilst the failure of a single development site to achieve zero carbon will not in isolation put the ability to reach our area-wide climate targets at risk, as a Council owned site it is potentially more directly relevant to the Council’s own corporate emissions and the ability to meet this particular element of the adopted targets. Moreover, the Council’s CNCR Action Plan explicitly refers to Firepool as being an exemplar in zero carbon and climate resilient development not only as a means of addressing our own carbon footprint, but also reducing fuel bills and improving health outcomes for tenants, enabling the Council to lead by example and show the local development industry what is possible, show the public what they can demand from private developers, and to build the local skills base and supply chain that will be necessary to see zero carbon building standards delivered across the board. Whilst the decision to consult on the Draft Masterplan, or even to adopt the Masterplan will not in itself result in a significant risk on meeting the corporate targets, it is a signpost that the Council is carrying an increased risk here, which needs to be understood.

### 3.3 Risks of approving for consultation

- Raising expectations for development – the accompanying draft viability appraisal, whilst being for specific purposes, raises some high level concerns about deliverability. It identifies ways in which detailed development proposals and delivery models for the site could improve the situation somewhat, and it is important to recognise that the Council has options available to it that a commercial developer does not. However, it is a signpost that delivery of viable development will be challenging, and if the proposals were to end up being watered down in the future, this could be difficult for the Council. Whilst an element of flexibility will be built into the Masterplan to account for the natural changes in circumstances, there is a risk that future planning applications may need to take a more significantly different course in some cases in order to deliver viable and sustainable development.
- Failure to deliver on key corporate objectives – the accompanying draft viability



appraisal, whilst being for specific purposes and not completely ruling it out, demonstrates that fully policy compliant development is extremely unlikely to be viable on the site. This means that policy requirements such as affordable housing, education contributions, transport contributions, open space contributions etc. would appear at this stage to be very unlikely to be secured. Affordable Housing is a key corporate objective that is failed to be responded to, though there is viability evidence to justify the approach taken.

#### 3.4 Other identified risks include:

Risks of adopting a Masterplan:

- Applications dealt with as departures without approved policy context
- Resolution of fundamental issues in public domain as part of elongated planning

Risks of not approving for consultation:

- Will not be able to adopt final Masterplan before end of SWT Council
- Reduces weight that can be placed on Masterplan
- Delays decision on southern boulevard application and spend of FHSF
- Further increased costs for developer

## 4 Background and Full details of the Report

### Introduction and history

- 4.1 Firepool is a major regeneration area within Taunton town centre, for which there have been development aspirations for many years. Previously the site of the former livestock market and various surface car parks, the site is central to the regeneration plans for the town centre from both a corporate and a planning policy perspective. The site is owned by the Council, and as such, the Council holds two distinct roles: as developer / landowner / asset holder; and as Local Planning Authority (LPA). This report has been prepared by officers of the LPA and seeks approval of the Draft Firepool Masterplan for public consultation.
- 4.2 A retail-led mixed-use development proposal (38/17/0150) gained a resolution to grant permission in March 2018. However, the developer St Modwen pulled out later that same year. A Section 106 Agreement was signed, and the retail-led scheme was granted outline planning permission in March 2019. However, following the advent of the new Somerset West and Taunton Council, the Council's Firepool team began working (as developer/landowner/asset holder) on a new Masterplan for the site, responding to criticisms of the St Modwen scheme, new corporate objectives and changed markets.
- 4.3 In 2019, the Council (as developer/landowner/asset holder) approved an overarching vision for the Masterplan. The Firepool team then undertook developer consultation on an early draft of the Masterplan in November 2019. For clarity, this consultation was pre-involvement of the LPA and in relation to proposals which had not been informed by engagement with key stakeholders or endorsed by the LPA.
- 4.4 The Firepool team's intention had been to pursue a Local Development Order for the site, which would have effectively simplified future planning for the site. However, following engagement of the LPA in March 2021 it was identified that this may not be possible in the short term as a result of this process engaging the on-going issue of phosphate loading on the Somerset Levels and Moors. Subsequently it was determined

that the most appropriate route would be for the LPA to work with the Firepool team to ensure that the Masterplan could be adopted as a material consideration in the determination of future planning applications. As such, in November 2021, the Firepool team and the LPA entered into a Planning Performance Agreement aimed at progressing and delivering development of the site, providing a mechanism to agree the Masterplan.

- 4.5 Since that point, the Firepool team and the LPA have met regularly and worked in a structured way to resolve key issues, engage key stakeholders, take emerging proposals via the Council's Quality Review Panel and move the Masterplan forward to this point. There are a number of areas where LPA officers feel more work is still required ahead of being able to recommend the Masterplan for adoption. However, it is considered that the Masterplan is sufficiently developed and resolution towards key issues sufficiently progressed to be able to recommend approval of the Draft Masterplan for public consultation.

#### Original planning policy context

- 4.6 The adopted [Taunton Town Centre Area Action Plan](#) (TCAAP, adopted 2008) is a statutory development plan document focused around a vision for the regeneration of Taunton town centre. This vision can be summarised as being focused on:

- delivering a town centre recognised as a regional centre of excellence for regeneration and design,
- putting the River Tone at the heart of town centre activity,
- delivering on employment opportunities,
- integration of disadvantaged communities,
- enhancing cultural and leisure facilities,
- enabling more sustainable, healthy and accessible travel,
- ensuring developments are exemplars in terms of sustainability and design quality, and
- protecting and enhancing the town's distinguished historic environment.

The TCAAP allocates Firepool for development as a key site in delivering this vision. The LPA therefore has a keen interest to see successful delivery of sustainable development on the Firepool site and to work towards enabling this.

- 4.7 In the TCAAP, Firepool is comprised of a number of sites surrounding Taunton station, the Bridgwater & Taunton Canal and the River Tone, with individual policies allocating each site and identifying the policy expectations for development. Policies Fp1 and Fp2 of the TCAAP deal with "Riverside" which comprises land either side of the River Tone, the site of the former livestock market and other buildings on the north side, and former surface car park on Priory Bridge Road on the south side. The site referred to as "Firepool" for the purposes of the Masterplan, is broadly the area allocated by Policies Fp1 and Fp2 and referred to as "Riverside" in the TCAAP (though there are some areas of the allocation which have already been built out and which are excluded).
- 4.8 The TCAAP states that "*the primary role of this allocation will be as a strategic office site, providing the main focus for future office development in Taunton*". Policy Fp1 sets out the development content for the site as an office-led mixed-use development comprising offices, retail and leisure, residential, multi-storey car park, hotel and other uses. Policy Fp2 sets out the transport measures which will be required to accompany

the development.

- 4.9 The TCAAP was supported by the [Town Centre Design Code SPD](#) (adopted 2008) with a key purpose of ensuring “*that emerging development proposals were based on clear guiding principles to positively contribute to the coherence and overall character of the town centre*”. Key design principles for the Firepool site are included within the Design Code SPD.
- 4.10 Beyond the adopted policies specific to Firepool, development on the site must respond to the full range of applicable planning policies across the TCAAP, Taunton Deane Core Strategy and Site Allocations and Development Management Plan.
- 4.11 In 2008, at the time of the TCAAP’s adoption, it was envisaged that there was significant demand for office development at Taunton. The TCAAP responded to the SW Regional Planning Guidance (RPG10) and emerging draft South West Regional Spatial Strategy in this respect. Due to its town centre location, close to the train station, in a highly accessible location, the Firepool site was identified as the policy focus for office development in Taunton. This was to be supported by retail and leisure uses to help reorient the town centre towards putting the river at its heart, and residential development and car parking to help lift site development and wider town centre viability and vitality.
- 4.12 The decision to approve the St Modwen retail-led proposals in 2019 was in part a recognition that circumstances had changed since the time of the TCAAP policy’s development. In particular, it was recognised that demand for office development had reduced significantly, and that there was at that time market interest for a retail-led development. It is considered that the retail-led permission has now lapsed, having not been implemented or relevant pre-commencement conditions discharged within the conditional time limits.

#### Changed circumstances

- 4.13 Since the office-led allocation in the TCAAP was adopted, and since the retail-led scheme was approved, circumstances have changed further including:

##### *SWT planning policy context changes*

- The Districtwide Design Guide SPD (December 2021) and Taunton Garden Town Public Realm Design Guide SPD (December 2021) have been adopted, with an aim of driving a step change in the design quality of developments and public realm.
- The Garden Town Charter and Checklist (December 2019), Climate Positive Planning (February 2021) and Net Zero Carbon Toolkit (February 2022) have been published as guidance and the draft Connecting our Garden Communities Plan (July 2022) has recently been subject to public consultation.
- The SWT Quality Review Panel has been established.

##### *National policy context changes*

- Government planning policy and guidance has moved on in a number of cases including in relation to the National Planning Policy Framework (latest update July 2021), National Design Guide (January 2021) National Model Design Code (July 2021).
- Wider Government policy and strategy has moved on including in relation to the

Net Zero Strategy and Heat & Buildings Strategy (November 2021), Building Regulations updates (December 2021), Gear Change and Local Transport Note 1/20 (July 2020).

- National legislation including the Environment Act (November 2021) has received Royal Assent, and the Climate Change Act 2008 has been updated to reflect the national 2050 Net Zero target.

*SWT corporate policy context changes*

- Somerset West and Taunton Council came into being (April 2019) and has set its corporate objectives as set out in the Corporate Strategy and Annual Plans.
- the Council has declared a Climate Emergency (February 2019) and Ecological Emergency (November 2020) – setting out how it commits to working towards carbon neutrality by 2030 in the adopted Somerset Climate Emergency Strategy (October 2020) and SWT Carbon Neutrality and Climate Resilience Action Plan (October 2020) and seeking to address the ecological deterioration within the district and to lessen our global impact on the natural world by 2030 in line with the adopted Ecological Emergency Vision and Action Plan (July 2022).
- Taunton was designated a Garden Town in 2017 and the Council has set out its Vision for Taunton Garden Town (July 2019).

*Other material considerations*

- markets for both town centre office and retail would appear to have changed quite significantly, with more people working from home and retail decline in the town centre a significant concern.
- the COVID pandemic hit in early 2020, followed by an accompanying recession and plans for economic recovery to “build back better”.
- a cost of living crisis and energy crisis have hit.
- Natural England advised in August 2020 that, in light of the unfavourable condition of the Somerset Levels and Moors Ramsar Site, before determining a planning application that may give rise to additional phosphates within the catchment, competent authorities should require an Appropriate Assessment under the Habitat Regulations and where an adverse impact is identified require appropriate mitigation.
- Somerset County Council have published the Taunton Local Cycling and Walking Infrastructure Plan (LCWIP, November 2021) and updated Estate Roads in Somerset Design Guide (December 2021).

4.14 As a result of the above, there are a number of reasons why the adopted planning policy context for the Firepool site, and in particular the development content set out within policy Fp1, can be considered out of date. Furthermore, it is reasonable to expect a modern, responsive development on the Firepool site, to take account of the changed circumstances.

4.15 Planning applications must be determined in accordance with the development plan unless material considerations indicate otherwise. Therefore, whilst the list of changed circumstances above would be material, there is a risk that future planning applications on Firepool may have to be dealt with as departures from the development plan, and as such (considering the primacy of the development plan), without an approved policy context it may be difficult to approve appropriate development which better responds to the updated circumstances. In this context, a new Masterplan is being developed with a

view to the LPA being able to adopt it as a material consideration providing that necessary policy context.

Progress in resolving key issues

4.16 In June 2021, the Firepool team shared a developer draft of the Masterplan with LPA officers which had been informed by the developer-led public consultation undertaken in November 2019. In response to this, a series of key issues were identified by the LPA on which significant progress would need to be made before the LPA could recommend approval to consult. The Planning Performance Agreement signed in November 2021 set out a process for resolving these key issues. The table below sets out a summary of the key issues that were identified and commentary on progress to date.

<b>Key issue identified</b>	<b>Commentary on progress to date</b>
Masterplan to be informed by upfront and meaningful engagement with statutory consultees and other key stakeholders.	A series of topic-based workshops and other meetings and correspondence have taken place, which have highlighted constraints, opportunities, areas of concern, evidence to be gathered and views to be balanced as part of preparing the Masterplan. The Draft Masterplan is now informed by this meaningful engagement.
Justification required for the level of office and retail uses proposed on the site and reasons for any reduction from TCAAP policy.	An Office and Retail Market Update report has been prepared by Avison Young on behalf of the Firepool team. This sets out evidence that the market demand for office and retail development in Taunton and at Firepool is significantly reduced in comparison to adopted policy expectations and justifies why an alternative development mix is appropriate in this location. However, further work is required to support adoption and ensure the mix of uses is flexible should markets improve.
Route to be identified for delivery of the Trenchard Way access.	The access proposals approved as part of the retail-led permission were identified as not being able to be implemented without triggering the phosphates issue. They were also identified and as over-engineered for the likely development mix being pursued for Firepool and lacked compliance with new Government policy on cycle infrastructure design. A new, more appropriately sized and LTN1/20 compliant access scheme was approved in February 2022 (38/21/0464).
Justification required for the level of parking proposed on the site, how this links with wider town centre parking and access strategy and reasons for any reduction from TCAAP and other	A Parking Strategy has been prepared by Jubb on behalf of the Firepool team. This sets out evidence for the approach to car parking in the Draft Masterplan. The Strategy demonstrates the justification for on-site parking levels proposed based on the inherently sustainable location of the Firepool site and proposed strategy of maximising opportunities for active and

<p>parking policy.</p>	<p>sustainable transport modes, together with relying on some spare capacity in nearby public car parks for non-residential uses. It evidences that there is justification to depart from the level of parking required by policy Fp1 and that there is justification to aim for a parking ratio of 0.4 spaces per dwelling for the residential units, below the ratio of 1 space per dwelling required in the Site Allocations and Development Management Plan or SCC's Parking Strategy. However, it is considered that the final Masterplan requires additional work on specific parking issues and to establish and evidence the overarching transport strategy for the site, which needs to be informed by a Transport Statement and Framework Travel Plan.</p>
<p>Justification required that the proposals respond appropriately to the Taunton Local Cycling and Walking Infrastructure Plan (LCWIP) and active travel needs more generally in alignment with LTN1/20 and Gear Change.</p>	<p>A Cycle Assessment has been produced and submitted to support the Southern Boulevard planning application (38/22/0176) and this is currently being relied upon by the Firepool team to support the wider Masterplan. This is not considered sufficient to support the Masterplan's adoption. The proposals clearly respond to the internal needs of the site and have considered LTN1/20 and Gear Change in this regard. However, the assessment of external connectivity is lacking and the Masterplan does not respond to the connections and routes identified as part of the draft Connecting our Garden Communities Plan. Further work is needed to respond and justify the approach taken in the final Masterplan.</p>
<p>Justification required that the Masterplan appropriately responds to bus measures set out in policy, required for Bus Rapid Transit if necessary, and as part of the emerging Bus Service Improvement Plan (BSIP).</p>	<p>The Masterplan sets out how and why delivery of a priority bus route along the boulevard (as envisaged by policy) is not required and not compatible with a modern interpretation of the boulevard. A potential future bus route via the site is safeguarded along Canal Road, should this be necessary in the future as part of a wider, deliverable priority bus route. The County Council's emerging BSIP proposals relate to Station Road in this part of the town and are not directly related to the Masterplan.</p>
<p>Justification required in relation to heritage impacts.</p>	<p>An updated Heritage Assessment has been produced by Cotswold Archaeology on behalf of the Firepool team. This evidences that there are no overriding heritage constraints that would preclude development of the site, and the proposed development would not alter any elements that contribute to the architectural and historic interest of relevant heritage assets, nor the character and appearance of the St Mary and St James Conservation Area, and no harm to the overall significance of these assets will occur.</p>

<p>Justification required in relation to townscape, skyline and visual impacts.</p>	<p>An updated Townscape Visual Impact Assessment (TVIA) has been produced by Lepus Consulting on behalf of the Firepool team. This identifies the likely effects of the Masterplan proposals upon townscape character, visual amenity from publicly accessible locations, views of Taunton in its landscape setting, and visual effects with regards to heritage assets, as well as cumulatively alongside other proposed developments. Townscape effects are likely to range from moderate to minor beneficial in relation to character areas within the site, along the River Tone corridor and Morrisons and Priory Bridge Road area, whilst greater scale and height of the proposals would likely lead to minor adverse effects in other nearby character areas. Visual effects are likely to range from moderate beneficial to moderate adverse depending on viewpoint. Views towards the town centre and key church towers as you emerge from Taunton station are an important gateway providing some level of townscape legibility for visitors to the town. The proposals would obscure views of the church towers from here resulting in moderate adverse visual effects, however the scheme guides people down the proposed boulevard and creates enhanced replacement viewpoints towards these assets from high quality public realm which would have moderate beneficial effects. The proposals would be seen in the context of other urban development and not alter the skyline perceptibly or interfere with views of the church towers from longer distance viewpoints. Whilst the TVIA has assessed the specific proposals set out in the Draft Masterplan, detailed design aspects are considered as supporting information only at this stage. There are therefore likely to be aspects of detailed design where careful consideration of materials, roofscape, massing etc. will be required, or where changes to details could help to further mitigate or improve effects, but these are not dealt with explicitly at the Masterplan stage.</p>
<p>Justification required in relation to ecological impacts and the proposed green-blue infrastructure strategy for the site.</p>	<p>An updated Ecological Survey has been produced by Cotswold Wildlife Surveys, and an Environmental Statement produced to support the Levels &amp; Drainage application and Southern Boulevard applications. Surveys undertaken have confirmed a low ecological baseline for the site, with most activity in relation to protected species limited to a small number of common species of bat and otter along the river corridor. Surveys undertaken to date have informed the development of the Masterplan design with a focus on the creation of habitats strengthening the river corridor. The Masterplan sets out an intention to accommodate</p>

	10% Biodiversity Net Gain across the development.
Justification required setting out a deliverable approach to phosphate mitigation.	A Nutrient Neutrality Assessment and Mitigation Strategy has been produced by WCI on behalf of the Firepool team. This sets out the phosphate load arising from the uses proposed by the Masterplan, the range of solutions considered, a reasoned preferred solution focused on use of phosphate credits secured from upgrade of 10 sewage works within the Council's control, serving current or ex-Council Houses within the Tone catchment and confirms that calculations need to be kept under review. At this stage, it is considered that the Strategy demonstrates the ability to achieve nutrient neutrality for the scheme, subject to detail, and that the Council as developer would appear to have a good prospect of securing delivery.
Confirmation required that the Masterplan will not lead to likely significant environmental effects, or significant effects upon protected European Sites.	The LPA undertook an <a href="#">SEA/HRA Screening Assessment</a> in relation to the Masterplan, which confirmed that likely significant effects could not be completely ruled out. As a result, a draft SEA Environmental Report and a draft HRA Appropriate Assessment have been produced by Lepus Consulting on behalf of the Firepool Team. The Draft SEA Environmental Report assesses the Masterplan proposals against a series of objectives covering air, biodiversity, climate change, historic environment, landscape, population and material assets and water, identifying pre-mitigation adverse effects across all objectives. However, following consideration of mitigation measures, as well as the outputs of the HRA, TVIA, nutrient neutrality strategy and other evidence base documents residual effects on most objectives are ruled out. It concludes that the Masterplan would result in a range of positive effects across most objectives, but that there would be residual adverse effects in relation to climate change and water. Several recommendations have been made to potentially enhance the sustainability of the proposals within the Masterplan or to provide further clarity regarding certain issues. The Draft HRA Appropriate Assessment assesses the Masterplan proposals and likely significant effects upon the Hestercombe House SAC and Somerset Levels and Moors Ramsar sites before taking account of mitigations. It identifies a number of mitigations which development should seek to implement and concludes that as a result, the Masterplan will not adversely affect the integrity of either site, either alone or in-combination with other plans and projects, subject to the mitigation identified. The Draft Environmental Report and Draft Appropriate



	Assessments are required to and will be subject to consultation alongside the Draft Masterplan.
Confirmation required of the approach to addressing flood risk within the site and alignment with strategic flood works.	The majority of the Firepool site is located within Flood Zone 2 or 3. Sustainable development of the site is premised on alleviating this flood risk and ensuring that doing so does not result in raising flood risk elsewhere. The Taunton Strategic Flood Alleviation Improvement Scheme identifies a number of projects required to alleviate flood risk within the town centre, with projects TTC5 (left bank of the Tone) and TTC10 (Firepool Lock to Obridge) being of key relevance here. The Levels & Drainage application (38/21/0440) approved in May 2022 proposes to raise the site levels in the main bowl of the site out of the flood plain. It demonstrates that the TTC5 flood works will ensure that raising levels within the site will not result in increasing flood risk to other properties. However, the permission is conditioned and subject to S106 obligation such that temporary flood barriers may be required should the TTC5 project not be completed by December 2024. The TTC10 project is relevant to the Firepool Masterplan only in so far as the lock lies immediately adjacent to the site, a key active travel connection for the site runs along the length of the proposed route of the flood works – it does not provide any flood alleviation benefits to the Firepool site. The Flood Risk Assessment supporting the Levels & Drainage permission does not cover the Block 1 area of the Masterplan, south of the river. As such, further information will be required on the approach to alleviating flood risk in this area without raising flood risk elsewhere in order to approve/adopt any final Masterplan.
Boundaries of the Masterplan need to be agreed.	Following discussion, and consideration of relationship with surrounding land parcels (including the Pump House, Firepool lock and weir) the boundaries of the Masterplan have been agreed for consultation purposes. All of the land within the boundary is within the control of the Council. There is an argument for the final Masterplan to potentially incorporate adjacent land on Priory Bridge Road, depending upon the further work required in relation to active travel connections and transport evidence which can be reviewed before the final version is presented for adoption.
Confirmation required of the overall sustainability and energy strategy for the site.	The Draft Masterplan summarises the broad approach to sustainability for the site. It incorporates space for an energy centre to serve a potential site-wide (or possibly wider town centre) heat network – the subject of ongoing work into broad feasibility. The site's design is

	<p>built around a high quality internal walking and cycling network, connecting to the station in the north, town centre in the south, and existing national cycle network in the east and west. However, further work is needed to understand whether appropriate external active travel connections are needed to deliver on the overarching transport strategy to achieve significant modal shift to active modes. Accompanying draft viability evidence currently suggests that it will be a struggle for the site to viably achieve higher environmental building standards beyond the forthcoming 2025 Future Homes Standard compliance.</p>
<p>Broad viability and deliverability needs to be understood (inc. potential contribution to Affordable housing, education, highways/active travel etc.)</p>	<p>An independent draft viability appraisal has been produced by HDH Planning. The draft appraisal is high level in nature, developed in line with the National Planning Practice Guidance specifically in relation to understanding viability and deliverability at the plan making stage and potential for securing policy compliant contributions from development of the site. This differs from a developer's own commercial appraisal or business case development and from detailed assessment at the planning application stage. It is high level in nature and uses standardised inputs, including costs derived from published sources, in arriving at an assessment of whether there is likely to be sufficient residual value (i.e. land value) in a development to pay for the land assuming a benchmark land value. This reflects the market failure which has seen the site lay predominantly dormant and undelivered for the last 15 years as commercial developers have failed to deliver a commercially viable scheme which also responds well to the site's context and local aspirations. This is the reason why the Council has chosen to step in and play a proactive role in bringing the site forward itself. The draft viability appraisal demonstrates that the residential elements of the proposals included in the Draft Masterplan are unlikely to be viable, resulting in negative residual values even without affordable housing, minimal developer contributions via S106, and a developer return. This does raise concerns over the deliverability of the residential development and its ability to satisfactorily address issues necessary to make development acceptable in planning terms. Whilst these are real and legitimate concerns and it is important that the Council are treated in exactly the same as any other developer for plan level viability purposes, in reality, the Council as landowner and developer has different options available to it which a commercial developer does not. These include</p>

	<p>preferential rates of borrowing, the land itself already being in public ownership, the securing of external public sector funding (i.e. grant) so there is no requirement from a developer perspective to ensure a benchmark land value is achievable, and lower levels of developer return may well be acceptable. Furthermore, the Council has wider interests in delivering increased economic, social and environmental value for the town centre. These benefits are not considered by such a standardised approach, but are key for the Council as evidenced in the Corporate Strategy and Garden Town Vision, and can therefore provide the LPA with greater confidence that a deliverable scheme will be possible on the site, than might be possible with a standard commercial developer.. The non-residential elements are not included in the appraisal. For the purposes of high level plan level viability no value is attributed to these uses due to a lack of robust local evidence, so their inclusion could make it appear that they would only serve to reduce overall scheme viability further. However, this is not necessarily reflective of a real-world scenario where such uses do result in sales/rental values. The draft appraisal identifies ways in which detailed development proposals and delivery models for the site could improve the situation somewhat, suggesting a need for the Masterplan to have some flexibility. It highlights the importance of delivering a high quality scheme with high quality public realm and wider regeneration benefits in order to achieve the higher sales values that will be necessary for successful delivery. Critically, it demonstrates that fully policy compliant development is extremely unlikely to be viable. This means that policy compliant levels of affordable housing and other policy contributions and the full suite of corporate priorities for development on the site would appear at this stage very unlikely to be achievable. Furthermore, with no or minimal return on the residential elements of the scheme, delivery of the Multi-Purpose Venue is very likely to be reliant on securing significant additional public subsidy from elsewhere.</p>
<p>Confirmation required of the approach to accommodating health needs.</p>	<p>TCAAP policy requires primary healthcare facilities to be provided on the site. The NHS has so far not been able to confirm a specific requirement for the site in terms of on-site provision, instead suggesting that off-site financial contribution may be required. However it is not clear at this stage how or where nearby GP surgeries would be expanded. As such the Masterplan identifies space for a “health hub” in the centre of the</p>

	site, indicatively capable of accommodating a primary healthcare facility. As mentioned above, potential for off-site financial contributions currently appear unlikely to be viable.
Discussion required to understand the approach to delivering improved social value.	The Firepool Masterplan is fundamentally about delivering social value – bringing forward development which can help build town centre resilience which the market alone would unlikely be able to facilitate. The LPA and Economic Development teams have begun conversations with the Firepool team in relation to use of a Local Labour Agreement and development of an associated Employment and Skills Plan.
Inclusion required of the potential options and approach to phasing, delivery and stewardship.	The Draft Masterplan includes some brief commentary on delivery options available to the Council, broad phasing expectations and potential stewardship options. However, it is not possible to determine the exact route that any of these interdependent issues will take at this stage.

#### Consultation proposals.

- 4.17 The Masterplan is not intended to be a formal statutory development plan document (DPD) or supplementary planning document (SPD). Therefore there is no statutory requirement for public consultation. However consultation is recommended in the interests of good practice and compliance with the Council's [Statement of Community Involvement](#). Furthermore, the NPPF, PPG and National Design Guide are clear on the need for plan making, and Masterplans / Design Guides to be influenced and informed by consultation with local communities. Masterplans which have not been subject to public consultation can reasonably be considered to hold less weight in the decision making process. There is, however, a statutory requirement for public consultation on the Draft SEA Environmental Report and Draft HRA Appropriate Assessment, which this consultation will comply with.
- 4.18 A draft Consultation Statement accompanies this report at Appendix B, setting out the details of the consultation process. It is proposed that consultation runs for a period of 6 weeks (likely 21 November 2022 through to 2 January 2023).
- 4.19 A Non-Technical Summary document (Appendix E) has been produced in order to provide a more easily digestible and accessible document to aid consultation and engagement.
- 4.20 The consultation will be hosted primarily online using the Commonplace platform. The Council has previously successfully used the Commonplace platform on the draft Connecting our Garden Communities plan. This has seen very good levels of engagement through this platform, so officers are keen to use this platform again. The consultation hub will enable stakeholders and the general public to find out more about the Masterplan and respond to the consultation in different ways depending on the level of detail they want to get into:

- For people with only a few minutes available, there will be an executive summary, link to the non-technical summary document, animation video and quick survey.
- For those wanting to get into a bit more detail, there will be a series of 'tiles' hosting more information about the background, key design principles, design concept evolution, developed masterplan, sustainability principles, and more detailed design proposals as well as links to the main Draft Masterplan document and supporting evidence.
- Details of planned consultation events and where documents and display boards can be viewed will also be available.

4.21 The primary consultation hub will be supplemented with the following:

- An online public presentation and Q&A session hosted jointly between the LPA and developer teams.
- An in person drop-in session hosted at Deane House jointly between the LPA and developer teams.
- An online presentation and Q&A session hosted jointly between the LPA and developer teams aimed specifically at local businesses.
- Masterplan documents made available at Deane House, Taunton Central Library and Priorswood Library
- Permanent display boards in a unit at Coal Orchard and in prominent public locations hosting information on the Draft Masterplan and how to respond to the consultation.

#### Next steps

4.22 Depending on the comments received during the consultation it may be considered necessary and appropriate to make changes to the Masterplan ahead of recommending adoption of the final version. The Consultation Statement accompanying the final version of the Masterplan for adoption will detail comments received and how they have influenced the final version.

4.23 In addition to comments received during consultation, the LPA has already identified a number of areas where additional work is necessary to enable officers to recommend adoption of the final Masterplan:

- Consideration needs to be given to how the Masterplan can respond to the draft viability evidence and improve the likely deliverability of the proposals, ensuring that they will result in sustainable development.
- An updated cycle assessment is required, effectively responding to the draft Connecting our Garden Communities plan and the key destinations identified as part of that work in relation to Firepool.
- A Transport Statement and Framework Travel Plan are required to demonstrate the suitability of the transport strategy for the site and identify the measures likely necessary to deliver against it.
- Expansion of the Parking Strategy, linking it with the above Transport Statement and Framework Travel Plan and proposed modal splits, and providing further detail and consideration of how pedestrian access from external car parks being relied upon can be improved, how the Masterplan responds to the EV Charging Strategy, how the Event Management Plan will work to limit the demand for parking for special events, how waiting takeaway delivery drivers/cyclists will be accommodated, how pricing structures will retain attractiveness of more sustainable modes, and demonstrate how the proposed ratio of 0.4 spaces per

dwelling has been arrived at and can be successfully delivered.

- Work is required to identify building character areas and key building groupings within the Masterplan proposals.
- Work is required to respond to numerous points in relation to the detail of Block 1, including in terms of suitability and design of the rear parking court and building heights and overall design along Priory Bridge Road and the impacts these may have on the streetscape and immediate environment on this key approach to the site and town centre.
- Further information will be required on the approach to alleviating flood risk in the Block 1 area south of the river without raising flood risk elsewhere.
- Inclusion of further information with regards to potential heat network delivery following completion of the current feasibility work.
- Expansion of the Office and Retail Market Update report to provide further detail on demand for food and beverage retail, respond more fully to the conclusions of the published SWT Economic Development Needs Assessment (2021), potentially including greater flexibility for more office uses to come forward on the site should the market change, and demonstrate the jobs and wider economic benefits that the Masterplan proposals will bring to the town centre.

4.24 Members should note that, post-consultation, the final amended Masterplan, taking account of consultation responses and work on identified outstanding issues, will be presented to Full Council in due course, with an officer recommendation of adoption as a material consideration in the determination of relevant planning applications. This status is reflective of the fact that the Masterplan will deviate – significantly in some areas – from adopted planning policy, and as such cannot be adopted as SPD.

4.25 Rather than the whole Masterplan document being recommended for adoption in this way, at this stage it is likely that the recommendation will be to adopt explicit parts of the Masterplan document e.g. Executive Summary, key design principles, parameter plans etc., with the remainder of the document including the more detailed design aspects being supporting evidence demonstrating how these elements *could* be implemented. This approach would help to avoid the Masterplan being overly prescriptive and would appear to be the most pragmatic and flexible option whilst providing sufficient certainty to assist in progressing the development of the site.

4.26 Once the final Masterplan has been adopted as a material consideration it will hold greatest weight in the decision-making process on relevant planning applications as a material consideration. Planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise. Provided regard is had to all material considerations, it is for the decision maker to decide what weight is to be given to the material considerations in each case.

4.27 In the meantime, once the Draft Masterplan is published for public consultation it will hold some limited weight. However, this weight is limited by the fact that it has not yet been informed by the public consultation responses, and the fact that there are a number of areas where the LPA has already identified further work is required (as set out in paragraph 4.22, above).

4.28 The Council is currently in receipt of a planning application for the “Southern Boulevard” (38/22/0176). Key comments from the planning policy response to this application explained the relationship with the wider Masterplan, and the need for progress to be

made towards approval of the consultation draft before a decision could be made on this application. Sufficient progress is now considered to have been made for a decision to be made, and a report recommending that planning permission be granted is due to be considered by Planning Committee on 10 November 2022 in this respect.

## **5 Links to Corporate Strategy**

- 5.1 The approval of the Draft Masterplan for public consultation is a key step on the route to delivering on multiple strands of the Corporate Strategy. Facilitating the development delivery of the residential and commercial parts of Firepool are explicit objectives of the Corporate Strategy. Approval of the final Masterplan by the LPA would be intended to help reduce risk associated with subsequent planning applications, smoothing the path towards delivery. However, it should be noted that the accompanying draft viability appraisal does raise concerns about the deliverability of the proposals as currently identified within the Draft Masterplan.
- 5.2 The Draft Masterplan responds to a number of Corporate Strategy objectives under “Our Environment and Economy”: working towards carbon neutrality by 2030, shaping and protecting our built and natural environment (including delivery against the Garden Town Vision), providing enhanced public spaces and opportunities to safely walk and cycle, supporting town centres to meet challenges, and supporting enhancement of arts and culture provision. More commentary is included in relation to the carbon neutrality objective in the climate implications section below.
- 5.3 Consultation on the Draft Masterplan will respond to the following Corporate Strategy objective under “A Transparent and customer focused Council”: delivering effective communications, consultation and engagement which listens to and engages with our residents and stakeholders and is central to the delivery of our services, strategies and plans.
- 5.4 The Draft Masterplan responds to a number of Corporate Strategy objectives under “An Enterprising Council”: ensuring our land and property assets support the achievement of the council’s objectives (including service delivery, regeneration projects and community initiatives). However, as noted in paragraph 5.6 below, the proposals are extremely likely to fail to respond to the key council objective around provision of affordable and social homes.
- 5.5 The Draft Masterplan begins to respond to a Corporate Strategy objective under “Homes and Communities”: supporting delivery of strong sustainable transport infrastructure links. However, as noted above, further work is required to satisfy the LPA that appropriate active travel connections are provided for and how the overarching transport strategy will be delivered.
- 5.6 A further, a key objective under “Homes and Communities” is increasing the number of affordable and social homes, including those built by the Council. The Draft Masterplan proposals are supported by a high level draft viability appraisal which shows that the delivery of affordable housing is extremely unlikely to be possible on Firepool. In this respect, the proposals are not compliant with either adopted planning policy or the corporate strategy. However, evidence is provided to justify why this is not possible and the developer team suggest that on balance, the proposals are appropriate considering delivery against wider corporate objectives. Whilst this report is not recommending adoption of the final Masterplan at this stage, clearly there is a conflict here with the

corporate strategy which Members must be alive to in approving the Draft Masterplan for public consultation.

## **6 Finance / Resource Implications**

- 6.1 This report seeks approval to consult on the draft Masterplan only. It does not seek adoption of the final version, which will be subject to a future report at the appropriate time. Furthermore, the report is written by officers of the Local Planning Authority (LPA) and recommends a decision be made by the Council in its role as the LPA.
- 6.2 There are no financial implications to the Local Planning Authority associated with consulting on the draft Masterplan. The budget for undertaking the consultation is already accounted for within the existing Firepool team budget.
- 6.3 The delivery of the Masterplan proposals will have a financial implication for the Council in its role as landowner / developer / asset holder. The adoption of the Masterplan does not in itself commit the Council to having to deliver the scheme exactly as is proposed within the Masterplan, though public expectations may be raised as such.
- 6.4 From the point of view as LPA, the Council needs to be satisfied that the Masterplan will result in deliverable and sustainable development in planning terms. It is the responsibility of the Council as landowner / developer / asset holder to consider the internal financial implications of this, and this is beyond the scope of this report or the Council's role as LPA.

### **Unitary Council Financial Implications and S24 Direction Implications**

- 6.5 The delivery of development on Firepool will have financial implications beyond vesting day for the new unitary council. A decision to approve consultation on the draft Masterplan will not.

## **7 Legal Implications**

- 7.1 This report seeks approval to consult on the draft Firepool Masterplan only. It does not seek adoption of the final version, which will be subject to a future report to Full Council at the appropriate time.
- 7.2 Section 70(2) of the Town and Country Planning Act 1990, as amended, requires that in determining any planning application regard is to be had to the provisions of the Development Plan, so far as is material to the application and to any other material planning considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) requires that planning applications should be determined in accordance with the development plan unless material considerations indicate otherwise.
- 7.3 The intention that the final Masterplan be adopted as a material consideration in the determination of relevant future planning applications on the Firepool site reflects the appropriate status that this document can have. The report identifies that the Masterplan explicitly deviates away from adopted planning policy in a number of places. As such it would not be appropriate for the Masterplan to be adopted as a Supplementary Planning Document (SPD), which should build upon and provide more detailed advice or guidance on policies in an adopted local plan.



- 7.4 Whilst the Masterplan would not be adopted as SPD (for the reasons given above) public consultation on the draft Masterplan should be for at least 4 weeks and accord with the Council's Statement of Community Involvement (adopted November 2019). Representations received will be collated into a report explaining how the issues raised have been addressed prior to a decision by Full Council on formal adoption.
- 7.5 The report correctly advises that the consultation draft Masterplan will hold only limited weight as a material consideration in the determination of relevant planning applications. Indeed, the report clarifies the areas where more work is needed.
- 7.6 The adoption of the Firepool Masterplan as a material consideration for future planning applications will constitute a 'plan' within the meaning of Article 6(3) of the Habitats Directive as implemented by [Regulation 63\(1\)](#) of The Conservation of Habitats and Species Regulations 2017.
- 7.7 As there is a reasonable prospect of a solution or suite of solutions to phosphate deposition being available within the development timescales envisaged in the Masterplan, it would be lawful for the LPA to adopt the same as material consideration. However, any future planning applications flowing from the Masterplan will need to include the provision of an avoidance/mitigation package to address the additional nutrient load imposed on the Somerset Levels and Moors Ramsar by the Firepool development and to allow the LPA to ascertain on the basis of the best available scientific evidence that such additional nutrient loading will not have an adverse effect on the integrity of the Ramsar.
- 7.8 The draft Masterplan is supported by a draft SEA Environmental Report and draft HRA Appropriate Assessment as screened necessary by the LPA previously in order to comply with the Council's duties under the European Directive 2001/42/EC (SEA Directive) and associated Environmental Assessment of Plans and Programmes Regulations 2004 (SEA Regulations), EU Habitats Directive and associated Conservation of Habitats and Species Regulations 2017.
- 7.9 Under the Council's Constitution, the Executive Committee holds both roles for the purposes of approving draft policy for public consultation. As such, and in the interests of transparency and probity, the report is clear that the recommendation of approval to consult is in the Council's role as LPA, distinct from its role as developer/landowner/asset holder. adoption of the final Masterplan is required, as per the Constitution to be a decision taken by Full Council. It will be important at this next stage to clarify that any recommendation of adoption as a material planning condition is again, in the Council's role as LPA.

## **8 Climate, Ecology and Sustainability Implications**

- 8.1 The decision on whether to approve the draft Masterplan for public consultation does not in itself have any direct climate, ecology or sustainability implications.
- 8.2 The Draft Masterplan document identifies the Climate and Ecological Emergency as a key part of the context for its development. A number of the proposed key design principles are centred around sustainability and responding to the Climate and Ecological Emergency. The Draft Masterplan identifies a high level sustainability for the site and incorporates space for an energy centre to serve a potential site-wide (or possibly wider town centre) heat network – the subject of ongoing work into broad

feasibility. Furthermore, the site's design around a high quality walking and cycling network within the site, connecting to the station in the north, town centre in the south, and existing national cycle network in the east and west is of key importance to the Masterplan design.

8.3 However, the draft viability appraisal accompanying the Draft Masterplan highlights the difficulties in getting delivery of this site away. The viability evidence assumes delivery will be post 2025 and therefore compliance with the forthcoming Future Homes Standard is assumed. Whilst the draft viability appraisal recognises that building to higher standards that result in lower running costs does result in higher values, it is a risk that the scheme will not be able to viably achieve higher environmental building standards than this. This does not completely rule out the ability to achieve zero carbon on the site, and detailed understanding of the impact that a heat network for instance may make to whether this can be achieved or not is not yet known. However, it highlights that doing so is one of a number of challenges in bringing forward sustainable development on the site which will need to be balanced. The CNCR Action Plan states in relation to the Council's own developments that "Ensuring that what we build is of the highest standards can not only benefit our own carbon footprint, but also reduce fuel bills and improve health outcomes for our tenants. It also enables us to lead by example and show the local development industry what is possible, show the public what they can demand from private developers, and to build the local skills base and supply chain that will be necessary to see zero carbon building standards delivered across the board". It also makes explicit reference in action 324 to Firepool being designed as an exemplar for zero carbon and climate resilient development. Whilst the Council cannot insist on higher building standards through adopted planning policy, Climate Positive Planning and the Districtwide Design Guide SPD strongly encourage developers to go above and beyond policy and Building Regulations and set out aspirational zero carbon standards. There are justified viability reasons why the Council may not be able to achieve this in relation to building standards, and other aspects of the Masterplan do respond to the "zero carbon and climate resilient" mantra. But the Council should recognise that this would fail to set a positive precedent for other developers to follow, or to help build the local skills base or supply chain.

8.4 Furthermore, whilst the Draft Masterplan proposes high quality internal active travel infrastructure, it currently fails to address key external barriers to active travel as identified within the Draft Connecting our Garden Communities Plan in relation to Firepool. Further work is therefore identified as necessary before the LPA is able to recommend adoption of the final Masterplan.

## **9 Safeguarding and/or Community Safety Implications**

9.1 The decision on whether to approve the draft Masterplan for public consultation does not in itself have any direct safeguarding or community safety implications.

9.2 The draft Masterplan proposes a network of high quality public realm interventions within the site designed with community safety in mind and in particular making walking and cycling a more attractive and safe option for more vulnerable groups.

## **10 Equality and Diversity Implications**

10.1 The decision on whether to approve the draft Masterplan for public consultation does not in itself have any direct equality and diversity implications. Consultation will be designed

to address potential barriers to engagement which may otherwise affect certain protected groups more than others including through production of a short non-technical summary document, holding both online and in-person consultation events, hosting documents at Deane House and Taunton libraries, hosting display materials in publicly accessible and visible locations and enabling responses via multiple methods.

- 10.2 The delivery of development in line with the Draft Masterplan could have equalities and diversity implications. A draft Equalities Impact Assessment has been undertaken by the developer team (see Appendix D) and has informed the development of the Draft Masterplan to demonstrate consideration of the Council's duties in regard to the Public Sector Equality Duty.

## **11 Social Value Implications**

- 11.1 The Firepool Masterplan is fundamentally about delivering social value – bringing forward development which can help build town centre resilience which the market alone would unlikely be able to facilitate.
- 11.2 The LPA and Economic Development teams have begun conversations with the Firepool team in relation to use of a Local Labour Agreement and development of an associated Employment and Skills Plan. However this is not directly related to the recommendation to approve the Draft Masterplan for public consultation.

## **12 Partnership Implications**

- 12.1 There are no known partnership implications.

## **13 Health and Wellbeing Implications**

- 13.1 The decision on whether to approve the draft Masterplan for public consultation does not in itself have any direct health and wellbeing implications.
- 13.2 The Draft Masterplan proposes a network of walking and cycling routes and a low traffic neighbourhood within the site which contribute towards addressing inactivity levels and air quality concerns. It further proposes a health hub central to the site with potential to accommodate primary healthcare facilities. The commercial and leisure facilities provide opportunities for employment and socialisation.

## **14 Asset Management Implications**

- 14.1 The Firepool site is a Council asset. The final Masterplan will therefore be intended to heavily influence the use of this asset and how development on it might come forward. The Draft Masterplan includes some information with regards to delivery and stewardship options, however none are explicitly committed to.

## **15 Data Protection Implications**

- 15.1 A Data Protection Impact Assessment has been undertaken in relation to the consultation exercise. Officers with an overview of data protection have been consulted as part of this. The assessment highlights a number of measures to be taken forward as part of the consultation to ensure compliance with GDPR and reduce risks. An associated Privacy Notice will be published as part of consultation hub.

## 16 Consultation Implications

16.1 See above sections 4.17 to 4.20.

### Democratic Path:

- Corporate Scrutiny Committee – Yes – 02/11/22
- Executive – Yes – 16/11/22
- Full Council – Following consultation, for adoption of the Final Masterplan

Reporting Frequency: Once only

List of Appendices (background papers to the report)

TO VIEW THE APPENDICES, PLEASE CLICK ON THE LINK: [Document Firepool Design Guidance and Masterplan Appendices - Modern Council \(somerwestandtaunton.gov.uk\)](http://somerwestandtaunton.gov.uk)

Appendix A	Draft Firepool Masterplan
Appendix B	Draft Consultation Statement
Appendix C	Supporting evidence documents including: <ul style="list-style-type: none"><li>• Draft Viability Appraisal</li><li>• Nutrient Neutrality Assessment and Mitigation Strategy</li><li>• Heritage Assessment</li><li>• Townscape Visual Impact Assessment</li><li>• Cycle Assessment</li><li>• Parking Strategy</li><li>• Ecology Survey</li><li>• Office and Retail Market Update</li><li>• Draft SEA Environmental Report</li><li>• Draft HRA Appropriate Assessment</li></ul>
Appendix D	Equalities Impact Assessment
Appendix E	Non-Technical Summary Document

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By virtue of paragraph(s) 3 of Part 1 of Schedule 12A  
of the Local Government Act 1972.

Agenda Item 11

Document is Restricted

