

**To all Members of the Council**

21 January 2022

You are hereby summoned to attend a Meeting of Rother District Council to be held at the Town Hall, Bexhill-on-Sea, on **Monday 31 January 2022** at 6:30pm, when it is proposed to transact the business stated below.

1. To approve as a correct record and to authorise the Chairman to sign the Minutes of the Council meetings held on 20 September and 18 October 2021.

2. To receive apologies for absence.

3. Disclosure of Interest

To receive any disclosure by Members of personal and disclosable pecuniary interests in matters on the agenda, the nature of any interest and whether the Member regards the personal interest as prejudicial under the terms of the Code of Conduct. Members are reminded of the need to repeat their declaration immediately prior to the commencement of the item in question.

4. To receive the Chairman's communications.

5. To answer questions from members of the public, if any, in accordance with paragraph 10 of the Council Procedure Rules (\*time limit 30 minutes).

6. To answer questions from Members of the Council, if any, in accordance with paragraph 11 of the Council Procedure Rules (\*time limit 30 minutes).

7. To receive the report of the Cabinet on matters for determination by full Council at its meetings on 4 October, 8 November, 13 December 2021 and 10 January 2022, as under: (Pages 1 - 98)

**4 October 2021**

- Updated Statement of Community Involvement (CB21/39)

**8 November 2021**

- Street Litter Binrastructure and Draft Litter Strategy for Rother (CB21/48)

**13 December 2021**

- Council Tax Reduction Scheme – outcome of consultation to proposed changes (CB21/55)
- New Community Infrastructure Levy governance and the proposal for apportionment of strategic Community Infrastructure Levy funds (CB21/56)
- Designation of Monitoring Officer and Chief Finance Officer (CB21/57)

**For details of the Council, it's elected representatives and meetings  
visit the Rother District Council Website [www.rother.gov.uk](http://www.rother.gov.uk)**

## 10 January 2022

- Updated Local Planning Enforcement Plan (CB21/66)

### 8. To receive the report of the Head of Paid Service

In accordance with paragraph 17a of the Overview and Scrutiny Procedure Rules and paragraph 4 of the Budget and Policy Framework Procedure Rules, that there were no decisions taken as matters or urgency at the Cabinet meetings held on 4 October, 8 November, 13 December 2021 and 10 January 2022.

### 9. To receive the report of the Audit and Standards Committee on the following matter for determination by the full Council considered at its meeting held on 6 December 2021 as under: (Pages 99 - 100)

#### 6 December 2021

- Appointment of the External Auditors (AS21/36)

### 10. To receive the report of the Chief Executive on a change to the political make-up of the Council and to consider and approve the revised allocation of Committee seats and appointments thereto in accordance with the political balance rules or as otherwise determined by the Council. (Pages 101 - 102)



Malcolm Johnston  
Chief Executive

Town Hall  
Bexhill-on-Sea  
East Sussex, TN39 3JX

*\*Any supplementary verbal questions put will be audio recorded for ease of reproducing the minutes of the meeting*

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## Rother District Council

Report to	-	Council
Date	-	31 January 2022
Report of the	-	Cabinet
Subject	-	References from Cabinet Meetings

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The Council is asked to consider the recommendation arising from the Cabinet meetings held on 4 October, 8 November, 13 December 2021 and 10 January 2022 as set out below.

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### **CABINET – 4 October 2021**

#### **CB21/39. UPDATED STATEMENT OF COMMUNITY INVOLVEMENT**

Members considered the draft updated ‘Statement of Community Involvement’ (SCI), attached as Appendix A to the report, which set out how and when the Council would carry out consultations and involve the community in both the preparation of planning policy documents and in the determination of planning applications.

The SCI had been subject to public consultation, following which a small number of minor amendments had been made as set out in the Consultation Summary Report, attached as Appendix B to the report. None of the amendments made as a result of the public consultation had changed the substance of the draft updated SCI as presented to Cabinet in May this year.

The main amendments to the SCI related to early engagement on plan-making and the Duty to Co-operate, changes to the public speaking processes at Planning Committee, brought in by the current administration, and the increased scope of engagement using new online platforms. Members were pleased with the increased community engagement with both the public and the parish and town councils across the district that enabled participative and collaborative planning processes.

The updated SCI provided a clear, transparent basis for carrying out consultations on future plans and would provide a useful reference to all interested parties on what involvement they could expect to have in planning decisions.

**RECOMMENDED:** That the updated Statement of Community Involvement attached as Appendix A to the report be approved and adopted, with any comments being reported verbally to full Council.

(Attached at Appendix A to this report).

(Cabinet Agenda Item 8)

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CB21/48. **STREET LITTER BININFRASTRUCTURE AND DRAFT LITTER STRATEGY FOR ROTHER**

Consideration was given to the report of the Head of Neighbourhood Services regarding the adoption of a Litter Strategy for Rother.

The Litter Strategy for England 2017 had been designed to apply best practice to reduce litter and littering behaviour, as well as outlining how tackling litter could be done in partnership with central and local government, volunteers, campaigners and businesses. A fundamental part of the strategy was the development of local government level litter strategies and a review of their 'bininfrastructure'. Bininfrastructure meant having the 'right bin in the right place'. Through the Department for Environment and Rural Affairs and Waste and Resource Action Programme, the Council applied for and was granted a financial award of £22,500. This enabled the Council to purchase multiple bins, including solar bins, signage and installation, some of which had already been allocated to appropriate locations. Full information was detailed in the draft Litter Strategy at Appendix A to the report.

It was noted that additional costs would be required to maintain the bins and that Hastings Direct (via the Welcome Back Fund) had provided financial support to empty the additional bins. Additional funding might be available, as a result of local businesses supporting litter bins. A local business sponsorship education and publicity campaign would be launched once the UK Environment Bill had been ratified.

Cabinet congratulated the Head of Neighbourhood Services and her team for achieving the award and were fully supportive of the draft Litter Strategy. It was important that the negative "throw away / throw down" culture was tackled, as this had a detrimental impact on everyday life. Officers would continue to explore all funding options to purchase suitable (affordable) bins and ensure that they were placed in appropriate areas to alleviate accumulated rubbish in high footfall locations e.g. seafront / promenade etc. Partnership working with food outlets and community groups was considered essential to reduce littering and create a clean environment across the district.

**RECOMMENDED:** That the draft Litter Strategy for Rother attached at Appendix A to the report be approved and adopted.

Cabinet also **RESOLVED:** That the:

- 1) Litter Strategy for England 2017 be noted; and
- 2) successful award of Bininfrastructure funding and its requirement for a Local Authority Litter Strategy be noted.

(Attached at Appendix B to this report).

(Cabinet Agenda Item 7)

**CB21/55. COUNCIL TAX REDUCTION SCHEME – OUTCOME OF CONSULTATION TO PROPOSED CHANGES**

Each year, the Council was required to formally adopt and review a Council Tax Reduction Scheme (CTRS) by 31 January to commence on the 1 April of that year. The report had been scrutinised by the Overview and Scrutiny Committee (OSC) on 22 November 2021 and a copy of the Minutes arising from the OSC meeting had been appended to the report for Cabinet's consideration.

Two changes were proposed for the 2022/23 scheme namely to improve access for self-employed people who were also carers and self-employed residents who were registered disabled. The Council was legally required to consult with the community and stakeholders on substantive changes to the CTRS. All major preceptors had been consulted and one objection had been received. The CTRS was expected to have a relatively small impact on the total income (approximately £4,000) derived from Council Tax for Rother District Council but would make an important difference to those households affected. The uptake and ultimate cost would be monitored throughout 2022/23 and would be considered when the CTRS was next reviewed.

Cabinet was supportive of the proposed changes to the CTRS.

**RECOMMENDED:** That the changes to the Council Tax Reduction Scheme as outlined in this report be approved and adopted with effect from 1 April 2022.

(Cabinet Agenda Item 8)

**CB21/56. NEW COMMUNITY INFRASTRUCTURE LEVY GOVERNANCE AND THE PROPOSAL FOR APPORTIONMENT OF STRATEGIC COMMUNITY INFRASTRUCTURE LEVY FUNDS**

Consideration was given to the report of the Director – Place and Climate Change which proposed the new Community Infrastructure Levy (CIL) Governance arrangements and proposals for apportionment Strategic CIL funds. The report had been scrutinised by the Overview and Scrutiny Committee (OSC) on 22 November 2021 and a copy of the Minutes arising from the OSC meeting had been appended to the report for Cabinet's consideration.

A Community Infrastructure Levy Steering Group (CILSG) had been established to consider the allocation and spending of the Strategic CIL funding. Appendix 1 to the report identified the updated CIL Governance and Funding Decisions Protocol for consideration and allocation of Strategic CIL funding and included the application form, assessment criteria and validation checklist. The Protocol outlined how the Council, as the Charging Authority allocated the Strategic CIL and ensured governance arrangements were consistent and transparent. There were two main funds, namely the Rother Infrastructure Fund (RIF) (55% apportion) and the Infrastructure Matched Fund (25%

apportion). Both would be sub-divided into Bexhill and Rural sub-funds. Funds would be allocated to projects identified on the annual Infrastructure Funding Statement and prioritised by the Strategic CIL Allocations Panel. A Climate Emergency Bonus Fund (20% apportion) would be established to assist schemes that were considered 'green premium' e.g. reduced carbon emissions.

It was noted that CIL funding could be spent on the Council's own infrastructure requirements or assets; a briefing by the Planning Policy Manager would be delivered to the Corporate Management Team and Heads of Service to identify suitable projects / schemes etc.

Cabinet was supportive of the new Strategic CIL funding apportionment arrangements and composition of the Strategic CIL Allocations Panel. It was also agreed that a review of the Council's CIL Charging Scheme be delayed subject to the outcome of the Government's paused White Paper "Planning for the Future" and further investigation of future infrastructure needs as part of the Local Plan Review, and that the CILSG be disbanded.

The Leader thanked all Members of the CILSG and officers who had supported and contributed to the work of the Group.

**RECOMMENDED:** That:

- 1) the Strategic Community Infrastructure Levy Allocations Panel be established and comprised of the Cabinet Portfolio Holders for Strategic Planning, Finance and Performance Management and Economic Development and Regeneration, Chairman of Overview and Scrutiny, Chairman of the Council and supported by Director – Place and Climate Change, Planning Policy Manager, Chief Finance Officer and Principal Community Infrastructure Levy Officer;
- 2) strategic Community Infrastructure Levy funds be distributed by the Panel in accordance with the proposed Community Infrastructure Levy Governance and Funding Protocol; and
- 3) the Council's Community Infrastructure Levy Instalment Policy be maintained (the Council's Community Infrastructure Levy Instalment Policy was considered and compared with those of neighbouring authorities).

Cabinet also **RESOLVED:** That:

- 1) a review of the Council's Community Infrastructure Levy Charging Scheme be delayed subject to the outcome of the Government's paused White Paper "Planning for the Future" and further investigation of future infrastructure needs as part of the Local Plan Review;
- 2) the Community Infrastructure Levy Steering Group be disbanded; and

- 3) it be noted that 'best practice guidance' on Community Infrastructure Levy arrangements were to be created by Councillor Dixon, in consultation with Battle Town Council, the Cabinet Portfolio Holder for Strategic Planning and Planning Policy Manager.

(Cabinet Agenda Item 10)

CB21/57. **DESIGNATION OF MONITORING OFFICER AND CHIEF FINANCE OFFICER**

The posts of the Monitoring Officer (MO) and Chief Finance Officer (CFO) were two of three statutory posts which the Council was required to have and as such appointment to these posts needed to be approved by full Council.

Following the Council's restructure and appointment of the new Deputy Chief Executive / designated MO and reintroduction of the Deputy Monitoring Officer (DMO) role, Cabinet recommended the appointment of Lorna Ford as the MO and Lisa Cooper as the DMO with effect from 17 January 2022. The Council's current Section 151 Officer, Robin Vennard was retiring and would formally leave the Council on 31 December 2021. Cabinet recommended the appointment of Antony Baden as the CFO / Section 151 Officer with effect from 1 January 2022 or an earlier date as agreed by the Chief Executive. Full Council would be meeting on 20 December 2021 to formally ratify the appointments.

**RECOMMENDED:** That Lorna Ford, Deputy Chief Executive be designated as the Council's Monitoring Officer and Lisa Cooper be designated as the Council's Deputy Monitoring Officer with effect from 17 January 2022 and Antony Baden be designated as the Council's Chief Finance Officer (Section 151 Officer) with effect from 1 January 2022 or an earlier date as agreed by the Chief Executive.

(Cabinet Agenda Item 12)

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**CABINET – 10 January 2022**

CB21/66. **UPDATED LOCAL PLANNING ENFORCEMENT PLAN**

The Local Enforcement Plan (LEP) adopted in July 2016 was consistent with the National Planning Policy Framework (NPPF) guidance and described how the Council investigated allegations of unauthorised development within the district. The Development Manager advised that as a result of several factors, namely updates to the NPPF, adoption of the Council's Development and Site Allocations Local Plan in 2019 and consequences of COVID-19 pandemic, it was necessary to update the document. All Members had the opportunity to consider the draft Plan in November and contribute to its revision and several Member suggestions had been incorporate into the draft.

A copy of the revised draft LEP was attached to the report at Appendix A.

The proposed updated plan drew on current good practice and current working practices as well as up-to-date legislation and planning policies to both set out how the Planning Enforcement services managed investigating alleged planning breaches proactively, but also what it could and could not do including when some factors may be beyond its control. In addition, the revised LEP provided appendices which should assist visually with setting out the investigation and action processes and the 'toolkit' of powers at the Service's disposal.

Whilst formal consultation with the parish and town councils across the district had not taken place on this draft, it was agreed that a remote meeting would be held following full Council's adoption of the plan and this could be advised at the Rother Association of Local Councils' meeting being held this week. Consultation with the parish and town councils would take place in subsequent reviews of the plan in two/three years' time.

Cabinet was supportive of the updated LEP and acknowledged that the document provided a clear and concise 'toolkit' for the Council's Planning Enforcement Team for dealing with breaches of planning. The Cabinet Portfolio Holder for Strategic Planning thanked the Development Manager who had made significant improvements to the planning service since his appointment.

**RECOMMENDED:** That the updated version of the Local Planning Enforcement Plan be approved and adopted.

(Attached as Appendix C to this report)

(Cabinet Agenda Item 9)

Councillor D.B. Oliver  
Leader of the Council

**Rother District Council**  
**Statement of Community Involvement**  
**October 2021**

DRAFT

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Due to the current Coronavirus Pandemic this document should be read in conjunction with the [temporary Coronavirus Addendum](#). The temporary Addendum identifies methods of community engagement within this document that are not practicable at this time, while setting out temporary measures to ensure that the Council's Strategy and Planning Service can safely continue to carry out its various functions for which it is responsible.

## 1. Introduction

- 1.1 Planning for land use and development in the District is one of the Council's key responsibilities, impacting both directly and indirectly on individuals and communities.
- 1.2 It follows that people and groups potentially affected by planning policies and proposals should have the opportunity to be effectively involved in decision-making and should understand what those opportunities are.
- 1.3 **This Statement of Community Involvement (SCI) explains the arrangements for public involvement in Rother District Council's planning processes. It covers both the preparation of planning policy documents and the determination of planning applications.**
- 1.4 It updates the previous SCI, which was adopted in December 2018, to explain the consultation processes as part of the Council's new Local Plan 2019-2039. Development of the new Local Plan gives an additional emphasis to early (pre-production) engagement, and this SCI update sets out in more detail what this engagement will involve for future Local Plans. This SCI also covers a new provision for pre-applicants to present their development proposals to planning committee and other members, which will be recommended by officers where the proposed development would be of a significant nature.
- 1.5 The Planning Service has recently undergone a Review, the outcome of which is an action plan focused on improving how we interact with people and groups and how we keep customers up-to-date. These actions will feed into the next SCI, in order that community involvement is improved.
- 1.6 It is important to note that in accordance with Government guidance, the Council has produced a [temporary Coronavirus Addendum](#) (originally published in August 2020) to identify methods of community engagement that are not practicable at this time, while setting out temporary measures to ensure that the Council's Strategy and Planning Service can safely continue to carry out its various functions for which it is responsible.

- 1.7 This Addendum identifies methods of engagement set out in the SCI which are not practicable under the conditions of the coronavirus<sup>1</sup> pandemic, such as those requiring face-to-face contact and shared handling of documents, whilst setting out alternative methods of engagement that may be used in order that plan making can continue during this time. In addition, where the pandemic has impacted upon workloads, the Council may, where necessary, suspend any of its discretionary engagement and services to safeguard its statutory duties. There may be further temporary minor changes made to the SCI without public consultation due to the changing nature of the ongoing pandemic. Should further changes be necessary these will also be reflected in an update to the temporary Coronavirus Addendum.
- 1.8 The following Section (2) sets out the Council's **General Principles** for consultation, which remain as previously.
- 1.9 Section 3 highlights the opportunities to contribute to the formulation of local **Planning Policy**. This relates to the production of the District Councils' Local Plan and any supplementary planning documents, as well as a section on the preparation of Neighbourhood Plans.
- 1.10 Section 4 deals with **Development Management**, i.e. the consideration of planning applications, applications for listed building consent, conservation area consent, etc. It sets out commitments for making information available on such applications and the opportunities for making comments on them, including the public speaking process at Planning Committee.
- 1.11 The final Section 5 highlights how and when **monitoring and review of the Statement of Community Involvement (SCI)** will take place.

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<sup>1</sup> "coronavirus" means severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2).

## 2. General Principles

- 2.1 There are several principles that apply to the approach to consultation, access to information, participation for all, openness and treatment of comments for all areas of planning.

### Consultation Charter

- 2.2 The Council has a Consultation Charter which identifies several principles for public consultation across its services. Its principles are reproduced below:

The Council acknowledges and undertakes that:

1. consultation is a fundamental part of good public service; it will be the starting point not an afterthought
2. consultation will be based on openness, trust, integrity and mutual respect for all participants
3. where appropriate, consultation will be used to seek views before decisions are made
4. requests to consult may come from inside or outside the Council
5. consultation will seek to involve all parties who can contribute to or who are affected by the outcome of consultation
6. it will seek to explain to people why they are being consulted, what they are being consulted about and how their views will contribute to any decision
7. some people will be less able to participate in consultation than others; specific efforts will be made to identify and target these people; every effort will be made to ensure that consultation is representative
8. it will seek to ensure that the issues are clearly understood and that objectives, timescales and expectations are clearly identified
9. relevant and easily understandable information will be provided to consultees with particular attention to those who have special communication needs
10. the results of the consultation and any impact upon Council decisions will be provided in the most appropriate form both to consultees and the wider community

- 2.3 The Council recognises that planning material is often technical in nature; hence, consultation documents produced by the Council, will be as clear and concise as practicable, using plain English as far as possible, avoiding, or at least explaining 'jargon' (possibly in a 'glossary') without detracting from the complexities of issues.

## **Access and equalities**

- 2.4 In terms of ensuring engagement of all sections of community, particular attention will be given to “hard to reach” groups. This includes meeting the public sector equality duty to advance equality of opportunity between different groups, associated with age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, and sexual orientation. ‘Equality Objectives’ are set in a separate document, see: <http://www.rother.gov.uk/equality>.

## **Means of involving people**

- 2.5 The Council will seek to choose appropriate consultation processes that best balance community impact, accessibility and available resources. Greater use is being made of online and social media methods of consultation, while appreciating that they are not accessible for all members of the community. Some forms of consultation and public involvement can be time intensive. Hence, detailed decisions about the methods of involvement to be used at a particular stage will need to consider the availability of resources at the time. In particular, events which require considerable staff involvement, such as exhibitions, will need to be utilised appropriately and where the outputs of such events will have the greatest benefits.
- 2.6 In addition, Councillors regularly undertake planning training sessions, which enables them to communicate and engage with residents in respect of planning related matters.
- 2.7 The Coronavirus pandemic has seen an expansion of the use of online technologies to the way that we work and communicate. Whilst the end of the pandemic will see a return to the full range of engagement methods as set out in this SCI, the Council will also look to capitalise on the increased opportunities for wider engagement that these new online platforms have provided.

## **Making comments and their availability**

- 2.8 As part of the transparency and openness of decision-making, and in accordance with the legal framework set by the General Data Protection Regulations 2016 and the Data Protection Act 1998, comments made on planning documents and on planning applications will be made publicly available. They cannot be treated in confidence. However, the Council will not publish personal information such as signatures, telephone numbers and email addresses online. Where such personal information has been provided in correspondence to the Council, then this information will be redacted before it is published publicly.
- 2.9 Comments made, whether on policy documents or planning applications should be made within the timescale prescribed, relate to the particular document/application, not be anonymous and not be potentially libellous, defamatory, threatening, abusive or likely to incite racial hatred.

## **Consideration of comments**

- 2.10 All comments made in response to consultations on planning policy documents and on planning applications will be considered in decision-making where they relate to 'material considerations'. Guidance on what constitutes 'material considerations' for planning purposes is outlined in Section 4 of this document. However, it may not always be appropriate to determine matters in line with comments received. The Council is obliged to consider, firstly, conformity with local planning policies, consistency with national policies, as well as having regard to all material considerations (which may pull in different directions) in making balanced decisions.

### 3. Planning Policy

#### Planning policy documents

- 3.1 Councils are obliged to prepare a 'Local Plan' setting out their policies for development and the use of land in their area which, in turn, provides the basis for decisions on planning applications. Its 'strategic policies' also provide a framework for the preparation of 'Neighbourhood Development Plans' (often referred to more simply as "Neighbourhood Plans") by local communities.
- 3.2 In Rother, the current adopted **Local Plan** covers the period up to 2028 and is set out in the following documents.
- The [Core Strategy](#), which sets the overall vision and objectives for the area, the related development strategy and core policies ("Part 1")
  - The [Development and Site Allocations Local Plan \(DaSA\)](#), which allocates sites for development and contains detailed policies to elaborate on those in the Core Strategy ("Part 2")
  - Remaining extant policies from the [2006 Local Plan](#). These extant policies consist of site allocations and development boundaries within Neighbourhood Plan areas where a neighbourhood plan is not yet in place.
- 3.3 The Council has commenced the process of developing a new Local Plan, which will cover the period up to 2039. It is expected that the new Local Plan will embrace the development strategy and key site allocations in a single document. The New Local Plan will supersede the documents listed above in paragraph 3.2.
- 3.4 The significance of the 'Duty to Cooperate' (DtC) as introduced in the Localism Act 2011<sup>2</sup> means that the Council places particular importance on 'early and continual effective engagement' in respect of all stages in the production of the Local Plan. Emerging Government policy<sup>3</sup> has also stated its intention to require Local Plans to 'front-load' the engagement process to facilitate the wider community having a more significant role in shaping new policy at the earliest stage.

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<sup>2</sup> Section 110 of the Localism Act, incorporated into Section 33A of the Planning and Compulsory Purchase Act 2004

<sup>3</sup> [The Government White Paper Planning for the Future – August 2020](#)

- 3.5 Details of DtC engagement are recorded and evidenced in a Consultation and Engagement Statement, produced in support of the Local Plan at submission stage. The Council will publish a series of draft Statements of Common Ground (SoCG) or Statements of Intent, in advance of the formal Regulation 18 stage consultation, and final SoCGs will be published by the time the Proposed Submission draft plan is published (Regulation 19 stage).
- 3.6 The Council can also prepare **Supplementary Planning Documents (SPDs)** – these support particular local plan policies by providing guidance either on particular subjects or specific, normally more complex, sites.
- 3.7 **Neighbourhood Plans (NPs)** are prepared by the local community (which means the relevant Town or Parish Council where one exists or specifically constituted Neighbourhood Forums), with the support of the local planning authority. Their preparation and scope are discretionary; they may include the allocation of sites and policies to guide development. When in place (“made”), they form part of the Development Plan and the policies contained within them are then used in the determination of planning applications.
- 3.8 For up-to-date information on existing plans and those in the course of preparation, please either visit the [Planning Policy page](#) on the Council’s website or one of the Council’s Contact Centres.
- 3.9 There are also separate [Waste and Minerals Local Plans](#). These are the responsibility of East Sussex County Council. Further details about the programme of preparing these plans and the opportunities for involvement in them are published on East Sussex County Council’s website at: <http://www.eastsussex.gov.uk/environment/planning/development/mineralsandwaste/>

## Other planning documents

- 3.10 Local Plans need to be supported by a [Sustainability Appraisal/Strategic Environmental Assessment](#) (SA/SEA) to ensure that the social, economic and environmental consequences of their policies and proposals are fully taken into account. Supplementary Planning Documents (SPD) do not usually require such an assessment because they will normally relate to a policy or site that has undergone an SA/SEA as part of the Local Plan. Neighbourhood Plans must be supported by an accompanying SEA where it has been assessed that the Neighbourhood Plan's policies are likely to have significant environmental effects. A SA/SEA Report is itself subject to public consultation; hence, the tables below also highlight the various stages of the SA/SEA process.
- 3.11 There is no legislative requirement for Statements of Community Involvement (SCI) to be subject to consultation, however it is considered good practice for councils to inform the public of updates that are intended to be made to the SCI. The Council has considered that its SCI will be subject to consultation, except under exceptional circumstances such as emergency amendments where it would be ineffective to do so. The consultation process for the SCI will be similar to that for SPDs, with public consultation on a draft SCI, comments in response to which will be reported back to the Council and considered in approving the final SCI.
- 3.12 The programme for preparing the Local Plan, SPDs and the SCI is set out in the Council's [Local Development Scheme](#) (LDS) which is updated at regular intervals in relation to the delivery of the Local Plan.
- 3.13 In addition to these documents, the Council also publishes a CIL Charging Schedule. The Council has adopted a [Community Infrastructure Levy \(CIL\)](#) to raise contributions for the provision of new infrastructure to support sustainable growth. The [CIL Charging Schedule](#) sets out the levy that applies to specified types of development, subject to exemptions set out in regulations. Like a draft Local Plan, the consultation on a Draft CIL Charging Schedule is subject to statutory consultation followed by Independent Examination.

- 3.14 In the preparation and support of the Local Plan, the Council also publishes several other documents including: background evidence documents; monitoring reports; the Brownfield Land Register; the Housing Delivery Action Plan; the Infrastructure Delivery Plan; and the Local Development Scheme. These documents do not require public consultation.
  
- 3.15 The below table summarises the planning policy documents for which it is a statutory requirement to undertake public consultation; those where the council has the option to undertake consultation subject to Council policy; and those documents that are not subject to consultation.

**Figure 1 – Planning policy documents and consultation**

<b>Documents where public consultation is a statutory requirement</b>
Development Plan Documents: <ul style="list-style-type: none"> <li>• Local Plan (including SA/SEA)</li> <li>• Neighbourhood Plans (including SEA if required)</li> <li>• Supplementary Planning Documents (including SA/SEA if required)</li> </ul> CIL Charging Schedule
<b>Documents where public consultation is a Council requirement</b>
Statement of Community Involvement (SCI) Infrastructure Delivery Plan (IDP) <sup>4</sup>
<b>Documents that are not consulted on</b>
Local Development Scheme (LDS) Brownfield Land Register Monitoring reports <ul style="list-style-type: none"> <li>• Local Plan Monitoring Report</li> <li>• Housing Land Supply Report</li> <li>• Employment Land Supply Report</li> </ul> Infrastructure Funding Statement Housing Delivery Action Plan Background evidence documents

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<sup>4</sup> Consultation on the IDP is required only in respect of specific consultees where relevant – for example, Highways England would be consulted in cases where proposals set out in the IDP may impact upon the Strategic Road Network.

## Approach to consultations and engagement

- 3.16 Regulations<sup>5</sup> provide basic requirements for consultation, including specifying several bodies which local planning authorities must consult when preparing planning policy documents. For Local Plan related consultations these are set out under '*specific consultation bodies*', and '*general consultation bodies*'. For Neighbourhood Plan consultations, statutory consultees are set out under '*consultation bodies*'. Both '*general consultation bodies*' and '*consultation bodies*' also include voluntary bodies active in the area, and those bodies which represent the interests of different racial, ethnic or national groups, different religious groups, disabled persons, and of persons carrying on business in the area. Full lists of '*specific*' and '*general*' consultation bodies are set out in Appendix A. A full list of '*consultation bodies*' in respect of Neighbourhood Plans are set out in Appendix B.

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<sup>5</sup> The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended) and the Neighbourhood Planning (General) Regulations 2012 (as amended)

- 3.17 The full range of organisations and individuals who should be involved in developing planning policy can be categorised into the following groupings:

**Figure 2 – Consultee groups for statutory public consultations<sup>6</sup>**

**A – Local groups and individuals.** This group includes residents, community groups, voluntary groups and specific interest groups (for example chambers of commerce, conservation societies) as well as interested individuals.

**B – Parish and town councils, adjoining parish councils.** Town and Parish Councils have a particular role to play in representing the views of their communities in the planning process – as part of this a Parish Conference is held each year to promote consultations and seek opinion .

**C – Utility and service providers.** This group includes water, sewerage, gas and electricity companies, health providers and emergency services.

**D – Government bodies/neighbouring local authorities and collaborative bodies.** This group includes, the East Sussex Strategic Planning Group, the South East Local Enterprise Partnership, the High Weald Joint Advisory Committee and the Sussex Local Nature Partnership, as well as East Sussex County Council, neighbouring district and borough councils and relevant Government departments.

The ‘duty to cooperate’ introduced in the Localism Act 2011<sup>7</sup> and reflected in the NPPF, gives added emphasis to constructive and ongoing cooperation with neighbouring councils and other public bodies to ensure that strategic issues are appropriately addressed across local authority boundaries. There needs to be particular collaboration with Hastings Borough Council given common economic and housing markets.

**E – East Sussex and Rother Local Strategic Partnerships**

**F – National organisations and agencies.** There are a range of national organisations and agencies which have specialist expertise to input. Examples of such groups are Historic England, Natural England, the Environment Agency, Highways England and Sports England.

**G – Developers, landowners, planning consultants**

- 3.18 A full list of consultees is set out in the groups identified above, which the Council will contact as part of any relevant public consultation on an emerging planning policy document is held by the Council. This is a “live” list as it is subject to continuous update and change. Organisations and individuals can contact the Council at any time to add, amend or remove their details<sup>8</sup>.

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<sup>6</sup> Organisations specifically named within Figure 2 are examples of organisations within the identified group categories.

<sup>7</sup> [Section 110 of the Localism Act](#)

<sup>8</sup> Organisations and individuals can ask to be added to the consultation list at any time by returning the following Planning Policy Contact Form [Word version](#) / [PDF version](#) to [planning.strategy@rother.gov.uk](mailto:planning.strategy@rother.gov.uk) or by calling 01424 787668.

- 3.19 Due to the coronavirus pandemic, certain methods of engagement are not practicable currently. This affects those methods which require face-to-face contact, as well as methods that require the physical handling of documents. Please see the temporary [Coronavirus Addendum](#) for more details.
- 3.20 The range of methods that will or may be used to help inform and engage the community about planning policy formulation are:

**Figure 3 – Methods of community engagement**

<p><b>Publication on the Council’s website.</b> The Council will publish documents, statements, and any associated information on its website.</p>
<p><b>Web-based consultation.</b> The Council will advertise all public consultations on its website, with full details and relevant documents available to view on dedicated pages, accessible via <a href="http://www.rother.gov.uk/planningpolicy">www.rother.gov.uk/planningpolicy</a>. (NB A facility is provided to listen to the website. This is clearly marked by the word ‘Listen’ on the top right hand of the webpages. Clicking on the word ‘Listen’ also displays additional options for additional accessibility, such as translation of the website into a number of other languages, as well as colour and font selection.)</p>
<p><b>Written notifications.</b> The Council will make direct contact by email or letter with known consultation bodies and those who have asked to be notified that a consultation is taking place and will invite participation in that consultation. Details of the consultation, including the availability of documents, will be explained within the notification.</p> <p>Organisations and individuals can ask to be added to the consultation list at any time by returning the following Planning Policy Contact Form <a href="#">Word version</a> / <a href="#">PDF version</a> to <a href="mailto:planning.strategy@rother.gov.uk">planning.strategy@rother.gov.uk</a> or by calling 01424 787668.</p>
<p><b>Making documents available for inspection.</b> As well as publishing draft documents and supporting material online (see above), hard copies of documents will made available for inspection, at the Council’s principal office (Town Hall, Bexhill-on Sea), and if appropriate other locations may be considered. Being ‘made available’ can be either through the deposit of physical copies AND/OR by being viewable online via public access computers. Consultation documents will also be available to purchase, at ‘cost’ price.</p> <p>Documents can be provided in large print, Braille, on audio tape or CD, and translated into other languages upon request.</p>
<p><b>Public notices.</b> Public notices will be placed on the Council’s website and, where appropriate, in local newspapers at key stages of plan production.</p>
<p><b>My Alerts.</b> ‘My Alerts’ is a weekly email service providing information for Rother residents and businesses. Notice of consultations will be included in these. To subscribe, go to <a href="http://www.rother.gov.uk/article/10728/My-Alerts">http://www.rother.gov.uk/article/10728/My-Alerts</a></p>
<p><b>Social media.</b> The Council makes use of social media and will post information via its Twitter and Facebook accounts <a href="http://www.facebook.com/RotherDC">www.facebook.com/RotherDC</a> and</p>

<p>@RotherDC and/or @RDCconsult respectively. However, during formal consultations, comments will not be accepted via social media.</p>
<p><b>Press releases/briefings.</b> Newspaper features may be promoted via press releases and/or briefings to convey information about the scope and timing of consultations to a wide audience.</p>
<p><b>Posters/Leaflets.</b> Dedicated posters and/or leaflets may be used to gain wider public awareness of a consultation.</p>
<p><b>Exhibitions, Workshops and Presentations (in person and on-line).</b> Events may be held to convey information about an emerging policy document and both publicise the opportunity for public involvement and enable face-to-face discussion about issues and options.</p>
<p><b>Meetings/Focus Groups.</b> These may be selectively used as a means of bringing different perspectives together to discuss a particular theme in a structured way. Meetings may be appropriate to discuss issues of a technical nature, such as with specific statutory bodies and service providers, or with key stakeholder groups, including Parish Councils and District Councillors. Meetings or focus groups may also take place online using digital conferencing programs such as Microsoft Teams and Zoom, etc.</p>

- 3.21 Whenever a public exhibition or meeting is held, the venue chosen should be fully accessible to all members of the community and be located as conveniently as possible for the expected audience.

### Comments and formal representations

- 3.22 In relation to making comments and representations:
- Comments/representation forms will normally be provided for Planning Policy consultations.
  - For Planning Policy consultations, the Council will normally facilitate, and encourage, comments to be submitted via its online consultation system, the link to which will be made available on the website in relation to the relevant consultation. (This makes it easy to keep a record of views submitted and be in a form that allows them to be readily considered by the Council.)
  - Comments may be submitted in writing either by email or by post.
  - During formal consultations, all comments received either via email, or in the case of Local Plans also via the online consultation system, will be acknowledged. We are unable to acknowledge comments submitted in writing.
  - The use of 'representation forms' or the online consultation system will

be expected when making formal representations on 'proposed submission' Local Plans (see below), as they should address the specific tests which a Local Plan is assessed against.

- A clear deadline for the receipt of comments will be given. Comments must be received by the date/time given.

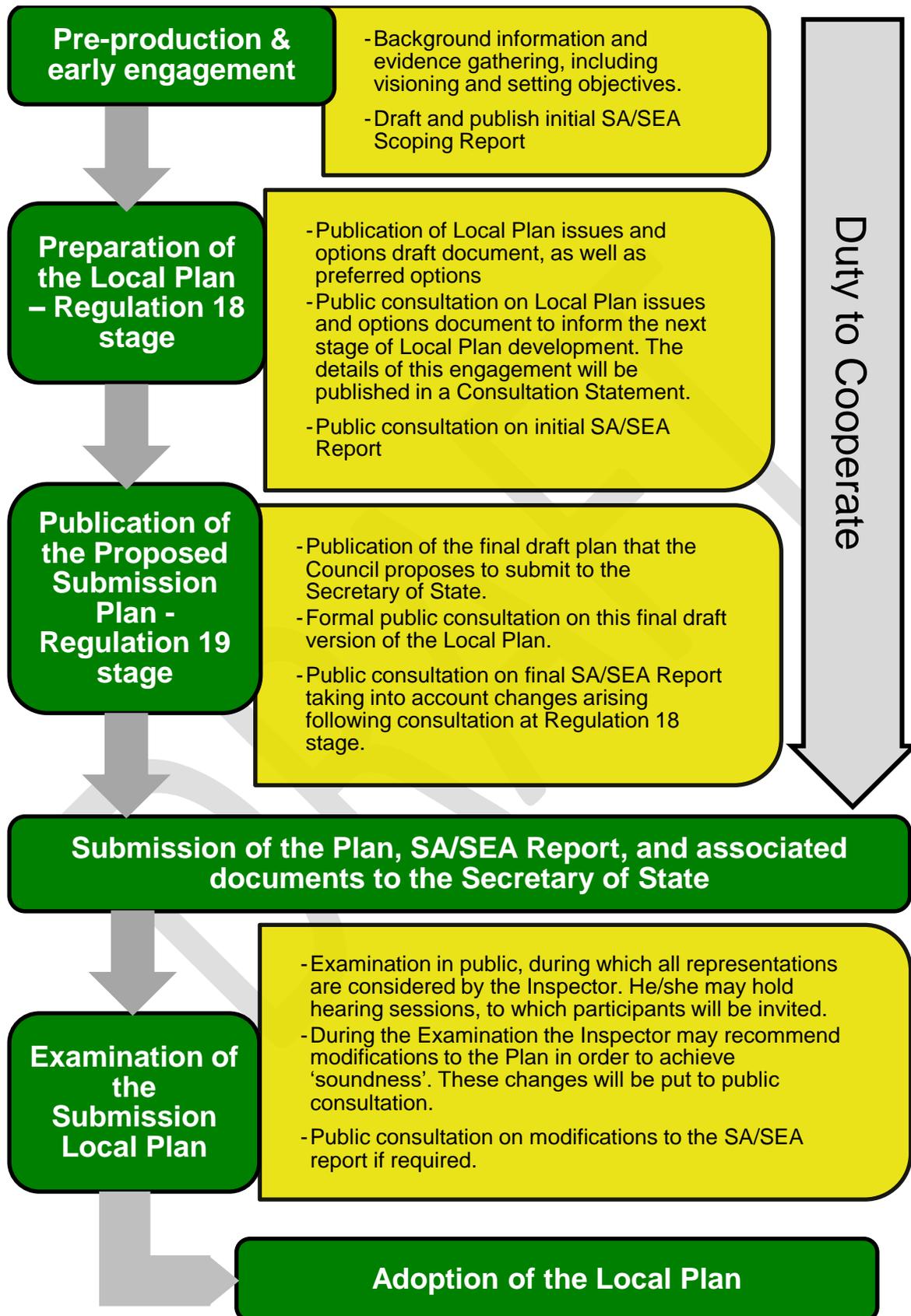
### **Consideration and feedback**

- 3.23 An important aspect of community involvement is to offer feedback to those who have taken part.
- 3.24 The Council will take account of the comments made in progressing planning policy documents and will give reasons for its decisions in the light of comments made. This consideration and feedback will be presented in either a consultation summary report or a Consultation Statement. Consultation Statements are statutory documents that must be produced to support the Local Plan at the Proposed Submission and Submission stages. A Consultation Statement provides additional information to that of a consultation summary report in that it will also present how the Council has effectively engaged to plan for cross-boundary matters under the 'duty to cooperate' and will identify the nature and extent of comments/representations made at all consultation stages.
- 3.25 At the 'proposed submission' stage of Local Plan preparation, regulations provide for representations to be considered during the examination process, so feedback is not normally given prior to the examination.

## Opportunities to be involved in plan-making

- 3.26 Planning policy documents are the subject of legislative requirements for publicity and consultation. These ensure that there will be opportunities for everyone to participate in the production of all planning policy documents.
- 3.27 Different types of plans, understandably, have particular processes for preparation and public involvement. The nature of involvement also varies depending on the stage of plan-making.
- 3.28 The tables below (A-L) show the stages of plan preparation and the opportunities for engagement, for Local Plans, Supplementary Planning Documents (SPDs), and Neighbourhood Plans. Each document type is introduced with a flow diagram to outline the different stages for the development of each document.
- 3.29 Within the tables, the left-hand column identifies the stages within plan preparation and sets out the engagement tasks required to achieve these stages, and details both statutory and optional engagement activities. The right-hand column identifies the corresponding methods of engagement as set out in **Figure 3**. An exception to this is Table H within the neighbourhood planning section, where a further left-hand column has been created to denote who is responsible for each respective task.
- 3.30 The methods of engagement in the right-hand column should not be read as prescriptive but are examples of the type of activity that may take place. In particular, the methods of engagement that involve publicity wider than the Council's website and formal notices, are discretionary, and their use is subject to the availability of resources. The methods of engagement for publicity include:
- Public notices.
  - My Alerts.
  - Social media.
  - Press releases/briefings.
  - Posters/Leaflets.

**Stages of Local Plan Production**



## Local Plan preparation and opportunity for involvement

**Table A - Pre-production and Early Engagement**

<b>Background information and evidence gathering</b>	<b>Engagement</b>
Identification of key issues and challenges for the District, including visioning and objective setting.	
<p><u>Examples of this could include:</u></p> <ul style="list-style-type: none"> <li>• Informal early consultation relating to matters within the District to utilise internal knowledge, for example the consulting of Parish/Town Councils and Members on planning matters regarding local areas.</li> <li>• Informal consultation on visioning/objective setting in the context of the Local Plan and SA baseline, potentially with Members, parishes or other targeted organisations. This could also include workshops / virtual workshops.</li> </ul>	<ul style="list-style-type: none"> <li>• Written notifications</li> <li>• Meetings / Focus Groups (virtual or otherwise)</li> </ul>
<b>Development of baseline evidence to support the plan</b>	<b>Engagement</b>
<p><u>Examples of this could include:</u></p> <ul style="list-style-type: none"> <li>• Public targeted consultation for landowners (Call for sites) to put forward sites that may be suitable for consideration for their development, to inform assessments of land availability.</li> </ul>	<ul style="list-style-type: none"> <li>• Publication on the Council's website</li> <li>• Web-based consultation</li> <li>• Written notifications</li> <li>• Meetings / Focus Groups (virtual or otherwise)</li> </ul>
<b>SA/SEA Scoping Report and development of SA Framework</b>	<b>Engagement</b>
Working with Members, stakeholders and the wider local community to be involved in setting a vision for the Local Plan, and the identification of key strategic issues and how they are to be addressed through the Local Plan.	
<p><u>Statutory requirement:</u></p> <ul style="list-style-type: none"> <li>• Formal targeted consultation on the SA/SEA Scoping report with statutory consultees, comprising of Natural England, Historic England and the Environment Agency, and any additional organisations that the Council may want to consult. (Statutory requirement - <a href="#">Reg 12 &amp; 13 of Environmental Assessment of Plans and Programs Regulations 2004</a>).</li> </ul>	<ul style="list-style-type: none"> <li>• Written notifications</li> <li>• Meetings / Focus Groups (virtual or otherwise)</li> </ul>
<p><u>Other options could include:</u></p>	<ul style="list-style-type: none"> <li>• Meetings / Focus Groups (virtual or otherwise)</li> </ul>

<ul style="list-style-type: none"> <li>Potential opportunities to work with key partners in delivering a Joint approach / methodology to developing an SA Framework.</li> </ul>	
<b>Early Engagement with partners and stakeholders, including Duty to Cooperate<sup>9</sup></b>	<b>Engagement</b>
To identify cross boundary strategic matters that will form the basis of the Council's 'Duty to Cooperate', and to propose a programme of further engagement to develop Draft Statements of Common Ground	
<u>Examples of this could include:</u> <ul style="list-style-type: none"> <li>Informal consultation on a Duty to Cooperate Action Plan<sup>10</sup> and other Early engagement documents, with statutory consultation bodies, as well as other organisations as the Council deems necessary.</li> <li>Meetings and conference calls with Neighbouring Authorities and development/progress of Statements of Common Ground on strategic cross-boundary issues.</li> <li>Provide a Council representative on working groups in relation to the strategic matters, for example: Ashdown Forest, Pevensey Levels Catchment, Combe Valley catchment, Gypsy and Traveller Accommodation Assessment.</li> </ul>	<ul style="list-style-type: none"> <li>Written notifications</li> <li>Meetings / Focus Groups (virtual or otherwise)</li> </ul>
<p><i>There may be opportunities for further targeted engagement, arising out of early engagement. Ongoing engagement will continue throughout the development of the Plan at all stages.</i></p>	

**Table B - Preparation of the Local Plan**

<b>Publication of Regulation 18 stage Local Plan</b>	<b>Engagement</b>
<p>At this stage, the Council will set out the key issues and options for addressing them, with preferred options where appropriate. It may include draft policies.</p> <p>The Council will be engaging with neighbouring planning authorities to develop Statements of Common Ground in the lead up to the Reg 18 consultation.</p>	
<u>Statutory requirements:</u> <ul style="list-style-type: none"> <li>Public consultation for a minimum of 6 weeks on the scope of the local plan, issues and options and, where identified, preferred options, as well as on the initial</li> </ul>	<ul style="list-style-type: none"> <li>Web-based consultation</li> </ul>

<sup>9</sup> Please note: [The Government White Paper Planning for the Future – August 2020](#) has proposed that the Duty to Cooperate be removed from the Local Plan process. However, it is likely that activities relating to the Duty to Cooperate will continue.

<sup>10</sup> The Duty to Cooperate Action Plan is specific to pre-production work on the 2019-2039 Rother District Local Plan Update. As noted in footnote 1, it is expected that Government will remove the Duty to Cooperate as a formal requirement.

<p>SA/SEA report. The Council may decide it is necessary for the consultation period to extend beyond the statutory 6-week timeframe depending on local circumstances.</p>	
<ul style="list-style-type: none"> <li>Notify interested parties, statutory consultees and stakeholders: The Council will make formal direct contact by email or letter with known consultation bodies and those who have been asked to be notified that a consultation is taking place and will invite participation in that consultation. (Requirements for who is to be notified derive from <a href="#">Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)</a>.)</li> </ul>	<ul style="list-style-type: none"> <li>Written notifications</li> </ul>
<ul style="list-style-type: none"> <li>Publicity: In addition to the above notification process, the Council will publicise widely, using public notices in local papers, advertise using social media and the Council's My Alerts weekly information email service, and may also use posters and leaflets.</li> </ul>	<ul style="list-style-type: none"> <li>Public notices</li> <li>My Alerts</li> <li>Social media</li> <li>Press releases / briefings</li> <li>Posters / Leaflets</li> </ul>
<ul style="list-style-type: none"> <li>Availability of documents: All relevant documents (Local Plan, SA/SEA Report, and any relevant supporting documents) will be published on the Council's website.</li> </ul> <p>All relevant documents will be made available for inspection at the Council's principal office, via hard copy and viewable through the use of public access computers. If appropriate other locations may be considered.</p>	<ul style="list-style-type: none"> <li>Publication on the Council's website</li> <li>Making hard copy documents available</li> </ul>
<p><u>Option for additional consultation during this stage:</u></p> <ul style="list-style-type: none"> <li>Consultation(s) may be supported by events/exhibitions which may be targeted at specific local communities or specific organisations.</li> </ul> <p>At this preparation stage, it may be necessary to hold more than one public consultation period. This will depend on the range of issues, or further policy approaches or sites that are reasonable options but have not previously been considered that may emerge because of the first public consultation.</p>	<ul style="list-style-type: none"> <li>Exhibitions / Digital exhibitions</li> </ul>

**Table C – Publication of the Proposed Submission Plan**

Publication of the Proposed Submission Plan – Regulation 19 stage	Engagement
<p>This is the final draft Plan that takes account of comments made during the previous public consultation on options. This includes the final SA/SEA Report, considering changes arising following consultation. Responses to comments made at the Regulation 18 stage are contained in a separate ‘consultation statement’. This is the Plan that the Council proposes to adopt.</p> <p>The Council may need to engage further with its Duty to Cooperate partners to respond to issues raised at Reg. 18 stage consultation. The Council will finalise Statements of Common Ground for individual organisations in support of Rother District Local Plan’s submission.</p>	
<p><u>Statutory requirements:</u></p> <ul style="list-style-type: none"> <li>Formal minimum six-week period for representations on proposed Submission Plan and final SA/SEA Report. The Council may decide it is necessary for the consultation period to extend beyond the statutory 6-week timeframe depending on local circumstances.</li> </ul> <p>Representations at this stage must relate to specific tests of the soundness of the plan.<sup>11</sup> They will be forwarded for consideration by an independent Inspector who will examine the plan.</p> <p>NB Comments made in response to consultation on an earlier version are not carried forward. If anyone is not satisfied with the latest version, they need to respond again.</p>	<ul style="list-style-type: none"> <li>Web-based consultation</li> </ul>
<ul style="list-style-type: none"> <li>Notify interested parties, statutory consultees and stakeholders: The Council will make formal direct contact by email or letter with known consultation bodies and those who have been asked to be notified that a consultation is taking place and will invite participation in that consultation.</li> </ul> <p>(Requirements for who is to be notified derive from <a href="#">Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)</a>)</p>	<ul style="list-style-type: none"> <li>Written notifications</li> </ul>
<ul style="list-style-type: none"> <li>Publicity: In addition to the above notification process, the Council will publicise widely, using public notices in local papers, advertise using social media and the Council’s My Alerts weekly information email service, and may also use posters and leaflets.</li> </ul>	<ul style="list-style-type: none"> <li>Public notices</li> <li>My Alert</li> <li>Social media</li> <li>Press releases / briefings</li> </ul>

<sup>11</sup> Please note: [The Government White Paper Planning for the Future – August 2020](#) has proposed that existing tests of soundness will be replaced by a single “sustainable development” test.

	<ul style="list-style-type: none"> <li>• Posters / Leaflets</li> </ul>
<ul style="list-style-type: none"> <li>• Availability of documents: (<a href="#">Regulation 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)</a>)</li> </ul> <p>All relevant documents (Local Plan, SA/SEA Report, and any relevant supporting documents) will be published on the Council's website.</p> <p>All relevant documents will be made available for inspection at the Council's principal office, via hard copy and viewable through the use of public access computers. If appropriate other locations may be considered.</p>	<ul style="list-style-type: none"> <li>• Publication on the Council's website</li> <li>• Making hard copy documents available</li> </ul>
<p><u>Option for additional consultation during this stage:</u></p> <ul style="list-style-type: none"> <li>• If, following receipt of representations, the Council believes that major changes are necessary before submission for examination, there would be a further opportunity to comment on these changes.</li> </ul>	<ul style="list-style-type: none"> <li>• Repeat of all above methods used as part of Regulations 19 stage consultation</li> </ul>

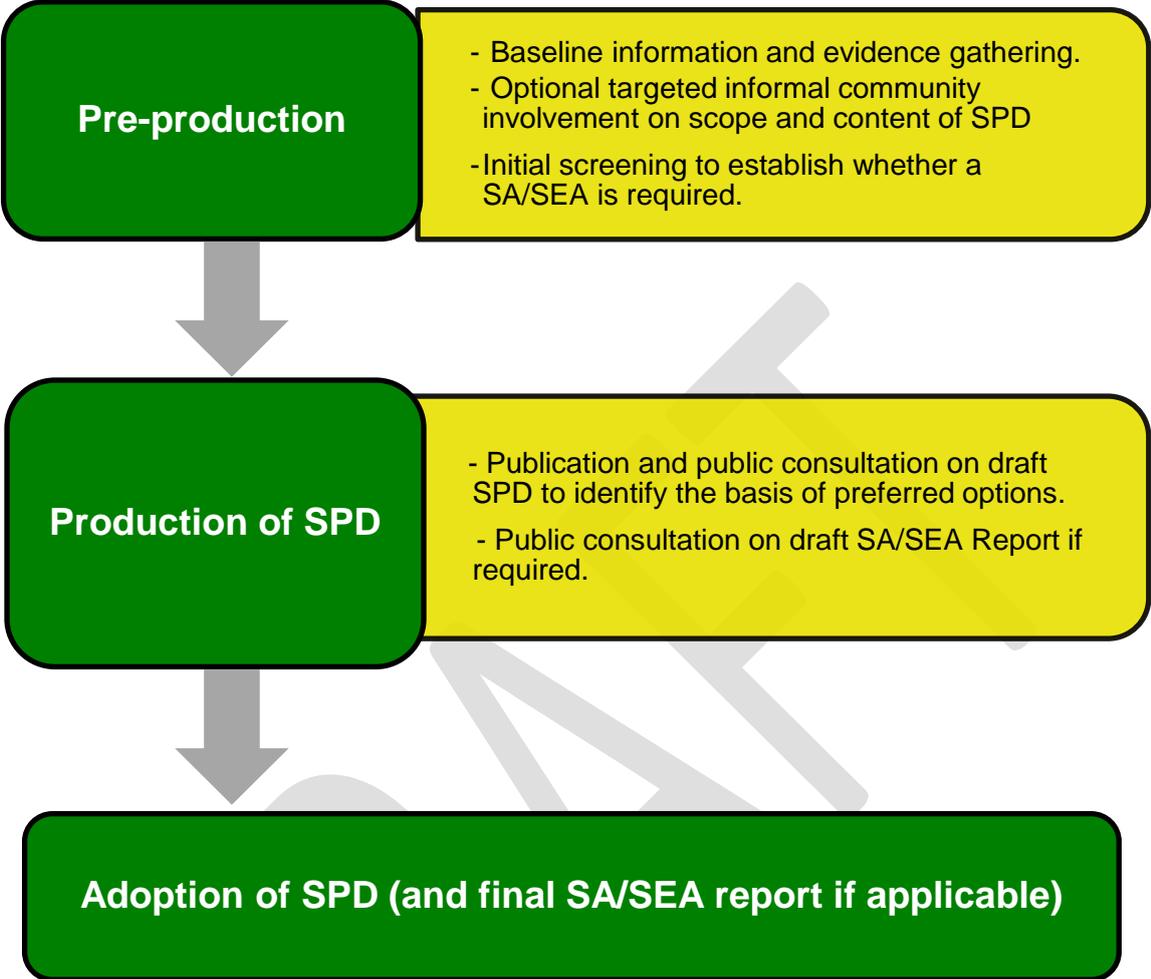
**Table D - Local Plan Examination & Adoption**

Examination of the Submission Local Plan	Engagement
<p>The Council submits the Plan (including Policies Map if relevant), SA/SEA Report, Consultation Statement, supporting documents and the representations made at the Regulation 19 stage. All engagement here is a statutory requirement, in accordance with <a href="#">Regulation 22 of The Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)</a></p>	
<ul style="list-style-type: none"> <li>• Notify interested parties, statutory consultees and stakeholders: The Council will make formal direct contact by email or letter with known consultation bodies and those who have been asked to be notified that the Council has submitted the Local Plan.</li> </ul> <p>(Requirements for who is to be notified derive from <a href="#">Regulation 18 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)</a>)</p>	<ul style="list-style-type: none"> <li>• Written notifications</li> </ul>
<ul style="list-style-type: none"> <li>• All relevant documents (Local Plan, SA/SEA Report, and any relevant supporting documents) will be published on the Council's website and made available for inspection at the Council's principal office, via hard copy and viewable through the use of public access computers. If appropriate other locations may be considered.</li> </ul>	<ul style="list-style-type: none"> <li>• Publication on the Council's website</li> <li>• Making hard copy documents available</li> </ul>
<p>Examination in public, during which all representations are considered by the Inspector. He/she may hold hearing sessions, to which participants will be invited. All engagement here is a statutory requirement, in accordance with <a href="#">Regulation 24 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)</a> . <a href="#">The Examination process is run by the Inspector not the District Council.</a></p>	

<ul style="list-style-type: none"> <li>Notify anyone who has made a representation at during the Regulation 19 Consultation: The Council will provide notification of public hearing at least 6 weeks prior to its commencement. <a href="#">Regulation 24 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)</a></li> </ul>	<ul style="list-style-type: none"> <li>Written notifications</li> </ul>
<ul style="list-style-type: none"> <li>All relevant documents (Local Plan, SA/SEA Report, and any relevant supporting documents) will be published on the Council's website and made available for inspection at the Council's principal office, via hard copy and viewable through the use of public access computers. If appropriate other locations may be considered.</li> </ul>	<ul style="list-style-type: none"> <li>Publication on the Council's website</li> <li>Making hard copy documents available</li> </ul>
<b>Main Modifications (if required)</b>	<b>Engagement</b>
<p>If during the examination, the Inspector advises that changes are needed to the Plan to achieve soundness, the Council may propose such modifications.</p> <p>The arrangements for the consultation would be agreed with the Inspector but will be of the same nature (representations must relate to questions of soundness) and duration (at least 6 weeks) as the consultation held at Regulation 19.</p>	
<ul style="list-style-type: none"> <li>Public consultation on any proposed main modifications and, if needed, any changes to the policies map and SA/SEA Report (and no other aspect of the plan).</li> </ul> <p><u>Additional Modifications</u></p> <ul style="list-style-type: none"> <li>The Council may also include additional minor modifications within the consultation. Additional minor modifications are not put before the Inspector and are not part of the Examination.</li> </ul>	<ul style="list-style-type: none"> <li>Web-based consultation</li> <li>Written notifications</li> <li>Public notices</li> <li>My Alerts</li> <li>Social media</li> <li>Press releases / briefings</li> <li>Posters / Leaflets</li> <li>Publication on the Council's website</li> <li>Making hard copy documents available</li> </ul>
<b>Publication of Inspector's Report and adoption of the Local Plan</b>	<b>Engagement</b>
<p>The Council will publish the Inspector's Report as soon as is practicable following receipt of the Report. All engagement here is a statutory requirement, in accordance with <a href="#">Regulation 25 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)</a></p> <p>Upon receipt of a favourable Inspector's Report, the Council may adopt the Local Plan. All engagement here is a statutory requirement, in accordance with <a href="#">Regulation 26 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)</a></p>	

<ul style="list-style-type: none"> <li>• Notify interested parties, statutory consultees and stakeholders: The Council will notify anyone who requested to be informed of when the Inspector's Report is Published, and of who requested to be informed of the adoption of the Local Plan, and how in each case they can view the relevant documents which will be made available.</li> </ul>	<ul style="list-style-type: none"> <li>• Written notifications</li> </ul>
<ul style="list-style-type: none"> <li>• Availability of documents (<a href="#">Regulation 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)</a>)</li> </ul> <p>All relevant documents (Inspector's Report and Adoption Statement, Local Plan, SA/SEA Report, and any relevant supporting documents) will be published on the Council's website.</p> <p>All relevant documents will be published on the Council's website and made available for inspection at the Council's principal office, via hard copy and viewable through the use of public access computers. If appropriate other locations may be considered.</p> <p>All relevant hard copy documents will be made available for at least 6 weeks.</p>	<ul style="list-style-type: none"> <li>• Publication on the Council's website</li> <li>• Making hard copy documents available</li> </ul>
<p><i>There is a six-week period for legal challenge after adoption (<a href="#">Regulation 17 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)</a>). (Legal advice is urged if this is being considered).</i></p>	

**Stages of Supplementary Planning Document (SPD) Production**



**Supplementary Planning Document (SPD) preparation and opportunity for involvement**

**Table E - Pre-production - Supplementary Planning Document**

Baseline information and evidence gathering	Engagement
Initial screening to determine whether a SA/SEA is required (Regulation 5 of Environmental Assessment of Plans and Programs Regulations). If required, the Council will publish a Scoping Report for targeted consultation (Regulation 12 of Environmental Assessment of Plans and Programs Regulations)	
<ul style="list-style-type: none"> <li>Formal targeted consultation on the SA/SEA Scoping report with statutory consultees, such as Natural England, Historic England and the Environment Agency, and any additional organisations that the Council may optionally want to consult. (Statutory requirement - <a href="#">Reg 12 &amp; 13 of Environmental Assessment of Plans and Programs Regulations 2004</a>)</li> </ul>	<ul style="list-style-type: none"> <li>Written notifications</li> </ul>
<b>Early Engagement</b>	
Optional targeted informal community involvement on scope and content of SPD, dependent upon subject matter, as well as consultation with relevant agencies, service providers and, where appropriate, Parish/Town Councils.	
<ul style="list-style-type: none"> <li>Informal consultations, potentially with Members, parishes or other targeted organisations. This could also include workshops /digital workshops.</li> </ul>	<ul style="list-style-type: none"> <li>Written notifications</li> <li>Meetings / Focus Groups (virtual or otherwise)</li> </ul>

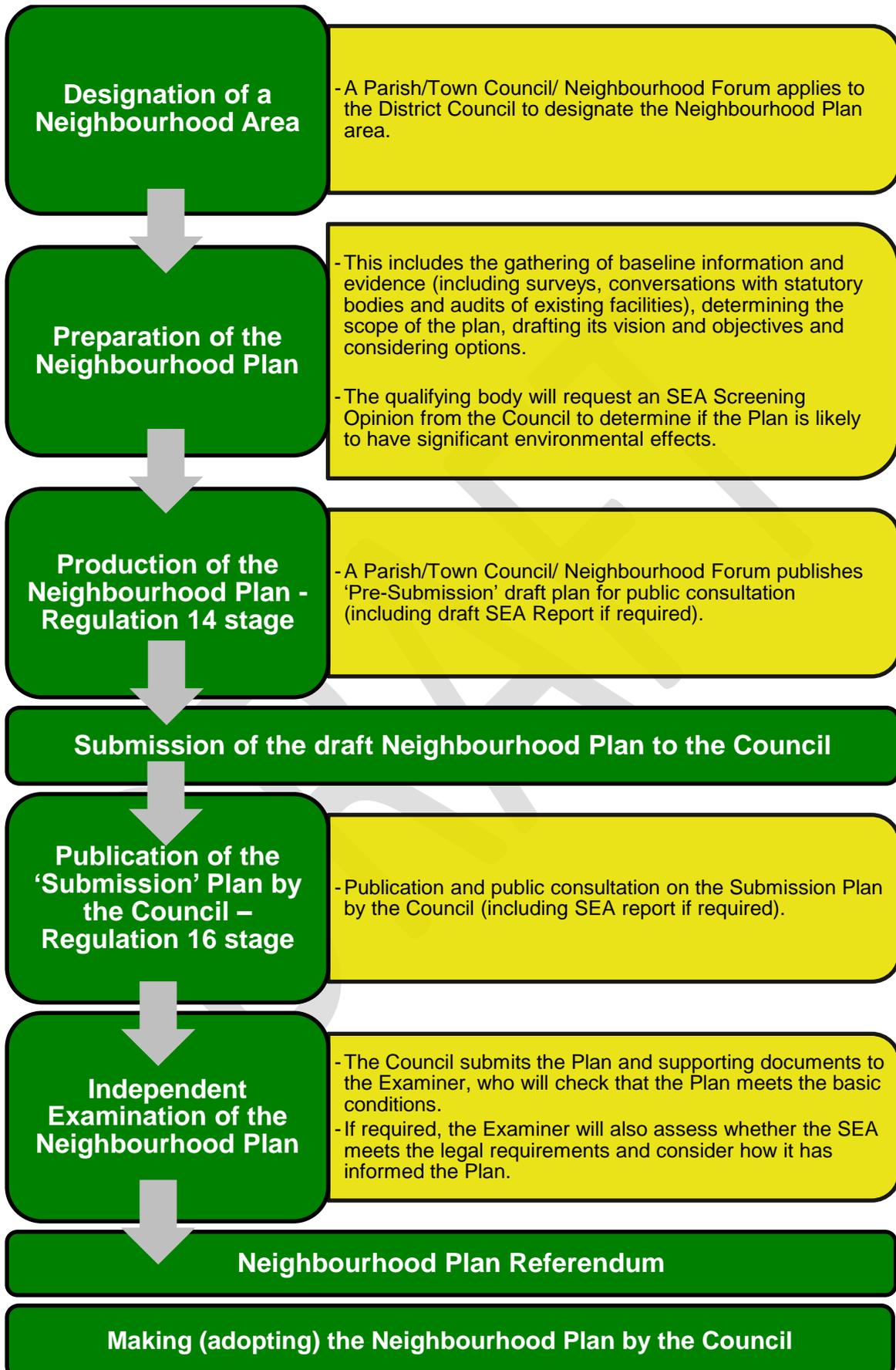
**Table F - Production of a draft Supplementary Planning Document**

Identification of preferred options for SPD	Engagement
Publication of a draft SPD to identify the basis of preferred options, for public consultation.	
<p><u>Statutory requirements:</u></p> <ul style="list-style-type: none"> <li>Minimum 4-week public consultation period on draft SPD and if required the SA/SEA report. (<a href="#">Regulation 12 &amp; 13 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)</a>)</li> </ul>	<ul style="list-style-type: none"> <li>Web-based consultation</li> </ul>
<ul style="list-style-type: none"> <li>Availability of documents (<a href="#">Regulation 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)</a>)</li> </ul> <p>All relevant documents (SPD, SA/SEA Report if applicable) will be published on the Council's website.</p> <p>All relevant documents will be made available for inspection at the Council's principal office, via hard copy and viewable through the use of public access computers. If appropriate other locations may be considered</p>	<ul style="list-style-type: none"> <li>Publication on the Council's website</li> <li>Making hard copy documents available</li> </ul>
<ul style="list-style-type: none"> <li>Notification: If a SA/SEA report is required, written notifications will be sent to statutory consultees, such as Natural England, Historic England and the Environment Agency.</li> </ul>	<ul style="list-style-type: none"> <li>Written notifications</li> </ul>
<p><u>Optional engagement:</u></p> <ul style="list-style-type: none"> <li>Publicity: Depending on the nature of the SPD, local publicity as well as public notices will advertise the public consultation, which may also be supported by events/digital events.</li> </ul>	<ul style="list-style-type: none"> <li>Public notices</li> <li>My Alerts</li> <li>Social media</li> <li>Press releases / briefings</li> <li>Posters / Leaflets</li> </ul>
<ul style="list-style-type: none"> <li>Consultation(s) may be supported by events/exhibitions which may be targeted at specific local communities or specific organisations.</li> </ul>	<ul style="list-style-type: none"> <li>Exhibitions/Digital exhibitions</li> </ul>
<p><u>Option for Further Consultation:</u></p> <p>Further consultation may be undertaken if responses lead to a significant change of direction.</p>	

**Table G – Adoption of the Supplementary Planning Document**

Adoption of final SPD	Engagement
<p>Adoption of the final document by the Council, including any revisions in light of consultation on draft and if applicable the final SA/SEA report.</p>	
<ul style="list-style-type: none"> <li>Notification: The Council will notify anyone who requested to be informed of the adoption of the SPD, and how they can view the relevant adoption documents. (In accordance with <a href="#">Regulation 14 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)</a>)</li> </ul>	<ul style="list-style-type: none"> <li>Written notifications</li> </ul>
<ul style="list-style-type: none"> <li>Availability of documents: (<a href="#">Regulation 35 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)</a>)</li> </ul> <p>All relevant documents (SPD, SA/SEA Report if applicable, Consultation Statement &amp; Adoption Statement) will be published on the Council's website.</p> <p>All relevant documents will be made available for inspection at the Council's principal office, via hard copy and viewable through the use of public access computers. If appropriate other locations may be considered.</p> <p>All relevant documents will be made available for at least 3 months.</p>	<ul style="list-style-type: none"> <li>Publication on the Council's website</li> <li>Making hard copy documents available</li> </ul>
<p><i>There is a 3-month period for applications to the High Court to request a Judicial Review of the adoption of the SPD <a href="#">Regulation 11 of the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended)</a>. (Legal advice is urged if this is being considered)</i></p>	

## Stages of Neighbourhood Plan Production



**Neighbourhood Plan preparation and opportunity for involvement**

For details of advice and assistance that the Council will provide the Qualifying Body please see page 37.

Please note that in the below tables on Neighbourhood Plan processes, the term ‘*Relevant Body*’ and then subsequently ‘*Qualifying Body*’ will be used to identify the Parish/Town Council or designated Neighbourhood Forum, and the term ‘The Council’ will be used to identify the Local Planning Authority. The first table (Table H) has an additional left-hand column to denote who is responsible for each respective task.

**Table H - Designation of a Neighbourhood Area**

Responsible Organisation	Designation of a neighbourhood area (and, if appropriate, neighbourhood forum <sup>12</sup> )	Engagement
A Parish/Town Council/ Neighbourhood Forum applies to the District Council to designate the Neighbourhood Plan area. No consultation is required if the area proposed is the whole of a single Parish, as the Council must designate the area.		
Rother District Council	<ul style="list-style-type: none"> <li>Following the application by the ‘Relevant Body’<sup>13</sup> for the designation of a Neighbourhood Area, the Council will consult on the area application for a minimum of 6 weeks, where the area differs from the parish boundary or is for a Neighbourhood Forum. <a href="#">Regulation 6 of the Neighbourhood Planning (General) Regulations 2012 (as amended) (as amended)</a></li> </ul>	<ul style="list-style-type: none"> <li>Web-based consultation</li> </ul>
Rother District Council	<ul style="list-style-type: none"> <li>Publicity: The application will be publicised on the Council’s website, and any other manner that the Council considers appropriate to bringing the area application to the attention of affected persons within that area.</li> </ul>	<ul style="list-style-type: none"> <li>Public notices</li> <li>My Alerts</li> <li>Social media</li> <li>Press releases / briefings</li> </ul>

<sup>12</sup> For areas without a town or parish council, a ‘neighbourhood forum’ will need to be established in order to produce a neighbourhood plan.

<sup>13</sup> “(2)A “relevant body” means— (a) a parish council, or (b) an organisation or body which is, or is capable of being, designated as a neighbourhood forum (on the assumption that, for this purpose, the specified area is designated as a neighbourhood area).” - section 61G(2) of the 1990 Act (inserted by paragraph 2 of Schedule 9 to the Localism Act 2011 (c.20) <http://www.legislation.gov.uk/ukpga/2011/20/schedule/9/paragraph/2>

		<ul style="list-style-type: none"> <li>• Posters / Leaflets</li> </ul>
Relevant Body	<p><u>Optional pre-application consultation</u></p> <p>Before applying to designate the neighbourhood area, the Parish/Town Council or neighbourhood forum may decide to consult with the local community about preparing a Neighbourhood Plan.</p>	

**Table I - Preparation of the Neighbourhood Plan – Responsibility of Qualifying Body**

Preparing the Plan - by the local Parish/Town Council or Neighbourhood Forum	Engagement
<p>Preparation of the Plan includes the gathering of baseline information and evidence, (including surveys, conversations with statutory bodies and audits of existing facilities), determining the scope of the plan, drafting its vision and objectives and considering options.</p>	
<ul style="list-style-type: none"> <li>• It is expected that there will be consultation with the local community, including residents, businesses, local groups, organisations and others with an interest in the Neighbourhood Plan, as appropriate, to inform its preparation.</li> </ul>	<ul style="list-style-type: none"> <li>• Written notifications</li> <li>• Meetings / Focus Groups (virtual or otherwise)</li> </ul>
<ul style="list-style-type: none"> <li>• The qualifying body will request an SEA Screening Opinion from the Council to determine if the Plan is likely to have significant environmental effects. Following consultation with statutory environmental bodies, the Council will advise whether a SEA is necessary, within 5 weeks. As required by <a href="#">Regulation 5 of The Environmental Assessment of Plans and Programmes Regulations 2004</a></li> </ul>	<ul style="list-style-type: none"> <li>• Written notifications</li> </ul>

**Table J - Production of the Plan – Responsibility of Qualifying Body**

Production and consultation on the ‘Pre-Submission’ (Draft) Neighbourhood Plan	Engagement
<p>A Parish/Town Council/Neighbourhood Forum publishes plan proposals for public consultation. This is the qualifying body’s draft version of a Neighbourhood Plan, including draft policies and, if appropriate, site allocations. Background documents that have informed the Plan should also be published, and if required, a draft SEA should be published and consulted on, alongside the draft Plan.</p>	
<ul style="list-style-type: none"> <li>• A public consultation on the Pre-Submission Plan, including draft SEA if required, for no less than 6 weeks. <a href="#">Regulation 14 of the Neighbourhood Planning (General) Regulations 2012 (as amended)</a></li> </ul>	<ul style="list-style-type: none"> <li>• Web-based consultation</li> </ul>
<ul style="list-style-type: none"> <li>• Notification: Statutory consultees will be notified, and a copy of the plan proposals will be sent to Rother District Council.</li> </ul>	<ul style="list-style-type: none"> <li>• Written notifications</li> </ul>

<ul style="list-style-type: none"> <li>• Publicity: The qualifying body will publicise the Pre-Submission Plan and details of the consultation, in manner that is likely to bring it to the attention of people who live, work or carry on business in the neighbourhood area</li> </ul>	<ul style="list-style-type: none"> <li>• Public notices</li> <li>• Social media</li> <li>• Press releases / briefings</li> <li>• Posters / Leaflets</li> </ul>
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**Table K - Submission and publication of the Neighbourhood Plan**

Submission of the draft Plan and its publication by the Council	Engagement
<p>Having considered the consultation responses this is the final draft version of the Plan approved by the Town/Parish Council, or Neighbourhood Forum. It is submitted to the Council, together with supporting documents, including a consultation statement, ‘basic conditions statement’, and, where applicable, a SEA, to check completeness of the documents. <a href="#">Regulation 15 of The Neighbourhood Planning (General) Regulations 2012 (as amended)</a></p> <p>The Council will then publish the Submission Plan (and the SEA, where applicable) in accordance with <a href="#">Regulation 16 of the Neighbourhood Planning (General) Regulations 2012 (as amended)</a></p>	
<ul style="list-style-type: none"> <li>• A public consultation on the Submission Plan, including draft SEA if required, for no less than 6 weeks.</li> </ul>	<ul style="list-style-type: none"> <li>• Web-based consultation</li> </ul>
<ul style="list-style-type: none"> <li>• Notification: The Council will notify any consultation bodies who are referred to in the Consultation Statement.</li> </ul>	<ul style="list-style-type: none"> <li>• Written notifications</li> </ul>
<ul style="list-style-type: none"> <li>• Publicity: The Council will publicise the Submission Plan together with supporting documents, including a consultation statement ‘basic conditions statement’, and, where applicable, a SEA and details of the consultation, and ask the qualifying body to do the same.</li> </ul>	<ul style="list-style-type: none"> <li>• Public notices</li> <li>• My Alerts</li> <li>• Social media</li> <li>• Press releases / briefings</li> <li>• Posters / Leaflets</li> </ul>
<ul style="list-style-type: none"> <li>• Availability of documents: The Submission Neighbourhood Plan, including draft SEA if required, and all associated documents will be published on the Council’s website.</li> </ul> <p>The Council will work with the Qualifying Body to identify suitable deposit points for hardcopies of all relevant documents to be made available.</p>	<ul style="list-style-type: none"> <li>• Publication on the Council’s website</li> <li>• Making hard copy documents available</li> </ul>

**Table L - Independent Examination, Referendum and Making by the Council**

Independent Examination of the Plan and Decision	Engagement
<p>Having collated and summarised all duly-made representations, the Council submits the Plan and supporting documents to the Examiner (who will have been appointed with the agreement of the qualifying body).</p> <p>In the event that the Examiner decides that a hearing is necessary, then relevant parties will be invited to present their views on the issues/policies which the Examiner believes need further, oral evidence.</p> <p>The Examiner will check that the Plan meets the basic conditions. If the plan does not, he/she may recommend changes. The Examiner will also assess whether the SEA meets the legal requirements and consider how it has informed the Plan.</p>	
<ul style="list-style-type: none"> <li>The Council will publish the Examination documents, including any hearing statements, on its website.</li> </ul>	<ul style="list-style-type: none"> <li>Publication on the Council's website</li> </ul>
<p>On receipt of the Examiner's report, if the Council is satisfied that the basic conditions (with any recommended changes) are met, it will decide that the Plan can proceed to referendum. If not, the Council may propose alternative changes or reject the Plan. The decision to proceed (or not) to referendum will be publicised in a 'Decision Statement'.</p> <p>If the Examiner requires further material to be produced, this will also be published and may trigger further consultation.</p>	
<ul style="list-style-type: none"> <li>Availability of documents: The Council's decision (the 'Decision Statement') will be published on the Council's website within five weeks of the publication of the Examiners report. <a href="#">Regulation 18 of The Neighbourhood Planning (General) Regulations 2012 (as amended)</a></li> </ul> <p>The Council will work with the Qualifying Body to identify suitable deposit points for hardcopies of all relevant documents to be made available.</p>	<ul style="list-style-type: none"> <li>Publication on the Council's website</li> <li>Making hard copy documents available</li> </ul>
<ul style="list-style-type: none"> <li>Publicity: The Council will publicise its decision on the Examiner's report, including how this decision can be inspected, within five weeks of the publication of the Examiners report. <a href="#">Regulation 18 of The Neighbourhood Planning (General) Regulations 2012 (as amended)</a></li> </ul>	<ul style="list-style-type: none"> <li>Public notices</li> <li>My Alerts</li> <li>Social media</li> <li>Press releases / briefings</li> </ul>
Neighbourhood Plan Referendum	Engagement
<p>Within 56 working days of the Council's decision (as published in the 'Decision Statement') to put a Neighbourhood Plan forward to referendum, the Council must arrange for the referendum to be held. A Qualifying Body can raise awareness of the referendum through publication of neutral publicity material.</p> <p>The process is similar to that of a local election, but subject to its own regulations. <a href="#">The Neighbourhood Planning (Referendums) Regulations 2012 (as amended)</a></p>	
<ul style="list-style-type: none"> <li>The Council will make arrangements for the referendum and make all the information concerning the referendum,</li> </ul>	<ul style="list-style-type: none"> <li>Publication on the Council's website</li> </ul>

<p>including the referendum version of the Neighbourhood Plan and supporting documents, available to the public via its website, and made available for physical inspection at the Town Hall, Bexhill-on-Sea, as well as at any suitable locations identified through working with the qualifying body, no fewer than 28 days before the date of the referendum. (<a href="#">Regulation 4 of The Neighbourhood Planning (Referendums) Regulations 2012 (as amended)</a>)</p>	<ul style="list-style-type: none"> <li>• Making hard copy documents available</li> </ul>
<p>The Counting Officer is responsible for conducting the referendum.</p> <p>Eligible electors who are living within the neighbourhood area boundaries will be entitled to vote in the referendum. [*Usually, the referendum area is the area of the neighbourhood plan, unless it is amended by the Examiner.]</p>	
<ul style="list-style-type: none"> <li>• Once the result of the referendum is declared by the Counting Officer, it will be made available on the Council's website. <a href="#">Regulation 42 of The Neighbourhood Planning (Referendums) Regulations 2012 (as amended)</a></li> </ul>	<ul style="list-style-type: none"> <li>• Publication on the Council's website</li> </ul>
<p><b>Making (adopting) the Neighbourhood Plan (Regulation 19 &amp; 20)</b></p>	<p><b>Engagement</b></p>
<p>If more than 50 per cent of people voting in the referendum support the plan, then the Council must 'make' (adopt) the Plan within 8 weeks of the referendum. <a href="#">Regulation 18A of The Neighbourhood Planning (General) Regulations 2012 (as amended)</a></p> <p>A Plan comes into force following successful referendum and forms part of the Development Plan.</p>	
<ul style="list-style-type: none"> <li>• Availability of documents: As soon as possible after deciding to 'make' the Neighbourhood Plan, the Council will publicise its decision on its website.</li> </ul> <p>The Council will work with the Qualifying Body to identify suitable deposit points for hardcopies of all relevant documents to be made available</p>	<ul style="list-style-type: none"> <li>• Publication on the Council's website</li> <li>• Making hard copy documents available</li> </ul>
<ul style="list-style-type: none"> <li>• Notification: As soon as possible after deciding to make the Neighbourhood Plan, the Council will notify the Qualifying Body and any person who asked to be notified of the decision.</li> </ul>	<ul style="list-style-type: none"> <li>• Written notifications</li> </ul>
<ul style="list-style-type: none"> <li>• Publicity: The Council will publicise its decision to make the Neighbourhood Plan, including how and where this decision can be inspected.</li> </ul>	<ul style="list-style-type: none"> <li>• Public notices</li> <li>• My Alerts</li> <li>• Social media</li> <li>• Press releases / briefings</li> </ul>
<p>A post-adoption SEA Statement is required to be produced as soon as practicable after the decision to make the Plan (<a href="#">Regulation 16 of The Environmental Assessment of Plans and Programmes Regulations 2004</a>)</p>	

- The post-adoption SEA Statement will be published on the Council's website.

- Publication on the Council's website

### **Advice and assistance in relation to Neighbourhood Planning**

- 3.31 Up to the submission of the final draft (Submission) Neighbourhood Plan, it is the relevant Town or Parish Council (or Neighbourhood Forum) that is responsible for its preparation. However, the District Council must provide advice and support throughout the process in accordance with legislation<sup>14</sup>.
- 3.32 Over and above the functions set out in the previous section, the Council has appointed a Neighbourhood Planning Officer to support the production of Neighbourhood Plans by the following:
- Being the principal point of contact
  - Explaining the procedures involved with the preparation of a Neighbourhood Plan to an interested or existing qualifying body
  - Providing information, including environmental designations, to inform the preparation of a Neighbourhood Plan
  - Highlighting the relevant strategic policies of the Council
  - Advising on the need for, and undertaking early, Screening Assessments<sup>15</sup>
  - Identifying potential issues around compliance with the Local Plan and national policy
  - Providing feedback on emerging and draft Neighbourhood Plans and SEAs
  - Arranging the timely appointment of an external examiner
  - appointing a 'programme officer' to manage the examination process where a hearing is proposed by the appointed examiner
- 3.33 In accordance with the Neighbourhood Planning Act 2017, the Council, as local planning authority, will notify the qualifying body of relevant planning applications where a neighbourhood plan in force.

<sup>14</sup> Section 6 of the Neighbourhood Planning Act 2017

<sup>15</sup> The Council will also provide a Habitats Regulations Assessment Screening, where appropriate.

3.34 Further information about neighbourhood plans is viewable on the Council's ['Neighbourhood Plans'](#) webpage.

## 4. Development Management

- 4.1 This section sets out how the Council makes information on planning applications available to the public and how comments on such applications can be made. Reference to 'planning applications' here is taken to include all other associated applications, including those relating to listed buildings, advertisements, preserved trees and some 'prior notification'<sup>16</sup> procedures and 'permission in principle' applications.
- 4.2 Consultation, publicity and notification on planning applications is carried out in accordance with the statutory requirements set out in the Town & Country Planning (General Development Procedure) (England) Order 2015 (as amended).
- 4.3 When undertaking consultations on planning applications, the Council will identify the relevant consultee groups on a case by case basis, which in addition to statutory consultees may also include the types of organisations set out in Figure 2.
- 4.4 Detailed guidance on what 'planning considerations' are, can be found on the Council's website at [www.rother.gov.uk/planning](http://www.rother.gov.uk/planning).
- 4.5 The Council's current procedures for consultation, publicity and notification are set out in the following sections.
- 4.6 As noted earlier in this document, the conditions of the Coronavirus pandemic have impacted on the level of engagement and service that the Council would normally provide. Whilst these changes are temporary, it should be noted that any associated measures will likely remain as possible provisions in the event of any recurrence of such conditions in the future. Please see the temporary [Coronavirus Addendum](#) on the Council's website for further detail, including timescales for any of the temporary measures that are engaged. Please note the following measures in respect of Development Management:
- A temporary suspension of the requirement for local planning authorities to provide for the physical inspection of planning application documents if not reasonably practicable. Copies of these documents will continue to

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<sup>16</sup> Prior notification procedures relate to matters where no full planning application is necessary but where an applicant is required to submit information to the Council in advance of the development.

be placed on the Council's website.

- Where the conditions of the pandemic have had an impact on staffing levels and caseloads, the Council may temporarily suspend its discretionary pre-application service to prioritise its statutory duty to process planning applications.
- Between 4<sup>th</sup> April 2020 and 6<sup>th</sup> May 2021 the Coronavirus Act temporarily enabled Planning Committee to meet 'virtually' using online videoconferencing technology, where it was not practicable for the Committee to meet as normal.

### Pre-application stage

- 4.7 Pre-application advice is a discretionary service offered by the Council<sup>17</sup>. Potential applicants are encouraged to seek advice from the Council on their proposals prior to formally submitting an application. There is a charge for this service. Full details of this service and the scale of charges can be found on the Council's website at <http://www.rother.gov.uk/article/8842/Pre-application-advice-and-fees>
- 4.8 Seeking pre-application advice helps to identify issues at an early stage with the view that they can be rectified before the application is submitted, thereby speeding up the application process. Advice on more straightforward proposals and householder applications will normally be provided in a letter. The planning officer may judge that more complex proposals would merit discussion at a meeting. Meetings are held wholly at the discretion of the Council. Such discussions may also usefully involve other agencies, such as the highways authority, and other Council officers such as those representing Housing or Environmental Health.
- 4.9 Where a proposal is for a major development<sup>18</sup>, or where the site is a sensitive one, or where the proposal is likely to cause significant controversy or where it will impact upon several people, potential applicants are encouraged to undertake publicity and consultation with the local community

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<sup>17</sup> Due to Covid-19 related issues and officer work pressures this service is currently suspended, but will be offered again in the future, in accordance with this section.

<sup>18</sup> Major development is defined as that which relates to 10 or more new dwellings or a site area equal or greater than 0.5ha or other development with gross floorspace equal to or greater than 1,000sqm or site area equal to or greater than 1ha.

prior to the submission of the planning application.

- 4.10 This pre-application consultation process can serve to inform interested parties about the nature and scale of the proposals and forewarn the potential applicant of local concerns which may need to be addressed prior to submission. The Council will expect such consultations to be carried out at the applicant's expense and in a fair and inclusive manner which adds real value to the planning application process.
- 4.11 In addition to undertaking publicity and consultation, officers may recommend potential applicants to present their proposals as an adjunct to Planning Committee. Such a presentation would be chaired either by officers or the Committee Chairman, and would be open to other members, particularly those representing the affected ward(s), as well as Council officers outside of planning. This would be an opportunity for members to identify issues for the proposal to address, to highlight items of interest and to seek further information.

#### **Availability of planning applications and statutory publicity**

- 4.12 Details of all planning applications are posted on the Council's website <https://www.rother.gov.uk/planning-and-building-control/viewing-applications-decisions-and-appeals-online/>. The website is updated with any subsequent correspondence from the applicant, from statutory consultees or from other third parties. Applicants and other interested parties are therefore able to track the progress of an application directly via the website. The Council keeps under review opportunities to extend the amount of information held on the website, with the aim of maximising overall levels of accessibility.
- 4.13 A Weekly List of all applications is produced and is available on the website. In addition, the 'My Alerts' weekly email service identifies all planning applications as they are received, where the application sites are within 400 metres of the recipient's address.
- 4.14 The statutory publicity for planning applications is undertaken by the posting of a pink 'Planning Notice' on or adjoining each application site. The posting of a Notice is intended to advise immediate neighbours and the public generally of current applications. The initial statutory period of notification is normally 21 days, 14 days for permission in principle applications. The Notice gives the application reference, the description of development and

indicates where the application can be inspected.

- 4.15 Applications can be inspected at any time on the website, as well as via public access computers during normal office hours at the following premises:
- Bexhill Community Help Point, Town Hall, London Road, Bexhill-on-Sea, TN39 3JX
  - Battle Community Help Point, The Almonry, 43 High Street, Battle, TN33 0EA
  - Rye Community Help Point, 30a High Street, Rye, TN31 7JG<sup>19</sup>
- 4.16 Some types of applications must also be advertised in local newspapers, including all major applications and those affecting listed buildings or conservation areas. Details of applications which must be statutorily advertised in local newspapers appear in the Bexhill, Battle and Rye Observer and the Kent & East Sussex Courier<sup>20</sup>. In addition, there is discretion to use a public notice in a newspaper to publicise an application which may have more widespread interest or implications.
- 4.17 Any comments on planning applications can be made during the consultation period through the link on the Council's website <https://www.rother.gov.uk/planning-and-building-control/> or be sent to [planning@rother.gov.uk](mailto:planning@rother.gov.uk). Alternatively, comments may be forwarded in writing to the Head of Service Strategy and Planning at Rother District Council, Town Hall, Bexhill-on-Sea, East Sussex TN39 3JX. The Local Government (Access to Information) Act 1985 provides that letters submitted regarding a planning application cannot be confidential and must be made available for public inspection, however, personal data such as phone numbers and email addresses will be redacted. All comments received in relation to planning applications are scanned and posted on the website.
- 4.18 The Local Planning Authority also notifies each Parish or Town Council by email of planning applications or applications for listed building or conservation area consent, advertisement consent and applications for work to protected trees within their boundaries.
- 4.19 East Sussex County Council is consulted on applications affecting notified

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<sup>19</sup> The Rye Community Help Point is temporarily closed until further notice.

<sup>20</sup> In relation to application applications in Ticehurst parish only.

sites such as minerals consultation areas and waste consultation areas. Other service providers are also consulted on appropriate applications.

- 4.20 When plans are amended during an application or further information is submitted by the applicant the Council will use its discretion in terms of any re-notification necessary. The Council is likely to re-notify where there is a significant effect on third parties, or where the amendment is significant and beyond the terms of the original application. The type of notification would be proportionate to the significance of the amendment and level of local interest.

### **Planning Committee**

- 4.21 The Council's Planning Committee, which comprises elected Members of the District Council, is held in public every four weeks. The Committee determines those applications not considered under the delegated authority to officers (see Scheme of Delegation below) and will generally consider the more major, complex or controversial planning applications.
- 4.22 The agenda of the Committee is available on the Council's website at least 5 days before each meeting at <http://www.rother.gov.uk/article/308/Planning-Committee>. A limited supply of copies for reference will be available for viewing at the meeting. The agenda includes reports on the individual planning applications being considered.
- 4.23 All comments relating to the application, which are received prior to the writing of the officers' report, are summarised within it and more complex correspondence may be copied in full and appended to the report. Committee Members consider the comments received when deciding on an individual application and all consultation responses and comments on planning applications can be viewed in full by Members on the Council's website. Any additional comments concerning an application on the agenda must be received by 9am on the Monday before the Thursday meeting if they are to be considered by the Planning Committee (date subject to change if committee is held on a different day).

- 4.24 Where the final decision for an application is to be taken by the Planning Committee, the Council allows the opportunity for the public to address the Committee, either for or against the application. As of amendments given approval by Full Council on 11 November 2019, members of the public are no longer required to have submitted a petition to address the committee. Instead, any person who has made a representation on an application to be decided at Planning Committee may register to address the Committee. Members of the public who intend to speak should register with Democratic Services by telephone on 01424 787811 or by email at [Democraticservices@rother.gov.uk](mailto:Democraticservices@rother.gov.uk). Registration will start at 2pm on the date that the agenda is published (Wednesday) and close at 4pm on Monday of Committee week (space subject to availability).
- 4.25 The maximum number of speakers for and against the application by members of the public will depend upon the type of application – as set out below:
- Householder: 1 speaker each for and against
  - Minor/Other: 2 speakers each for and against
  - Major: 3 speakers each for and against
- 4.26 At the Planning Committee meeting, the application will be introduced by the Chairman and then by the Development Manager or the Planning Officer for the application. If relevant, a representative of the parish/town council will then be invited to speak. Following this, registered speakers will then be invited to address the committee; first speakers objecting to the application, and then speakers in support of the application including the applicant. Finally, a Council Ward Member not on the Planning Committee will be invited to address the committee on behalf of the public. Each speaker will have no more than five minutes to address the committee. Once each speaker has finished addressing the committee, Members of the Planning Committee will be given the opportunity to ask the speaker questions on the content of their speech.
- 4.27 For further details on Public Speaking at Planning Committee please see the Council's website at <http://www.rother.gov.uk/speakingatplanningcommittee>

- 4.28 As noted above, Ward Members are permitted to address the Planning Committee to make known the views of local residents as part of the consideration of a planning application. Members of the public can find contact details of their local Ward Members at:  
<http://www.rother.gov.uk/article/6828/Who-is-my-councillor>

### **Scheme of Delegation**

- 4.29 Most applications can be determined by the Head of Service Strategy and Planning under 'delegated authority'. Such applications are not reported to the Planning Committee.
- 4.30 Officers may consider it appropriate for a planning application to be determined by the Planning Committee where the proposal is of a large scale, or is a controversial scheme, or because it raises significant planning policy issues. Any Member can also request (using a procedure form setting out reasons) that a particular application be reported to Committee.
- 4.31 All applications relating to land in which the Council has an interest (and including that of serving Councillors and Officers, as well as anyone who is related to a Councillor or Officer) must be determined by the Planning Committee.
- 4.32 When a decision is delegated, a report is produced which summarises the consultation responses received, the officers' consideration of the issues and the intended decision, along with conditions. This report is retained on the planning application file and is published on the Council's website once the application has been determined.
- 4.33 As set out above, all comments received on an individual planning application, including those from statutory consultees, are posted on the Council's website as soon as possible after they are received.

### **Permission in Principle and Brownfield Land Registers**

- 4.34 Permission in Principle (PiP) is an alternative way to obtain planning permission which only establishes the principle of development on sites.

- 4.35 Local planning authorities can grant permission in principle to a site upon receipt of a valid application or by entering a site in Part 2 of its Brownfield Land Register<sup>21</sup> which will trigger a grant of PiP for that land providing the statutory requirements set out in [Town and Country Planning \(Permission in Principle\) Order 2017](#) (as amended) and the [Town and Country Planning \(Brownfield Land Register\) Regulations 2017](#) are met. Please see the [Council's Brownfield Land Register webpage](#) for more information, which includes a link to the Register. Please note that entering sites into Part 2 of the Brownfield Land Register is discretionary, and that as of 1 April 2021 the Council has not entered any sites into Part 2 of its Register.
- 4.36 Following a grant of PiP, the site must receive a grant of 'technical details consent' before development can proceed. The granting of technical details consent has the effect of granting planning permission for the development. Other statutory requirements may apply at this stage such as those relating to protected species or listed buildings. Technical details consent can be obtained following submission of a valid application to the local planning authority.
- 4.37 The consultation that must be undertaken before sites can be granted permission in principle is set out in the [Town and Country Planning \(Brownfield Land Register\) Regulations 2017](#) for suitable sites on Brownfield Land Registers, and in the [Town and Country Planning \(Permission in Principle\) Order 2017](#) (as amended) when permission in principle is sought by application. In both situations, local planning authorities must consult bodies identified in [Schedule 4 to the Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#) if in their opinion the land within the site falls within the prescribed category, and take in to account any responses received. Local planning authorities must also consult anybody that they would have been required to [consult in relation to an application for planning permission](#).

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<sup>21</sup> [Regulation 3 of the Town and Country Planning \(Brownfield Land Register\) Regulations 2017](#) requires local planning authorities in England to prepare, maintain and publish registers of previously developed (brownfield) land. Registers comprise of two parts. Part 1 comprises all brownfield sites appropriate for residential development or residential-led development and Part 2 being those sites granted permission in principle.

- 4.38 During the process of seeking PiP through a valid application, the public, statutory consultees and other interested parties are consulted and have 14 days to respond, unless, in the case of statutory consultees, they agree a longer period in writing with the case officer.
- 4.39 The second stage (or technical details consent stage) is when the detailed development proposals are assessed. The publicity requirements for technical details consent applications mirrors the approach taken for planning applications.
- 4.40 The period for making comments will be set out within the relevant publicity notices which include the required notices on the site and on the Council's website. For site notices this will be not less than 21 days for Brownfield Land Register sites and 14 days for applications. For online notices, the same period of 14 days applies to permission in principle made by application or proposed through Brownfield Land Registers.<sup>22</sup>
- 4.41 On the first publication of the Brownfield Land Register, where multiple sites may be proposed for a grant of permission in principle by entering them onto Part 2 of the register, statutory consultees should provide a substantive response to a proposal within 42 days. Thereafter, where statutory consultation is required in relation to a site proposed for a grant of permission in principle, statutory consultees have 21 days to respond to a proposal.
- 4.42 The Brownfield Land Register Regulations (2017) set out the publicity and consultation specifications for sites that are considered for a grant of PiP and then included in Part 2 of the Register. These specifications include:
- Publicise by site notice and on the Council's website for a period not less than 21 days, and
  - Notify relevant bodies if certain conditions apply, such as
    - if the site is within 10m of railway land,
    - specific requests that have been made by a Parish Council or neighbourhood forum,

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<sup>22</sup> The Housing and Planning Act (2016) requires that local planning authorities prepare, maintain and publish a register of brownfield land (also known as previously developed land) which the Council has assessed as being potentially suitable for residential development.

- those persons, bodies or authorities that fall within a category set out in the Table in Schedule 4 to the Town and Country Planning (Development Management Procedure) (England) Order 2015, or
- at the local planning authority's discretion, any other person, bodies or authority that the local planning authority considers should be informed.

### **Decision Notices**

- 4.43 Parish and Town Councils are sent, by email, copies of the decision notices for the applications that fall within their area. All decision notices are posted on the website.

### **Feedback**

- 4.44 The Council holds a Planning Agents' Forum around once a year to update local planning agents on recent or forthcoming changes and to receive feedback on the operation of the planning service.
- 4.45 A similar event takes place for Parish and Town Councils to exchange information on general planning matters.

### **Appeals**

- 4.46 When a planning or other application is refused planning permission or consent, the applicant may choose to appeal against that decision and have the case considered by the Planning Inspectorate.
- 4.47 For an appeal which is being heard by means of written representations or by means of an informal hearing, the Council will send letters to all those who commented on the original planning application informing them of the appeal and inviting them to make any further submissions they may wish to the Planning Inspectorate.
- 4.48 For public inquiries, as well as informing any original objectors, an advertisement is also placed in the public notices section of a local newspaper and the applicant is required to place a notice on the appeal site.

4.49 For an appeal into an enforcement matter, the Council will aim to inform, by letter, those who may have an interest in the appeal and wish to express their view. This is the case whether the appeal is being heard by written representations, informal hearing or by public inquiry.

## **5. Monitoring and Reviewing of the Statement of Community Involvement (SCI)**

5.1 The approaches set out in the SCI to inform and involve the community in planning policy preparation and the determination of planning applications will be monitored for their effectiveness. For engagement in respect of planning policy preparation, account will be taken of the overall number and types of participants involved as documents are progressed and any feedback received about the success or otherwise of the involvement techniques used.

5.2 Changes to the SCI may be instigated by further revisions of the Regulations which govern publicity and involvement in the planning policy preparation and planning application processes.

5.3 The Coronavirus pandemic has also shown that there are situations which may render some of the methods of engagement identified in the SCI as temporarily unpracticable. In response to such cases, it may be necessary for the Council to temporarily amend the details of the SCI, to identify where engagement is not possible and to set out any alternative forms of engagement, without the requirement for public consultation on these amendments in order that planning services can continue. Such temporary amendments may be set out in SCI addendum documents.

5.4 These changes will be reported on as part of the publication of the Local Plan Monitoring Report.

5.5 The Council will review the Statement of Community Involvement every five years as stated in Regulation 10A (1) (b) of The Town and Country Planning (Local Planning) (England) (Amendments) Regulations 2017<sup>23</sup>.

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<sup>23</sup> <http://www.legislation.gov.uk/ukxi/2017/1244/made>

## Appendix A - Local Plan General and Specific Consultation Bodies

The Council is required to consult the below consultation bodies as part of Local Plan Regulation 18 and 19 stage consultations. In addition to the below bodies, the Council will also consult residents or other persons carrying on business in the local planning authority's area from which the local planning authority consider it appropriate to invite representations.

### **General Consultation Bodies** *(with examples where helpful)*

- (a) Voluntary bodies, some or all of, whose activities benefit any part of the local planning authority's area.  
*Nature Conservation / countryside bodies, Environmental groups, Infrastructure and service providers, Interest and amenity groups, Resident's Associations, Neighbourhood Plan Steering Groups, Learning agencies, Recreation bodies*
- (b) Bodies which represent the interests of different racial, ethnic or national groups in the local planning authority's area,
- (c) Bodies which represent the interests of different religious groups in the local planning authority's area,
- (d) Bodies which represent the interests of disabled persons in the local planning authority's area.  
*Disabled groups, those with caring responsibilities groups*
- (e) Bodies which represent the interests of persons carrying on business in the local planning authority's area;  
*Business Associations, Property Trade Associations, Voluntary Groups, Landowners*

### **Specific Consultation Bodies** *(with examples where helpful)*

- (a) The Coal Authority
- (b) The Environment Agency
- (c) Historic England (The Historic Buildings and Monuments Commission for England)
- (d) The Marine Management Organisation
- (e) Natural England
- (f) Network Rail Infrastructure Limited,
- (g) Highways England (a strategic highways company)

(h) A relevant authority any part of whose area is in or adjoins the local planning authority's area.

*Local Planning Authorities, County Councils, Parish Councils, the Police and Crime Commissioner, and neighbourhood forums.*

(i) Any person—

i. to whom the electronic communications code applies by virtue of a direction given under section 106 (3)(a) of the Communications Act 2003, and

ii. who owns or controls electronic communications apparatus situated in any part of the local planning authority's area.

*Openreach, BT, etc*

(j) If it exercises functions in any part of the local planning authority's area—

i. a clinical commissioning group established under section 14D of the National Health Service Act 2006; and the National Health Service Commissioning Board.

ii. A person to whom a licence has been granted under section 6(1)(b) or (c) of the Electricity Act 1989

iii. A person to whom a licence has been granted under section 7(2) of the Gas Act 1986

iv. A sewerage undertaker; and  
*Southern Water*

v. A water undertaker;  
*Southeast Water*

(k) The Homes and Communities Agency

## Appendix B - Neighbourhood Plan Consultation Bodies

The Qualifying Body and the Council are required to consult the below consultation bodies as part of Neighbourhood Plan Regulation 14 and 16 stage consultations, respectively.

### Consultation Bodies *(with examples where helpful)*

- (a) A local planning authority, county council or parish council any part of whose area is in or adjoins the area of the local planning authority;
- (b) The Coal Authority
- (c) The Homes and Communities Agency
- (d) Natural England
- (e) The Environment Agency
- (f) Historic England (The Historic Buildings and Monuments Commission for England)
- (g) Network Rail Infrastructure Limited
- (h) Highways England (a strategic highways company)
- (i) The Marine Management Organisation
- (j) Any person—
  - i. to whom the electronic communications code applies by virtue of a direction given under section 106 (3)(a) of the Communications Act 2003, and
  - ii. who owns or controls electronic communications apparatus situated in any part of the local planning authority's area.  
*Openreach, BT, etc*
- (k) Where it exercises functions in any part of the neighbourhood area—
  - i. a clinical commissioning group established under section 14D of the National Health Service Act 2006; and the National Health Service Commissioning Board.
  - ii. A person to whom a license has been granted under section 6(1)(b) or (c) of the Electricity Act 1989
  - iii. A person to whom a license has been granted under section 7(2) of the Gas Act 1986
  - iv. A sewerage undertaker; and  
*Southern Water*

- v. A water undertaker;  
*Southeast Water*
- (l) Voluntary bodies some or all of whose activities benefit all or any part of the neighbourhood area;  
*Nature Conservation / countryside bodies, Environmental groups, Infrastructure and service providers, Interest and amenity groups, Resident's Associations, Neighbourhood Plan Steering Groups, Learning agencies, Recreation bodies*
- (m) Bodies which represent the interests of different racial, ethnic or national groups in the neighbourhood area;
- (n) Bodies which represent the interests of different religious groups in the neighbourhood area;
- (o) Bodies which represent the interests of persons carrying on business in the neighbourhood area.  
*Business Associations, Property Trade Associations, Voluntary Groups, Landowners*
- (p) Bodies which represent the interests of disabled persons in the neighbourhood area.  
*Disabled groups, those with caring responsibilities groups*

## **Appendix C - Glossary of Abbreviations**

CIL – Community Infrastructure Levy

DtC – Duty to Cooperate

LDS – Local Development Scheme

NP – Neighbourhood Plan

PiP – Permission in Principle

SA - Sustainability Appraisal

SEA - Strategic Environmental Assessment

SCI – Statement of Community Involvement

SPD – Supplementary Planning Document

SoCG – Statement of Common Ground



# **A LITTER STRATEGY FOR ROTHER DISTRICT COUNCIL**

Purpose	Rother District Council Litter Strategy
Owner	Anna Evett (while draft)
Approved by	
Date	8 October 2021
Version number	Draft 4
Status	Final draft
Review date	
Consultation	Corporate Management Team/Portfolio Holder
Consultation Date	

## **FOREWORD**

1. Rother District covers some 200 square miles (Corporate Plan 2020) and is a predominately rural district with three main urban areas, Bexhill-on -Sea, Rye and Battle. As well as these historic towns and some of the most beautiful countryside in South East England, the District benefits from a broad range of coastline that attracts many visitors to the main shingle beaches of Bexhill, the famous sandy beaches and sand dunes of Camber Sands, and the more rural beaches of Winchelsea, Pett Level and Fairlight.
2. Reducing litter and improving the management of the litter we do experience, thus minimising the impact on our environment, is an area of great importance and concern to our residents in Rother where our towns and beaches experience substantial increases in litter during the summer season. The Rother Litter Strategy sets out ways to address these concerns and includes peripheral issues such as fly tipping.
3. Rother's beaches and towns together create a thriving tourist destination and for our residents, the District provides the setting for vibrant local communities each with its own unique identity.
4. However, whilst our district ranks well in England for its cleanliness (evidenced by NI195 survey reports), the District's natural beauty and attractive urban environments are sometimes blighted by litter. Furthermore, as a district with a broad coastline and rivers that lead directly into the English Channel, we have a global responsibility to ensure that litter does not find its way into the sea by acting locally to reduce litter in the environment.
5. Dedicated and committed volunteers from our local communities play a big part in tackling litter and the causes of litter. The majority of our residents care very deeply about their environment. However, a small but significant culture persists in believing that littering is acceptable and this needs to be challenged and altered if we are to meet our responsibilities.
6. The purpose of this strategy document is to set out our ambitions and the steps necessary to reduce littering. It identifies the scale of the problem, explains the actions we will take to affect change, and the challenges we face in making those changes. This strategy has been developed in line with the Litter Strategy for England 2017, the Rother Corporate Plan and the Rother Environment Strategy 2020-2030.

## **AMBITION**

7. To reduce the volume of litter in the first instance by reducing packaging through the implementation of the UK Environment Bill new regulations (due in October 2021); to make littering culturally unacceptable behaviour; to ensure we have the right litter bins in the right place to help people dispose of their litter responsibly.

## **THE BACKGROUND CONTEXT**

### **Litter and the law**

8. Litter is controlled under the legislative framework of the Environmental Protection Act 1990, which was amended by the Clean Neighbourhoods and Environment Act 2005.

9. It is an offence to drop or leave litter and not pick it up. It applies to all land that is open to the air, including land covered with water and privately-owned land. A person found guilty of dropping litter can be fined up to £2,500 in a magistrate's court. Most offences can be dealt with through serving a Fixed Penalty Notice (FPN) on the perpetrator by an authorised body such as a local authority or police force. FPN charges are set locally at between £75 and £150.
10. Litter is generally accepted to be anything below the size of a sack of household waste and is mostly understood as items related to smoking, chewing gum or eating and drinking on the move where unwanted items have not been properly disposed of or have been dropped inadvertently.
11. Section 89 of the Environmental Protection Act 1990 (EPA 1990) places a legal responsibility (a 'duty') on certain organisations to ensure that land, as far as is practicable, is kept clear of litter. Section 91 of the EPA 1990 goes on to state that a person who is fed up with a long-standing litter problem can use a Litter Abatement Order against those organisations listed under Section 89 (the 'duty bodies') if they are failing in their duty to keep that land clean.
12. There are six 'Duty Bodies' – local authorities, statutory undertakers such as rail and road agencies, Crown Estate, colleges, schools and universities. Privately owned land not open to public access does not qualify for a Litter Abatement Order.
13. In practical terms local authorities generally find it difficult to issue FPNs as the perpetrator would need to be caught in the act of littering or be able to evidence a contravention of the Act. Some local authorities have used private third-party contractors to patrol high streets to catch offenders in the act of dropping litter but in general this has proved unpopular and unproductive.

## CAUSES OF LITTER

14. The causes of litter are diverse and complex with a lack of, or fragmented data on the impact or importance of each cause and the effectiveness of different approaches to dealing with them. This section of the Strategy, therefore, aims to highlight what the District Council understands to be the key causes of litter.
15. The causes of litter outlined below are not ranked for importance or priority as we do not have evidence on which are the most important. The Strategy will also set out to identify gaps in knowledge and which issues the District has the structures, resources and authority to tackle.
16. Where the Council is not in a position to act directly, the Strategy will outline in what ways it needs to focus on partnership working and community action to secure progress.
17. **Public lack of understanding of the impact of litter:** Despite the high-profile publicity of the impacts of litter on the environment, particularly around plastics, there is still a large disconnect between individual actions and collective impact. There is also a misunderstanding of how and where to use and dispose of biodegradable packaging.
18. **Lack of influence/control/powers:** Whilst there is a perception that the

District Council is responsible for all public land, there are areas where the Council has limited or no powers to act to prevent littering or to provide litter services.

19. **Cultural attitudes:** Our experience suggests that a number of cultural changes have led littering to become an acceptable behaviour. Examples include:
  - The increasing disconnect with the natural environment caused in part by alternative pastimes based around technology.
  - Changes in the way we consume food and drink and move to eating (and drinking) on the go.
  - Increased night-time economy and its impact on less responsible behaviour in urban centres.
  - Increased car ownership and improvements in car design separates travellers from the experience of the environment around them.
  - Expectations of responsibility for litter clearance.
  - Lack of awareness of wider costs of litter.
  - Culture of instant gratification, a compounding factor of eating on the go, the desire to live in the moment means not wanting to hold on to litter until a bin can be found and a reduced sense of responsibility beyond the self.
20. **Eating 'on the go':** With a move to eating 'on the go', there is an increase in disposable packaging. Today, food and drink are consumed in spatially different ways to the past. Under these conditions, it is not always possible to predict the locations for bins to meet the needs of those consumers eating 'on the go' but we do know that it is a problem in beach/seaside locations. Recent years has seen local providers choosing to use large cardboard or polystyrene boxes, rather than paper.
21. In addition, eating 'on the go' packaging often has high volume packaging (plastic bottles and food trays) meaning bins fill more quickly. In Bexhill (seafront) and Camber beach, at times it proves difficult to empty the bins quickly enough; users are reluctant to either crush or tear the containers or take them home.
22. Eating/drinking 'on the go' has also become commonplace whilst driving leading to roadside litter where litter bins may not be an appropriate solution but lead to further littering and fly tipping.
23. **Tourism and Leisure:** Rother is a destination for many types of tourists, largely to enjoy outdoor recreation, historic attractions and our beaches. Whilst this brings many benefits, tourists do not always have access to facilities for disposing of litter in the same way as residents, and it may not be so easy for them to take litter home. Tourism also supports demand for eating 'on the go'. Camber Sands beach is of particular concern as it is a large sandy beach and visitors travel for many miles to get there. There is a risk that any litter left on the beach will be swept out to sea.
24. **Smoking:** Keep Britain Tidy identifies smoking related litter as the most common type of litter found on the streets.
25. "Although cigarette ends are small, by law they still count as litter. Their small size makes them difficult and costly to clean, and also means they are easily

transported to our waterways and coast by wind and water. Not only do they contain toxins which pollute our waters, but they can be mistaken by wildlife for food, which can be deadly. Cigarette filters are not biodegradable. They are actually made of plastic, so they stay in the environment for a long time.”

26. Keep Britain Tidy provides useful data on this issue along with strategies for tackling it which can be explored further.
27. **Dog ownership:** Dogs play an immensely important role in our societies, from support dogs for the disabled, rescue dogs for emergency services and educational dogs for children with behavioural needs, through to companion animals for people of all ages. Dogs promote health and well-being, encourage regular exercise and help break down social barriers. However, dog fouling can cause serious health problems and is the cause of considerable numbers of complaints about street cleanliness.
28. Dog ownership is on the rise and, whilst the failure to clear up dog fouling is increasingly socially unacceptable, there remains a small minority of dog owners that either fail to clear up after their pets or clear up but fail to bin it. Failure to clear up properly after dog fouling causes specific additional concerns around health of people, livestock and wildlife. The problems are exacerbated by lack of clarity as to when, where and how to dispose of dog waste correctly. The problem is far worse in the winter when owners are under the cover of darkness.
29. **Drugs paraphernalia:** A relatively small issue in terms of volume of litter but significant in potential impact on human health, both for the public at large and for staff dealing with the issue. Drug paraphernalia is a difficult problem to tackle at a departmental or even county council level and requires partnership working and lobbying.
30. **Packaging:** Changes in shopping behaviour from high street to online, increasing use of marketing on packaging, use of packaging to increase shelf life of products all contribute to an increase in the volume of packaging and a change in the materials used in packaging. Inevitably, an increase in packaging has led to an increase in waste, whether intentionally or otherwise, some of which ends up as litter. During the pandemic we have seen a rise in cardboard from online deliveries and an increase in fly tipping of it and other packaging.
31. **Long distance transport:** There is a lack of rest facilities for long distance lorry drivers leading to littering of major laybys in the county. Challenges exist for such locations as bins in these locations attract fly tipping, misuse and abuse.
32. **Schools:** Walking routes to schools attract litter as many children eat on the go both to and from school. It only takes a small minority to drop litter on a daily basis on the same routes for litter to become a problem in these areas. The cohort effect makes challenging behaviours an ongoing requirement in an already highly pressured educational curriculum.
33. **Commercial and household waste collection:** Recycling targets put pressure on waste collection services. Whilst waste segregated by residents at the kerbside is widely seen as improving the quality of the recyclable

materials collected, the logistics of this approach can lead to the creation of litter. Example problems include historic urban areas (Bexhill, Rye and Battle town centres in particular) with houses in multiple occupation lacking in space for bins; households in converted properties above retail units not equipped to store multiple bins for waste segregation, and sometimes lack of knowledge regarding waste collections due to high turnover of occupants.

#### **WHERE ARE WE NOW**

34. In the UK the cost of dealing with litter is around £850m a year (Litter Strategy for England 2017) and whilst the types of litter have changed, the level of litter has not fallen for over 12 years. Fast food litter has increased over the last decade as people have taken up the habit of eating and drinking on the go. Litter can last a very long time in the environment, with some materials such as crisp packets, cans and glass bottles remaining intact for decades, and plastic bottles having a 'life' of hundreds of years.
35. England released a national strategy for litter in 2017 that includes a combination of education, enforcement and improved infrastructure.
36. The coronavirus pandemic, anecdotally, has made the litter problem worse; more people are enjoying outside spaces, more people are shopping online for goods, restaurants are closed and consumer takeaway food and beverages has increased.

#### **SCALE OF THE PROBLEM IN ROTHER**

37. Rother District is an area covering approximately 511.8 km square (Rother in profile 2006) of mostly high-quality rural landscapes and villages with many protected environments that are highly valued by local communities. These beautiful towns, villages and rural landscapes also contribute to the local economy by attracting tourists to the region. Litter has a negative impact on the built and natural environment and, ultimately, has a negative impact on the economy, wellbeing and safety of the people and wildlife.
38. Rother's litter is easily transported by wind or water to other places where it can do unseen damage such as in rivers and seas. There is a great deal of international concern about the sheer volume of plastic litter that is now entering our oceans and the difficulty in removing it. In addition to the obvious dangers to marine life, it is a hazard to the food chain, and assists potentially invasive species to travel around the globe, destroying habitats, threatening species and harming human health.
39. Rother's litter problem is a very visible manifestation of some people's lack of awareness and care for the local environment. Yet for others, it remains one of the issues that they care very much about.
40. Whilst the figures show that street cleanliness is generally good, (NI195 data year ending August 2020 indicates litter/detritus of around 4% in areas surveyed) there are still problem areas and issues that need to be tackled. With the current and ongoing constraints on resourcing there is a need to work more efficiently, particularly if we are to curb the recent fall in performance and to deal with changes in culture that are leading to new litter related challenges.

## **SPENDING ON LITTER COLLECTION IN ROTHER**

41. Considerable financial and man power resources are dedicated to collecting litter in the streets, emptying litter bins and litter picking along country lanes. The budget for 2021/2022 is £1.1m for beach and street cleansing which includes the collection of litter.
42. The clearance of litter is an avoidable cost but to reduce this requires significant culture change alongside well designed and planned infrastructure and services to meet current and future needs. Changing culture is challenging and requires ongoing investment in education, engagement and, occasionally, enforcement. Given that much of our infrastructure is old and designed and planned for a different time, updating this to meet current and predicted need in the current economic environment will be a challenge and new and innovative ways to deal with this will be necessary.
43. The Council engages a Waste Contractor, Biffa, to keep the streets, roads and beaches clean. Furthermore, dedicated volunteers regularly litter pick in the areas where they live, some of whom will also separate materials into recyclables and waste. Volunteers in rural areas carry out cleansing where it is difficult for the District Council to do so due to a lack of resources, and volunteers are often able to undertake additional regular deep cleans of their local area.

## **LITTER PREVENTION**

44. There is little education and prevention work. Currently very limited work is undertaken but there is room for improvement working with the general public on raising awareness about litter. East Sussex County Council's Communications Team have embarked on an anti-littering campaign focusing on the message 'respect, protect, enjoy.' These messages will be shared across social media platforms. The Environment Bill will tackle the root sources of packaging and Rother has taken part in the consultation process to ensure our concerns are heard. Councillor and Environmental groups have been working to persuade fast food outlets to switch to more environmentally friendly forms of packaging.
45. The Litter Strategy for England 2017 places great emphasis on working together to reduce littering. Litter is everyone's responsibility from retailers who provide take-away food, residents who allow their dogs to foul and members of the public who think it is socially acceptable to drop their litter for someone else to clean up.

## **WHERE DO WE WANT TO BE**

46. Feedback from Councillors, community groups and individuals and other stakeholders has made it clear that we want a cleaner district. Our ambition is: To make littering unacceptable behaviour and to seek new and innovative ways to reduce littering and to clear it promptly where it turns up. To achieve this ambition, we have reviewed our approach to dealing with litter and set out an action plan to help us achieve this.

## **OUR APPROACH**

47. Rother District Council will adopt a positive collaborative approach to tackling litter in the District. In response to views from our stakeholders, we have identified five thematic areas of work to tackle the many and diverse causes of litter that build on current practice and on which an action plan (set out in

the Appendix) has been developed. The five thematic areas of work are: Education; Enforcement; Infrastructure; Service design; and Partnership working.

48. The Action Plan will be underpinned by the best available data. Where gaps in the data exist or where data is scarce, we will work with our partners to collect and analyse data to underpin our approach.

#### **FIRST STEPS - REVIEW OF OUR BININFRASTRUCTURE REF: WASTE & RESOURCES ACTION PROGRAMME (WRAP) GRANT FUND FOR LITTER BINS**

49. For the purposes of applying for the WRAP grant, we chose to focus on having the 'right bin in the right place'. As Rother is geographically large and spread out, we have narrowed our focus further to two of our busiest areas, Camber Sands (and associated beaches) and Bexhill Seafront.
50. Camber Sands alone can attract up to 10,000 to 15,000 visitors a day on warm summer days, and as many as 25,000 people a day on hot weekends and bank holidays. In the current COVID situation and the 'stay-cation' in 2020, Rother received unprecedented numbers of visitors to both Camber and Bexhill and so the grant application was based on planning for similar unprecedented levels in 2021.
51. Litter is a seasonal issue in these areas and increases exponentially in line with visitor numbers, with the risk that any litter left on the sands and shingle will be washed out to sea or blown about in the wind. Visitors at both locations will often stay for the day, bringing their own food with them or purchasing take-away food to consume on the beaches. The resulting rubbish is then left by the nearest litter bin or in situ on the beach to be blown about the beaches and promenades and sometimes washed out to sea.
52. Officers reviewed the 'bininfrastructure' at both locations and successfully applied for a WRAP grant of £22,500 to install new litter bins and two solar compaction bins in certain locations.

#### Camber Sands

53. Camber Sands is a sandy beach and a SSSI site. There is a small village of approximately 1,000 residents. There are three car parks and limited on street parking due to the narrow road in and out of the village. The beach needs to be cleansed throughout the day during high season. Fixed bins are not an option on the sands as they do not stand up to the shifting grounds, tides and weather conditions. Following research and looking at the experiences in Bournemouth, Brighton and Hastings, robust fixed bins are required on the entrances to the beach, car parks and village. In addition to this, bulky bins are needed on the sands. Our current stock is in need of replacement and this has now been done as at October 2021.

#### Bexhill Seafront and Herbrand Walk

54. Areas of these beaches are heavily used during the summer and we expected visitor numbers to increase in the future. As a result of this strategy and the funding additional bins are now in place near to take-away food outlets along the seafront and on the shingle beaches at Herbrand Walk. In addition to these bins we have purchased and installed two solar compactor bins for

installation at a prominent spot along the seafront near the take away outlets and at Herbrand Walk. These bins, which are now in place as at October 2021, compact the litter and should be a talking point in the town with visitors keen to use them.

55. The existing bins will be repaired and refurbished and redeployed as part of the next phase of ensuring the 'right bin in the right place'.

## SECOND STEPS – USE THE TOOLS WE HAVE

56. Make use of our existing tools such as the 'report it' function on the website.
57. Publicise the 'report it' function and encourage residents to use it: this will give us valuable data and ensure that we can direct resources to hot-spot areas

## STRATEGIC ACTION PLAN

### Action Plan Overview

58. The below is a table to highlight relationships between issues and how they might be tackled.

Thematic area of work	Education	Enforcement	Infrastructure	Service Design	Partnership Working
<b>Causes of litter</b>					
Public understanding of the impact of litter	x				x
Lack of an updated county strategy for litter					x
Changes in culture	x	x	x		x
Eating on the go	x	x	x	x	
Tourism and leisure			x	x	x
Smoking related litter	x		x		
The impact of dog ownership	x	x	x		x
Packaging					x
Long distance transport			x	x	x
Schools	x		x		
Waste collection services			x	x	

### **Education**

Develop an education plan for residents and visitors about the impact of litter. To cover:

- Social media campaigns on particular timed themes, dog fouling, waste and recycling (what can be recycled) and how to reduce waste overall.
- Work with local schools and community groups.

### **Enforcement**

- Crack down on fly tipping, both the commercial fly tips plus the domestic fly tips especially at bring sites.
- Work with enforcement on targeted campaigns, publicise FPN and issue appeals for witnesses with large commercial fly tips.
- Work with other districts, county and police to gather evidence against repeat offenders.

## **Infrastructure**

- Review our current 'binrastructure' to ensure we have the right bin in the right place.
- Implement innovative designs of bins to make them easy to use.

## **Service Design**

- Work with Biffa to ensure that as many households as possible are on alternate weekly collections and identify ways that daily collections can be avoided.

## **Partnership Working**

- Identify community groups to work with in promoting key messages about litter prevention.
- Work with community and voluntary groups to organise regular litter picks and beach cleanses and to identify hot spots and changes to 'binrastructure.'
- Promote partnership working amongst local businesses for litter prevention.
- Recognise and reward the contribution of volunteers to tackling litter.
- Consider Quality of Place awards.

## **FUNDING**

59. As previously mentioned, to support the Rother Litter Strategy officers were successful in applying for grant funding from WRAP organisation in May 2021 to provide litter bins to the value of £22,500.
60. Further financial support to pay for the emptying of these additional litter bins has been supported by Hastings Direct and via the Welcome Back Fund.
61. It is proposed that further funding may be obtained through local businesses sponsoring litter bins as a means of advertising and to support culture change.
62. We would also look to fund local educational and publicity campaigns using business sponsorship and link this to the UK Environment Bill when it is ratified in Autumn 2021.

## **SUMMARY**

63. This Strategy builds on the work undertaken by Central Government and relies on partnership working with Parish and Town Councils (P&TC), community groups, businesses and individuals. We will be consulting with P&TCs about their 'binrastructure' and encouraging them to create their own litter strategies.
64. It is considered the first priority is to change people's attitude towards their use of packaging and reduce the amount of materials they use and subsequently discard.
65. The second priority is to change people's attitude towards littering being something we simply have to accept and pay to remove, by changing the culture.
66. Both the above priorities will take time to effect and, in the meantime, it is important to have in place an effective litter strategy to both manage the impact of the existing issues and work to support the above changes.

67. Officers look forward to working with Councillors, community groups and individuals to further develop and implement this strategy, and to build on their valuable work already in progress across Rother.

DRAFT

### **Below is extracted detail of the WRAP 'Binrastructure' grant application:**

In line with the guidance officers have included a 'Binrastructure' section within the draft litter strategy, to audit where the bins are across the District, and assess suitability for the location and main use. The audit covered:

The type of bin (physical characteristics) including make, model, capacity, aperture and fixings

- Location
- Target materials
- Owner and who is responsible for emptying
- Access
- Condition
- Signage

The information on usage and location in particular, determined our focus areas, i.e. hotspots. All bin locations and make and model of bins have been mapped on a software package. This work started at the beginning of 2019 and concluded in September 2020. The next step is to audit and assess the level of use for each of bin, the type of bin for the location and target materials. However, as this will need to be an ongoing project, it was agreed to prioritise the areas with the greatest need.

Looking at the data available from customer complaints, reports from members of the public on bins that need emptying, feedback from Cleansing Operatives, waste contractors and District Compliance Officers, the District's most popular beach and seafront areas were identified as a priority.

Identification of litter prone/hotspot locations: Camber Beach, Broomhill, Winchelsea Beach, Pett Level Beach and Bexhill Seafront were identified as hotspots. 2020 was a particularly bad year for littering in these locations due the COVID-19 pandemic and the vast increase in visitor numbers. Meetings have taken place with the District Coastal Team, Rother District Council Officers, Biffa and local representatives, to review the bin locations and emptying frequencies based on the 2020 summer season. A copy of the minutes of the last three meetings are available.

Type of locations: All locations across Rother were assessed at a very high level. It was readily agreed to prioritise the locations with the highest number of visitors (footfall) namely Camber and associated beaches and Bexhill seafront. These were the areas easily identified as having the greatest requirement for action. These are tourist hotspots and beach/see locations.

Prioritisation of target locations: The beach and seafront areas were prioritised because of the large amount of litter to be collected, to protect the tourist industry/economy, the threat to the environment (litter being swept into the sea) and the cost (financial and environmental) of the need to empty bins and pick litter.

Locations: Camber and associated beaches and Bexhill seafront were chosen, due to the extremely high level of visitors (£25,000 a day at Camber alone.) During the summer months (and as early as Easter and until October) the beach and seafront areas are extremely busy with holidaymakers and day tourists. They create an exceptional amount of litter and logistical planning (for Camber) in how to contain

and collect the litter.

How the project is aligned with the findings of the litter strategy and RBRP guidance principles: The litter strategy seeks to understand the causes of littering and how to deal with it. It covers public awareness, training, advertising and working with partners. It also seeks to understand if the District has the right infrastructure and is installing the right type of bin in the right location. It seeks to identify a more efficient way of tackling littering in the area.

Details of bins: The beach areas of Camber, Winchelsea Beach, Pett Level beach and Broomhill, are quite difficult terrains. Weather can be unforgiving with high winds blowing the sands causing damage to less robust bins. The sands shift daily and bases for the bins can't be fixed on the dunes. For these areas, from research (WRAP guidance, case studies, previous experience) it has been decided to purchase sturdy concrete bins that will be fixed in the car parks and entrances to the beaches, in the highest footfall areas. This will also assist in emptying. The bins chosen are 168 litre glass reinforced concrete litter bins with galvanised steel liners. The installation costs (not part of the application) are higher than other bins as a crane is needed. However, these bins withstand poor weather, high usage and are easy to maintain and hard to vandalise. We have trialled three of these bins in our beach areas and they have proved successful. The apertures are slide out lockable doors and it will be litter only (not recycling.) We have also costed for additional signage to direct people to take their litter off the beach and deposit in the bins at the entrance.

On the seafront at Bexhill we would like the same concrete bins plus two solar compactor bins. We have not tried solar compactor bins but research on the experience of other councils is positive. We would like to install two on an area of high use on Bexhill seafront, opposite a line of take-away food outlets. These food outlets produce a high number of boxes that cause our traditional bins to become full very quickly. The compacting element of the bins should help with fitting more into each bin. The capacity is 150 litres and it will be litter only (not recycling.) They are made from galvanised steel with slide out lockable doors of flap depending on model.

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## Local Enforcement Plan 2022



## FOREWORD

This Local Enforcement Plan was approved and adopted by Rother District Council on XX/XX/2022.

Development can directly impact everyone, be that at home or the workplace. While most development is carried out in accordance with the necessary approvals and allowances and conditions, there are instances where it is not, such as a homeowner building an extension beyond the original planning permission.

This is where local councils have a role to play to ensure these rules are followed and take appropriate action when they are not. This document is Rother District Council's Local Planning Enforcement Plan (the Enforcement Plan), which sets out the powers available to it to ensure all developments comply with the Town and Country Planning Acts and other relevant legislation.

Rother District Council is the responsible Local Planning Authority (LPA) for the enforcement of planning control within the District. The planning system protects the environment and ensures that development takes place in accordance with national regulatory requirements and planning policy. It also ensures that development is planned and managed in order to achieve social, economic and environmental objectives.

The Council's planning enforcement team has wide ranging powers to be exercised in the public interest where a breach of planning control is under consideration. This responsibility is very important and is essential to ensure confidence in the planning system.

Further information about the Council's planning enforcement polices and how to report planning breaches is available online: <https://www.rother.gov.uk/planning-and-building-control/planning-enforcement-team>

## INTRODUCTION

1. Rother is an attractive and safe place to live. It benefits from a blend of some of the most beautiful countryside and coastline in South East England and contains the historic market towns of Battle and Rye, the Victorian/Edwardian seaside town (and administrative centre) of Bexhill and many picturesque villages.
2. The importance of the environment is evidenced by the extent of the district, some 82%, is designated as 'Area of Outstanding Natural Beauty' (AONB), while a further 7% of the district not in the AONB is either nationally or internationally designated for its nature conservation value. Rother also has a number of Conservation Areas and a significant number of listed buildings.
3. The Pevensey Levels straddling the south western boundary of the district is a 'Ramsar' site, designated for its international importance as a wetland habitat. In the south east, a 'Special Protection Area' (SPA) between Dungeness and Pett Level is of European importance for wild birds, while an area between Dungeness and Winchelsea Beach is designated as a 'Special Area of Conservation' (SAC), in recognition of its flora and fauna. In addition there are significant areas between Dungeness and Pett Level, including parts of the East Guldeford Levels that are either 'Proposed Ramsar' and/or 'Proposed SPA' extensions.
4. Rother District Council has a commitment to protect and enhance the environment for the benefit of all residents and businesses in the area. The council can enforce this commitment by exercising its powers as a local planning authority and take action against breaches of planning control.
5. The council aims to operate its planning enforcement service in a fair, timely, consistent and open manner so that Rother can be protected and enhanced as a great place to live and work.

## SERVICE AIMS

### *Standards*

- To operate the planning enforcement service in accordance with the published service standards, which set out the level of service and performance the public and businesses can expect. We will regularly review these standards taking account of the views of stakeholders.

### *Openness*

- To provide information and advice in plain language on the policies and procedures of the service, and to communicate this mainly by electronic means whilst giving access for all. Confidentiality will be maintained for complainants.

### *Partnership*

- To work with the community on compliance with planning controls on the basis that prevention is better than cure, and to ensure that our efforts are coordinated with other enforcement agencies within and outside the council.

### *Helpfulness*

- To provide a courteous and efficient service with appropriate publicised contact points.

### *Feedback about the service*

- To operate the council's compliments, suggestions and complaints procedure in an accessible, effective and timely manner.

### *Proportionality*

- To exercise the planning enforcement powers of the council on an individual case by case basis of the expediency and public interest, before taking action. The council has a wide range of planning enforcement powers but must act in accordance with national policy and guidance.
- If the council considers that a breach of planning control has occurred, officers must then decide whether or not this is sufficiently harmful as to require action to be taken in the public interest, having regard to the facts of the case. At one end of the scale, if no or little harm is identified, the matter could be treated as a 'technical breach' with no further action to be taken, or a planning application might be invited to 'regularise' the situation. At the other end of the scale, where it is assessed that serious harm has occurred, a formal notice might be served and other formal steps considered.

### *Consistency*

- To use the council's planning enforcement powers in a fair and consistent manner.

### *Effectiveness*

- To protect and enhance Rother District Council by active and responsible use of the full range of enforcement powers.

## **THE LEGISLATIVE AND POLICY CONTEXT**

6. Paragraph 59 of the National Planning Policy Framework 2021 states:

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

7. The Government has published National Planning Practice Guidance (March 2014). This notes that Local Planning Authorities have discretion to take enforcement action, when they regard it as expedient to do so having regard to the development plan and any other material considerations. This includes a local enforcement plan, where it is not part of the development plan.

8. The main planning policies relevant are those contained in the development plan; the Rother Core Strategy Local Plan (2011-2028) and the subsequent Development and Site Allocations Local Plan (2019). Those policies relating to public amenity; the High Weald AONB; Conservation Areas and Listed Buildings will be particularly relevant. National advice should also be taken into account and of particular relevance will be the National Planning Policy Framework and National Planning Practice Guidance.
9. The Council has the responsibility for taking whatever enforcement action is necessary within its area as the Local Planning Authority. The Council has powers to investigate and take action to remedy breaches within the relevant legislation and regulations including the Town and Country Planning Act 1990 (as amended), the Planning (Listed Building and Conservation Areas) Act 1990, the Town and Country Planning (Control of Advertisements) (England) Regulations 2007, the Localism Act 2011 and the Town and Country Planning (Tree Preservation) (England) Regulations 2012.
10. The Localism Act 2011 inserted into the Town and Country Planning Act 1990 powers to restrict tactics that were seen as abuses of the planning system, such as twin tracking an appeal against an enforcement notice, limiting applications for retrospective approval where an Enforcement Notice has been issued, the power to apply to remove time limits for deliberately concealed breaches as well as penalties and increased powers in relation to fly-posting and graffiti.
11. The Council can consider the use of powers under the Proceeds of Crime Act 2002 to appropriate all assets gained by owners and occupiers through the non-compliance of an enforcement notice should it be in the public interest to do so.

#### *Enforcement & Listed Buildings*

12. A separate legislative regime exists for enforcement matters relating to Listed Buildings; carrying out unauthorised works to a listed building is a criminal offence and individuals can be prosecuted.
13. Section 38 of the Planning (Listed Buildings and Conservation Areas Act) 1990 enables the LPA to issue a listed building enforcement notice where unauthorised works have been carried out to a listed building and where they consider it expedient to do so having regard to the effect of the works on the character of the building as one of special architectural or historic interest.
14. Under section 9 of the Planning (Listed Buildings and Conservation Areas Act) 1990, it is an offence to carry out works that require listed building consent without such a consent being obtained. Not all works require listed building consent, only demolition or works of alteration or extension that affect the character of the building as a building of special architectural or historic interest. It is also an offence to fail to adhere to a condition on a listed building consent.
15. The offence is committed by the person who carried out the works

(including for example a builder) and by anyone who caused them to be carried out (e.g. someone instructing a builder). It is not a defence to say that the fact that the building was listed was not known.

16. It is a defence to proceedings to show that works to the building were urgently necessary in the interests of health and safety or for the preservation of the building; they were the minimum necessary and temporary works of repairs, support or shelter were not practicable; and, notice in writing justifying the works was given to the local authority as soon as reasonably practicable.

#### *Enforcement and the Natural Environment: Protected Trees & High Hedges*

17. Tree Preservation Orders (TPOs) are made by a local authority to protect important trees that significantly contribute to the amenity of an area. Consent from the local authority before carrying out any work to a tree protected by a TPO, including minor pruning is required. It is an offence to carry out work to a protected tree without permission, subject to some exemptions.
18. Under Part VIII of the Town and Country Planning Act 1990 and the Town and Country Planning (Tree Preservation) (England) Regulations 2012, anyone who contravenes an Order by damaging or carrying out work on a tree protected by an Order without getting permission from the local planning authority is guilty of an offence and may be fined.
19. There is also a duty requiring landowners to replace a tree removed, uprooted or destroyed in contravention of an Order. This duty also applies if a tree subject to a woodland TPO removed because it is dead or presents an immediate risk of serious harm. The local planning authority may also impose a condition requiring replacement planting when granting consent under an Order for the removal of trees. The authority can enforce tree replacement by serving a 'tree replacement notice'.
20. The authority's main consideration should be the [amenity value](#) of the tree. In addition, authorities **must** pay special attention to the desirability of preserving or enhancing the character or appearance of a conservation area. Separate from a TPO, consent can also be required to undertake works to trees within a conservation area where they are not protected by a TPO.
21. This does not apply for cutting down, topping or lopping or uprooting of a tree whose diameter does not exceed 75 millimetres; or the cutting down or uprooting of a tree, whose diameter does not exceed 100 millimetres, for the sole purpose of improving the growth of other trees (eg thinning as part of forestry operations). In either case, the diameter of the tree is to be measured over the bark of the tree at 1.5 metres above ground level.
22. Since 1 June 2005 the Council has powers under Part 8 of the Anti-Social Behaviour Act 2003 to adjudicate on disputes over high hedges. These matters are dealt with by Legal Services in associated with the Tree Officer. A link for reporting relevant complaints is attached under paragraph 22.

23. As set out in earlier paragraphs, much of the administrative area of Rother is protected landscape, and particular attention will be paid to alleged breaches of planning control within such areas.

## **IDENTIFYING AND REPORTING UNAUTHORISED DEVELOPMENT**

24. The type and frequency of enforcement issues are wide ranging in Rother District. They vary from very minor technical breaches of the regulations which are not in the public interest to pursue, through to substantial development such as the carrying out of unauthorised earthworks or the establishment of industrial uses which are having a seriously harmful effect on amenity.
25. To report an alleged breach of planning control, a complainant is required to complete the online form. The online form can be found at: <https://www.rother.gov.uk/planning-and-building-control/planning-enforcement-team/alleged-breaches-of-planning-control>
26. Information on reporting a High Hedges complaint can be found at [High Hedges – Rother District Council](#)
27. The complaint will be recorded and acknowledged, so long as the minimum required information of address and location is provided. Complaints made based on sound planning issues will be investigated, while non-planning related matters where there is a potential breach of other legislation will be referred onto relevant regulatory authorities, where it is not a civil matter between individuals or landowners.
28. Civil matters are private matters between the respective parties and can include loss of value to property, competition with other businesses, land ownership and boundary disputes or breaches of covenant.
29. An assessment is then made as to the nature and degree of harm of any breach in relation to relevant planning policy, legal context and the need for remedial action. Following this assessment, the Council will consider how to proceed with the investigation.
30. Anonymous complaints about a third party will not be investigated. The identity of persons reporting suspected breaches will be treated as confidential by Councillors and officers of the Council. If a member of the public wishes to be anonymous then they must go through either their local Ward Councillor or Parish Council.
31. Planning enforcement operates to protect the public interest. It is not the purpose of the planning system to protect the private interests of one person against the activities of another. Action must be based on sound planning grounds and be proportionate to the harm caused by the breach. Local opposition to, or support for, an unauthorised development will not be given weight unless that opposition or support is founded upon valid planning reasons.
32. The Council will only take formal enforcement action when expedient to do so. Formal enforcement action will not be instigated solely to regularise

trivial breaches of planning control. In taking formal enforcement action, the Council will be prepared to use all the enforcement powers available, but the action taken will be commensurate with the seriousness of the breach.

## **ENFORCEMENT PRIORITIES**

33. Planning Enforcement Officers receive a high number of complaints regarding allegations of breaches of planning control every year. It would be impossible to investigate and pursue all of these allegations with equal priority so it is essential to use Council resources to maximum effect. Therefore, each case is prioritised according to the seriousness of the alleged breach and the degree of harm being caused.
34. The aim is that the Council response is fair and proportionate to both the context and the nature of the breach. Complaints will be prioritised on receipt based on what appears to be their significance on receipt and initial background checking in accordance with the enforcement priorities. Priority will be reassessed and kept under review through the lifetime of the investigation.
35. All communication will be in plain language. All decisions and use of investigatory powers will be recorded. The Council will look for and consider any alternative solution to formal action if it achieves a satisfactory conclusion to a reported breach of planning control.
36. Enforcement cases may require repeat site visits, negotiation, and formal action before the breach is resolved. When these occur, Enforcement Officers will strive to keep original complainants informed of progress and indicate arrangements for this in the initial response letter.
37. After the first site visit and/or during the investigation process, the Officer will consider whether it is necessary to re-consider the prioritisation of the complaint.
38. This delegated function to take action or not after the investigation stage is exercised by the Development Manager, the Development Management Team and where appropriate in association with the Council's Legal Services.
39. With regard to the procedure for dealing with complaints, these arise from a variety of sources, including members of the public; Councillors; Parish Councils and officers of the Council. Once a complaint is received an initial assessment will be made as to whether it is a breach and then the seriousness of the alleged breach. If it is decided not to investigate any further the person who brought the matter to the Council's attention will be informed.
40. With regard to the remainder of the complaints, an acknowledgement letter will be sent within **7 working days** of receipt and the initial assessment which may require a site visit will be undertaken within 2, 10 or 20 working days of receipt depending on the seriousness of the breach. After the initial assessment a decision will be made within 3 months of receipt as to whether or not planning permission is necessary for the development.

More details of the prioritisation of cases and their attendant timescales can be found in **Appendix 1**.

41. If planning permission is required a decision will be taken as to whether to:
  - a) take no further action and recommend case closure;
  - b) invite a planning application (only if permission is likely to be granted);
  - c) advise them to take remedial action to achieve a satisfactory negotiated outcome with the interested parties within a practical timescale;
  - d) take enforcement action in respect of those breaches that are unreasonably harming amenity or the environment, having regard to the development plan and any other material considerations.
42. This 'action stage' will follow up on the above matters after suitable timescales. These timescale are indicative and may vary considerably depending on the nature, complexity and severity of the planning breach, the negotiated outcome required or the details to be submitted for the submission of retrospective planning permission.
43. More detail of this is set out in a simple flowchart of the investigation process and likely timescales which is attached as **Appendix 2**.
44. To ensure the efficient use of resources, customers will be updated after the initial acknowledgement of their case at the assessment stage and at the stage of any further actions as well as at closure stage. Where matters go to an appeal to the Planning Inspectorate a letter of consultation will be sent as part of this separate process. It is important customers are aware that repeated requests for updates outside of these stages are unlikely to be responded to.
45. The wide range of enforcement powers or Planning Enforcement 'toolkit' available to Planning Enforcement Officers is set out in more detail in **Appendix 3**.
46. If enforcement action has been taken the Council has the power, under Section 70c of the Town and Country Planning Act 1990, to refuse to determine a retrospective application for planning permission for the breach. This power, introduced in April 2012, helps to prevent owners frustrating the enforcement process.
47. The Planning Enforcement Team can also consider whether a breach once established is 'intentional unauthorized development'. This is a material planning consideration should formal enforcement action be taken and a potentially aggravating factor should an offence be committed as a consequence.
48. The Planning & Environmental Enforcement Team will continue to develop cross cutting work with other Divisions. This should enable resources to be focused on matters that are having a serious effect on the environment and quality of the District.
49. In carrying out investigations regard will be had to the Human Rights Act 1988; Police and Criminal Evidence Act 1984; the Equality Act 2010; Criminal Procedures and Investigations Act 1996 and the Regulation of Investigatory

## **WHEN IS AN INVESTIGATION IS COMPLETE?**

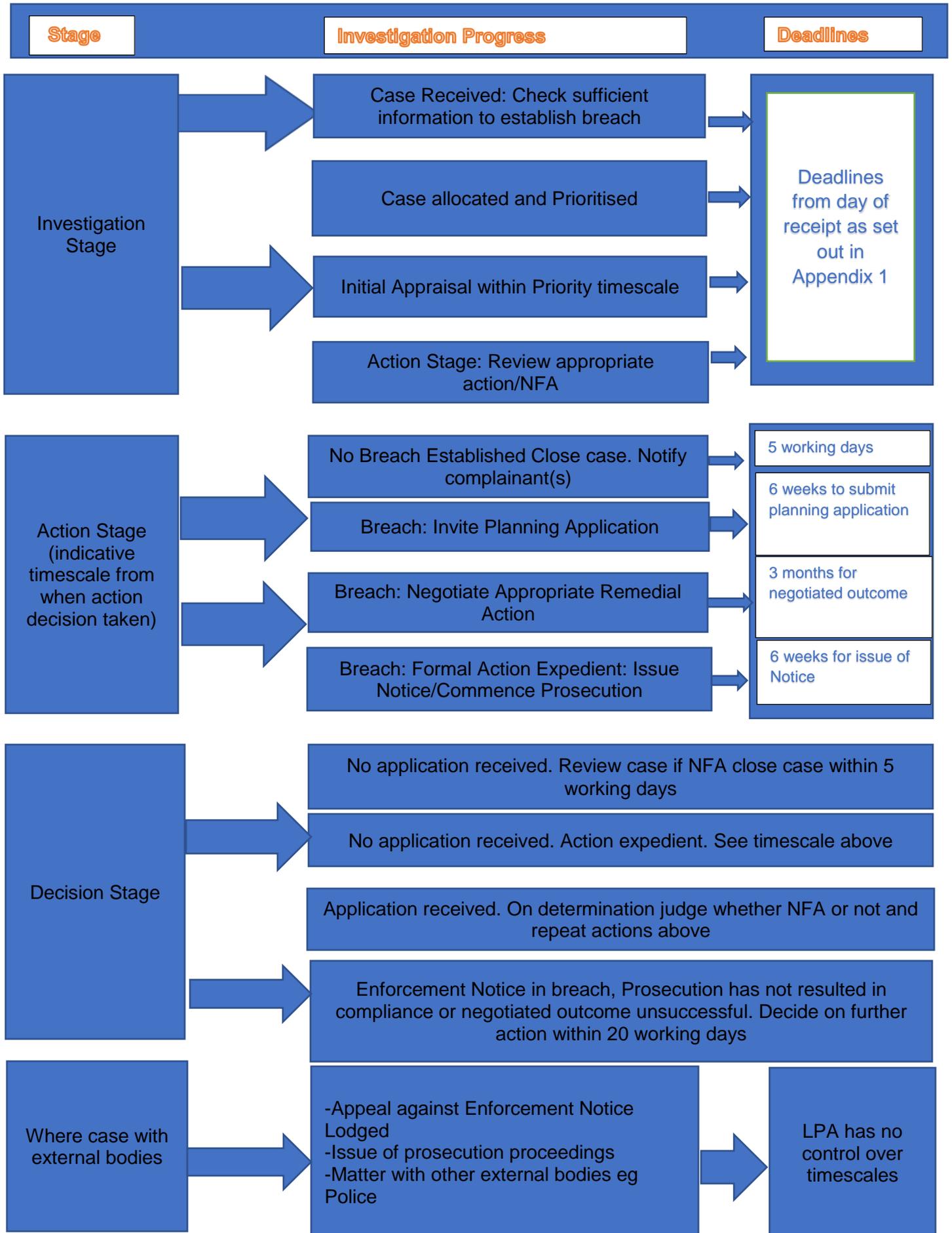
50. We would consider that an investigation is complete when one of the following points has been reached:
- the investigation identifies that no breach in planning control has occurred or that due to the passage of time that no action can be taken;
  - an alleged breach of planning has been identified but then resolved by negotiation;
  - a planning application or other form of application has been submitted and approved following the investigation;
  - a breach in planning control has been identified, including when an application has been requested but not submitted, and it is not considered expedient to take formal action; or
  - formal action has been taken through issuing a relevant enforcement notice.
51. Prior to taking formal enforcement action or closing a case as not expedient, it is necessary to assess the harm resulting from any unauthorised development.
52. Further investigation may be necessary when formal enforcement action has been taken where for instance:
- a right of appeal has been exercised against a Notice and new information relevant to the case comes to light;
  - a Notice is issued and not complied with or another criminal offence under the Planning Acts has occurred, a decision is made involving the Council's legal advisors to assess whether it is in the public interest to take formal action; and/or
  - a compliance check needs to be undertaken in relation to an existing enforcement notice.

## PRIORITISATION OF ENFORCEMENT CASES

PRIORITY	DESCRIPTION OF ALLEGED BREACH	INITIAL ASSESSMENT DEADLINE FROM RECEIPT	DECISION DEADLINE FROM RECEIPT
1 High	<ul style="list-style-type: none"> <li>• Unauthorised demolition, partial demolition or significant alteration of a building that is essential to retain the character of a Conservation Area or to the open countryside</li> <li>• Unauthorised works to a Listed Building</li> <li>• Serious harm to the amenity of a Conservation Area</li> <li>• Unauthorised works to trees covered by a Tree Preservation Order or in a Conservation Area</li> <li>• Serious unauthorised ground works in the High Weald AONB, Ramsar' sites, 'Special Protection Area' (SPA) and 'Special Area of Conservation' (SAC)</li> </ul>	2 Working Days	3 months
2 Medium	<ul style="list-style-type: none"> <li>• Breach which results in serious demonstrable harm to the amenity of the Neighbourhood</li> <li>• Unauthorised development in a designated area eg AONB. Conservation Area</li> <li>• Source of significant public complaint</li> </ul>	10 Working Days	3 months
3 Low	<ul style="list-style-type: none"> <li>• Non-Compliance with planning conditions Unauthorised development which is not the source of significant public complaint</li> <li>• Erection of Advertisements</li> <li>• Untidy Land</li> </ul>	20 Working days	3 months
4 No action	<ul style="list-style-type: none"> <li>• Non planning matters</li> <li>• Anonymous service requests</li> <li>• Service request where investigation by another department, agency or organisation is more appropriate</li> </ul>	7 Working days	7 Working days

- **Case priority may change throughout the lifetime of the investigation.**
- **Decision deadline on whether to close, to negotiate an outcome, to invite a planning application or take enforcement action without first inviting a planning application.**

**TIMESCALES AND PROCEDURE OF AN ENFORCEMENT INVESTIGATION**



## THE PLANNING ENFORCEMENT TOOLKIT

1. The main options to tackle possible breaches of planning control are:

### No formal action

2. Early engagement is important, and the landowner may take immediate action when advised of the issue. Where a breach of planning control is on council owned land, or on land where a covenant controls the issue, such breaches are most effectively addressed through estate management or landlord control.
3. The Planning Policy Guidance (PPG) paragraph 011 states that local planning authorities should usually avoid taking formal enforcement action where:
  - there is a trivial or technical breach of control which causes no material harm or adverse impact on the amenity of the site or the surrounding area;
  - development is acceptable on its planning merits and formal enforcement action would solely be to regularise the development;
  - in their assessment, the local planning authority considers that an application is the appropriate way forward to regularise the situation, for example, where planning conditions may need to be imposed.
4. An outstanding breach of control may affect the sale and marketing of a property and nothing in this plan should be taken as condoning a clear and willful breach. However, the balance of public interest varies from case to case.

### Invite Retrospective planning application

5. The PPG advises that where the LPA considers that an application is the appropriate way forward to regularise the situation, the owner and occupier should be invited to apply under Section 73A of the Town and Country Planning Act 1990 without delay. It cannot be assumed that permission will be granted – the application will be considered in the usual way after consultation, and an enforcement notice may be issued in relation to other elements of the development. The PPG advises that a person who has undertaken unauthorised development has only one opportunity to obtain planning permission after the event – either by an application under Section 73A or by means of an appeal. The LPA may decline to determine a retrospective planning application if an enforcement notice has previously been issued.

### Planning Contravention Notice

6. This can often be the first formal step in resolving a breach of planning control. It is a discretionary procedure to gather further information regarding breaches of planning control. The notice may advise of a date, time and place at which any offer made by the recipient of the notice to apply for planning permission, refrain from carrying out operations or activities or undertake remedial works will be considered by the authority. An opportunity to make such representations must be made. This is not available for breaches of listed building control or protected trees. It is an offence to fail to complete or return a notice within 21 days or provide false or misleading information

referring to these rights.

Where a Planning Contravention Notice has been served this will be recorded on the Local Land Charges register. A failure to complete or return a notice within 21 days is an offence, as is providing false or misleading information on the notice'. Convictions currently carry a maximum fine not exceeding £1,000.

### **Section 330 of the Town and Country Planning Act 1990**

7. This power is also used to obtain information but usually in cases where the Council has sufficient details about the activities being carried out but requires further information concerning ownership. It involves serving a formal notice on occupiers and/or persons with other interests in the premises or land. As with PCNs above, it is an offence to fail to comply with the requirements of the notice within the period set for its return or to make false or misleading statements in reply. Convictions currently carry a maximum fine not exceeding £1,000.

### **Rights of Entry**

8. The Town and Country Planning Act specifies the purposes for which entry to land including buildings may be authorised, namely to ascertain or determine:
  - whether there is or has been any breach of planning control;
  - whether any of the LPA's powers should be exercised;
  - how such power should be exercised;
  - whether there has been compliance with any requirement arising from earlier enforcement action.
9. A record should be made of the inspection with appropriate photographs. Entry to a dwelling house cannot be demanded as a right unless 24 hours' advance notice has been given to the occupier. Where entry is refused or obstructed it is possible to apply to the Magistrates' Court for a warrant to allow entry. The PPG refers to these rights. There are complementary provisions in the Planning (Listed Buildings and Conservation Areas) Act relating to heritage assets.

### **Breach of Condition Notice**

10. This notice can be used where conditions imposed on a planning permission have not been complied with. It is mainly intended as an alternative to an enforcement notice for remedying a breach of condition, but may be served in addition to an enforcement notice, perhaps as an alternative to a Stop Notice. It can only be challenged by judicial review. Following the end of the period for compliance, a "person responsible" who has not ensured full compliance with any conditions and any specified steps will be in breach of the notice and guilty of an offence. The PPG refers to these rights.

### **Enforcement Notice**

11. The notice may be served up to four years after substantial completion of building operations or ten years after a change of use or breach of condition. These time limits do not prevent enforcement after the relevant dates in particular circumstances. An enforcement notice should enable every person who receives a copy to know exactly what, in the LPA's view, constitutes the

breach of planning control and what steps the LPA requires to be taken to remedy the breach.

12. An enforcement notice may “under enforce”, by stipulating lesser requirements than full compliance. The recipient must take the specified steps set out in the notice within a set time period. Failure to comply with the notice is a criminal offence. There is a right of appeal, which suspends the notice from coming into effect; however, a Stop Notice may be issued. The LPA can prosecute for failure to comply with an enforcement notice as well as using default powers. The PPG refers to these rights.

### **Planning Enforcement Order**

13. Where there has been deliberate concealment of a breach of planning control, the LPA may apply to the Magistrates’ Court for a Planning Enforcement Order (PEO). Where a PEO is granted, the LPA will have 1 year and 22 days to serve an enforcement notice, beginning on the day that the order is granted, irrespective of how long ago the breach first occurred. The 4 year and 10-year periods for immunity will not apply in cases of a concealed breach. An application for a PEO must be made within 6 months of the LPA becoming sufficiently aware of the breach to justify enforcement action being taken. A Magistrates’ Court may only make a PEO if it is satisfied that the breach has been deliberately concealed. There is no definition of what deliberate concealment means in practice. The PPG refers to these rights.

### **Stop Notice**

14. This notice can be used in conjunction with an enforcement notice where the breach of planning control is causing irreparable and immediate significant harm. A Stop Notice should only be served in exceptional circumstances, when the effects of the unauthorised activity are seriously detrimental to the amenities of adjoining occupiers or the surrounding area. Furthermore, if the related Enforcement Notice is quashed on appeal for a matter not related to the planning merits, the Council may be liable to pay compensation for any financial loss resulting from the issuing of the Stop Notice. The PPG refers to these rights.

### **Temporary Stop Notice**

15. These take effect immediately from the moment they are issued, and last for up to 28 days. A Temporary Stop Notice would only be issued where it is expedient that the activity or development should cease immediately. The requirements should prohibit only what is essential to safeguard the amenity or public safety in the vicinity of the site, or to prevent serious or irreversible harm to the environment in the surrounding area. Like with a Stop Notice above, there are limited grounds for compensation where a Notice is found to be defective. The PPG refers to these rights.

### **Listed Building Enforcement Notice**

16. The PPG notes that the Listed Building Enforcement provisions are in Sections 38-46 of the Planning (Listed Buildings and Conservation Areas) Act 1990, and the enforcement provisions relating to the demolition of an unlisted building in a conservation area (“relevant demolition”) are in the Act. A Listed

Building Enforcement notice can be served against unauthorised works that damage the character and/or fabric of a listed building. There is no time limit in which such an enforcement notice can be served.

17. There are no time-limits for issuing listed building enforcement notices or for when enforcement action may be taken in relation to a breach of planning control with respect to relevant demolition, although the length of time which has elapsed since the apparent breach may be a relevant consideration;
  - carrying out work without the necessary listed building consent, or failing to comply with a condition attached to that consent, whereby such works materially affect the historic or architectural significance of the building, is an offence whether or not an enforcement notice has first been issued;
  - carrying out work without the required planning permission for relevant demolition or failing to comply with a condition attached to that planning permission is an offence under Section 196D of the Town and Country Planning Act 1990.
18. Listed Building Consent and planning permission for relevant demolition are not granted retrospectively. A person who is found to carry out unauthorised works that affect the character of the listed building or relevant demolition in a Conservation Area can be prosecuted, and imprisoned for a term not exceeding 6 months, or fined up to £20,000.

### **Injunction**

19. This may be done in the most serious cases, generally where irreparable harm is being done or is apprehended, or where other actions have been or would be ineffective. Section 187B of the Town and Country Planning Act applies where the LPA considers it expedient to restrain actual or apprehended breaches of planning control. Section 44A of the Planning (Listed Buildings and Conservation Areas) Act is a parallel provision in respect of Listed Buildings. The Magistrates' Court may grant an injunction against a person whose identity is unknown, but LPAs will need to identify, to the best of their ability, the person against whom the injunction is sought. The following may be used in support of the authority's submission to the Court:
  - photographic evidence of the persons concerned;
  - affidavit evidence by the LPA officers;
  - reference to chattels (e.g. registered vehicles) known to belong to, or be used by, that person;
  - other relevant evidence (such as a name by which the person is commonly known).
20. There are significant costs involved in bringing such an action and it can only be justified in extreme cases. Defendants risk imprisonment if they do not comply with a court order.

### **Unauthorised Advertisements**

21. It is an offence for any person to display an advertisement in contravention of the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. The Council will consider whether or not to prosecute in either the interests of amenity or public safety.

22. In situations where an advertisement is displayed with deemed consent, the Council can still require its removal by issuing a Discontinuance Notice. Such a notice, against which there is a right of appeal, can only be issued to remedy a substantial injury to local amenity or if there is a danger to members of the public.
23. In addition, the Council can serve a Removal Notice under S225 of the Act. Once served, the Council can, at its discretion, take direct action to remove authorised advertisements and recover the costs from the landowner. There is a right of appeal to the Magistrates Court on the following grounds:
  - that the display structure concerned is not used for the display of advertisements in contravention of regulations under section 220;
  - that there has been some (material) informality, defect or error in, or in connection with, the notice;
  - that the period between the date of the notice and the time specified in the notice is not reasonably sufficient for the removal of the display structure;
  - that the notice should have been served on another person.
24. If the notice is not complied with, the LPA is empowered to enter the land, carry out the works and recover the cost from the owner in a similar manner to carrying out works under an enforcement notice. The Council may also prosecute for non-compliance.

#### **Direct Action or “Default” Action**

25. This may be used in the most serious cases where irreparable harm is being done and where other actions have failed. There are significant costs involved in bringing such an action and it can only be justified in extreme cases. Powers are available (in Planning legislation) to enter land and take steps required by enforcement or similar notices (e.g. Listed Building enforcement notices, Untidy Land/Section 215 Notices, Illegal advertisements with extended powers under the Localism Act, High Hedge enforcement and Section 106 Agreements.) The expenses reasonably incurred may be recovered from the person who is the owner of the land.
26. Direct action is seen as a potentially draconian power and normally a course of last resort as the Council’s decision may be challenged by Judicial Review. There may be threats and the action must be well planned, organised and implemented with the utmost care. The recovery of costs in the case of works in default is also not without difficulty. The legal recovery of civil costs can be protracted and disproportionately expensive to recover.

#### **Section 215 Notices**

27. From a community point of view, tidy gardens and land mean an area looks well cared for making people feel safe in that neighbourhood. If untidy sites are left, they become worse and the area starts to feel neglected and unsafe. Untidy sites are rarely dangerous to public health, but they can be an eyesore, which means it is detrimental to the local amenity.
28. Under Section 215 of the Town and Country Planning Act 1990, the local planning authority may serve a notice requiring the land to be cleaned up.
29. The power is exercisable if it appears that ‘the amenity of a part of (the LPA’s)

area, or adjoining area, is adversely affected by the condition of land in their area' (Section 215(1)). The notice 'shall require such steps for remedying the condition of the land as may be specified in the notice to be taken within such period'.

30. There is a right to appeal to the Magistrates' Court on any of the following grounds that:
- the condition of the land to which the notice relates does not adversely affect the amenity of any part of the area of the LPA who served the notice, or of any adjoining area;
  - the condition of the land to which the notice relates is attributable to, and such as results in the ordinary course of events from, the carrying on of operations or a use of land which is not in contravention of Part III (the requirement to have planning permission);
  - the requirements of the notice exceed what is necessary for preventing the condition of the land from adversely affecting the amenity of any part of the area of the LPA who served the notice, or of any adjoining area;
  - the period specified in the notice as the period within which any steps required by the notice are to be taken falls short of what should reasonably be allowed.
31. If the notice is not complied with, the LPA is empowered to enter the land, carry out the works and recover the cost from the owner in a similar manner to carrying out works under an enforcement notice. The Council may also prosecute for non-compliance.

## **OTHER ENFORCEMENT POWERS:**

### **High Hedge Enforcement**

32. Under the terms of the Act, Councils can only consider a complaint if it satisfies the following criteria:
- it must relate to a high hedge as defined in the Act;
  - the hedge must be on land that is owned by someone other than the complainant;
  - it must be affecting a domestic property;
  - the complaint must be made on the grounds that the height of the hedge is adversely affecting the reasonable enjoyment of the domestic property in question; and
  - it must be brought by the owner or occupier of that property.
33. If a complaint has been properly made and we decide that action should be taken to resolve the complaint, we may issue a formal notice to the person responsible for the hedge, setting out what must be done and by when. This action is under the Anti-Social Behaviour Act 2003 and is known as a remedial notice. This can include long-term maintenance of the hedge at a lower height. It cannot involve reducing the height of the hedge below 2 metres, or its removal. Although we cannot require such action, the hedge owner is free to go further than the remedial notice requires. The remedial notice becomes a charge on the property and legal obligations under such a notice pass to any subsequent owners. While there is a default power for the Council to carry out works to a High Hedge, enforcement by prosecution and

Court order is considered better practice.

34. There are also powers in Section 219 of the Town and Country Planning Act to carry out works required by a notice under Section 215 and then claim expenses from the owner or occupier.

**NB: Action under the High Hedges Procedure, is undertaken by the Council's Legal Services**

### **Tree Protection Enforcement: Good Planning**

35. Trees are an important constituent of the Borough Townscape/Landscape. It is, therefore, imperative that protection be afforded to them early in the planning process by ensuring consideration be given to establishing and maintaining protection areas around trees which will be robust and permanent.

### **Tree Protection**

36. Trees situated outside of the property boundary are protected by the laws regarding trespass and criminal damage. Trees may be protected by legislation enshrined in the Town and Country Planning Act 1990 and Town and Country Planning (Tree Preservation) (England) Regulations 2012, by being subject to a Tree Preservation Order (TPO) or being situated within a Conservation Area (CA). Trees may also be protected by the Forestry Act 1967, enforcement of which is vested in the Forestry Commission. In certain circumstances trees may be protected by conditions attached to a planning permission.

### **Compliance**

37. Where a permission is granted for tree works to protected trees, it is desirable for a condition to be attached requiring notice of the intended operations to enable full or part supervision by an Arboriculture or Operational Services Officer. This is to ensure understanding of, and compliance with, the terms of reference and conditions attached to any permission. Many contractors have a differing interpretation of the expected standards of work, such as British Standard (BS) 3998 'Tree Work: Recommendations', and the resulting tree works may be of inferior quality. This in turn will lead to a reduction in the value of the tree itself and of the protected tree stock of the borough. Compliance should be the starting point of any enforcement policy.

### **Specific Tree Protection**

38. Where trees are protected by a TPO, the LPAs consent is normally required prior to undertaking any works to the tree and this will require the submission of a formal application. Any consent may be subject to conditions, and there is a right of appeal to the Secretary of State against the refusal of consent or the granting of consent subject to conditions.
39. Where trees are protected by inclusion in a conservation area six weeks' notice must normally be served on the LPA of any proposal to carry out works on the tree. During the six-week period, the Authority is required to consider the need to make a Tree Preservation Order to prevent the works being

carried out. If the LPA takes no action within six weeks the works may go ahead as notified.

40. Planning conditions may typically require that new trees be planted and maintained, or that existing trees be retained as part of development, usually for a minimum of five years. An application can however be made to the LPA to vary or remove a condition (such as to allow the removal of a tree). If planning conditions are not complied with, the LPA is empowered to serve an enforcement notice or breach of condition notice to secure compliance. There is a right of appeal to the Secretary of State against an enforcement notice.
41. Offences under a) and b) above: There are two offences, which apply equally to trees protected by Tree Preservation Orders and those within Conservation Areas.
  - a) Firstly, anyone who cuts down, uproots or willfully destroys a tree, or who lops, tops or willfully damages it in a way that is likely to destroy it, is liable, if convicted in the Magistrates' Court, to a fine of up to £20,000. If the person is committed for trial in the Crown Court, they are liable if convicted to an unlimited fine. The courts have held that it is not necessary for a tree to be obliterated for it to be "destroyed" for the purposes of the legislation. It is sufficient for the tree to have been rendered useless as an amenity.
  - b) Secondly, anyone who carries out works to trees that are not likely to destroy it, are liable, if convicted in the Magistrates' Court, to a fine of up to £2,500. Any proceedings for offences in this category must be brought within six months of the date the offence was committed.
42. Proving the offence: In order to bring a successful prosecution, the Authority must be able to prove that the:
  - defendant has carried out, caused, or permitted works on the tree;
  - tree was protected;
  - tree works were carried out without the Authority's consent;
  - works were not exempt works.
43. If it is claimed that works are exempt from the usual requirements of the legislation, it is for the defendant to prove, on the balance of probabilities, which exemption applies.
44. Investigation of contraventions: Incidents involving alleged contraventions of the tree protection legislation often come to light as a result of complaints received by the Council. Cases also come to light in other ways, such as during the monitoring of works on development sites or routine visits to adjacent properties.
45. When a contravention is suspected the Council will carry out an initial investigation, consisting of a check to establish whether the tree is protected and whether any consent has been granted. In most cases the Council's Arboriculture Officer will also make a site visit.
46. Potential suspects will be identified and contacted as soon as possible in the process (this may be at the time of the initial site visit). They will be asked to give their observations on the incident and any relevant background information.
47. If on receipt of this information it appears that the person in question may

have committed an offence and that answers to questions may be required as evidence, they will normally be invited to the Council's offices to undertake a tape-recorded interview under caution. This will be conducted under the provisions of the Police and Criminal Evidence (PACE) Act 1984 and the relevant Code of Practice will be adhered to. In some cases, it may however be necessary to caution a suspect during a site visit. In which case this will be issued in accordance with the code of practice issued under the P.A.C.E and the suspect will be advised that he or she is not under arrest, is free to leave at any time and is entitled to legal representation.

48. The identity of any complainant will be kept confidential and not disclosed to the alleged perpetrator as far as practicable and in accordance with both the Data Protection Act 2018, implementing the GDPR and the Freedom of Information Act 2000. It will however be made clear to the complainant that if the case comes to court it is most likely that they will be required as a witness and in that case, they would not normally be entitled to confidentiality. Complainants will be kept informed of the course of the investigation and its outcome.
49. Complainants and any other witnesses will be contacted as appropriate and may be requested to provide written statements to be used as evidence in court. Witnesses will be informed that they may be required to appear in court to give evidence and be cross-examined as necessary. Suspects will be given adequate and fair opportunity to give their side of events during the course of investigations.

#### **Possible actions by Local Planning Authority**

50. The Council has a range of possible courses of action available to deal with cases of unauthorised works on protected trees. These include the following:
  - initiate a prosecution (which may be for destroying the tree or for lesser works to it);
  - administer a simple caution. This is a formal process whereby the perpetrator signs a statement admitting the offence and submitting to the caution. It may be referred to at the sentencing stage if the same person is ever found guilty of a subsequent offence. It may also be taken into consideration when deciding whether or not to prosecute at a later stage for another similar offence. Administering a simple caution is only an option if the suspect admits the offence;
  - require the planting of a replacement tree for each tree destroyed, under section 206 of the Town and Country Planning Act 1990 or serving a replanting direction under section 207 of the same act. This is a formal procedure to secure replacement planting, which can be invoked if the landowner does not otherwise comply with a duty to carry out replacement planting; and
  - informal action, such as written correspondence requesting remedial works and warning of the potential for legal action and fines if a further contravention occurs. Decisions as to what action to take will be taken in the public interest; ignorance of the law is not a credible excuse, however all relevant issues will be taken into account, with each case being dealt with individually. Prosecutions will be considered against the tests of evidential value and public interest; these will be dealt with by the Council's legal advisors. Cautions may be used in accordance with guidance from the legal section.

## Replanting

51. In incidents where the tree has been destroyed, a replacement tree will be replanted. This replacement would normally be planted in the planting season following the incident. In cases where this does not happen a Tree Replacement Notice (TRN) may be considered. Any replacement tree is subject to the same protection as the original tree that was lost.

## Other Enforcement Powers regarding the condition of Listed Buildings

52. The owners of listed buildings are under no legal obligation to maintain their property in a good state of repair; even though it is in their interests to do so. When negotiation fails, local authorities have a range of statutory enforcement powers at their disposal including section 215 Notices, Urgent Works Notices, Repairs Notices and other statutory enforcement tools and powers under the various Housing, Planning and Building Acts, to secure the future of historic buildings. At their lightest level they involve no more than the serving of formal warnings of action, but in the last resort they can lead to enforced repairs or compulsory purchase.
53. Deciding which of the available powers to employ and in what combination will always depend on individual circumstances and the professional judgment of the local planning authority. In this regard, officers will follow the guidance and protocols set out in the Historic England Guidance [Stopping the Rot - A Guide to Enforcement Action to Save Historic Buildings \(historicengland.org.uk\)](http://historicengland.org.uk)

## Repairs Notices

54. Section 48 of the Listed Buildings Act 1990 enables local authorities to serve a Repairs Notice on the owner of a listed building, specifying those works it considers reasonably necessary for the “proper preservation of the building” and explaining the effect of sections 47 to 50 of the Listed Buildings Act 1990.
55. A Repairs Notice should be considered when a building is neglected and the need for permanent repair accumulates to the point where there is potential for serious harm.
56. Some of the key points to consider are:
  - If, after a period of a minimum of two months, it appears that reasonable steps are not being taken the authority can begin compulsory purchase proceedings under section 47. „
  - A Repairs Notice does not commit the authority to proceed to compulsory purchase action and the authority can withdraw the Repairs Notice at any time.
  - If the Notice is withdrawn, the authority must give Notice to the owner of the withdrawal.
  - A Compulsory Purchase Order requires the Secretary of State’s confirmation.
57. Section 47 of the Listed Buildings Act 1990 provides that an appropriate authority or the Secretary of State may compulsorily acquire a listed building in need of repair if it appears that reasonable steps are not being taken for its proper preservation.

58. Section 47 is a reserve power which is only to be used to ensure the long-term preservation of a listed building. Under section 47, there is a two-stage process: (i) service of a Repairs Notice; and (ii) service of a Notice of compulsory acquisition on every owner, lessee and occupier if, after the expiry of two months it appears to the appropriate authority that reasonable steps are not being taken for properly preserving the building. The compulsory purchase of a building under section 47 may not be commenced unless at least two months previously the authority has served a Repairs Notice on the owner.

### **Urgent Works Notices**

59. While there is no statutory obligation upon the owner of a listed building to keep their property in a good state of repair, (although it is usually in their interest to do so), local authorities can take action under Section 54 of the Planning (Listed Buildings & Conservation Areas Act)1990 to secure the repair of a listed building when concerned about its continued conservation, by serving an 'Urgent Works Notice'.
60. An urgent works notice is a direct way of securing repairs urgently necessary for the preservation of a building. An urgent works notice may be served where works are urgently necessary for the preservation of a listed building. An urgent works notice should generally be restricted to urgent repairs to keep a building wind and weather-proof and safe from collapse, or action to prevent vandalism or theft. The steps taken should be consistent with achieving this objective.
61. Prior to serving such a notice, the council will notify the owner that it is considering serving an urgent works notice, to give the opportunity to undertake the necessary works within a specified timescale. If the owner declines to do so or is otherwise unresponsive, then the law allows the local authority to execute any works which appear to them to be urgently necessary for the preservation of any listed building within the district.
62. The owner must be given a minimum of seven days written notice of the local authority's intention to carry out the works and the notice must describe the proposed works. If the building is occupied the works may be carried out only to those parts not in use.
63. The cost of carrying out the works may be recovered by the local authority from the owner. Such cost may include the continuing expense of providing temporary support or shelter of the building.

## LINKS AND FURTHER INFORMATION

Further information on the Council enforcement function can be viewed on the following link: <http://www.rother.gov.uk/article/10192/Alleged-Breaches-of-Planning-Control>

Copy of the online Complaint Form:

<http://www.rother.gov.uk/article/10192/Alleged-Breaches-of-Planning-Control?formid=409335#form>

Guidance on Enforcement for Listed Buildings can be found on the Historic England website at: [Stopping the Rot | Historic England](#)

Guidance on works to protected trees can be found at: [Tree Preservation Orders and trees in conservation areas - GOV.UK \(www.gov.uk\)](#)

**Rother District Council**

Report to	-	Council
Date	-	20 December 2021
Report of the	-	Audit and Standards Committee
Subject	-	Reference from the Audit and Standards Committee

The Council is asked to consider the recommendation arising from the Audit and Standards Committee meeting held on 6 December, as set out below.

**AUDIT AND STANDARDS COMMITTEE – 6 December 2021****AUDIT REPORT****AS21/36. EXTERNAL AUDIT CONTRACT FROM 2023/24**

Members received the report of the Assistant Director Resources which gave details of the procurement process to appoint external auditors covering audits from 2023/24 to 2027/28.

During Autumn 2021, all local government bodies needed to make important decisions about their external audit arrangements from 2023/24, either through their own procurement processes to make the appointment themselves or in conjunction with other bodies, or they could join and take advantage of the national collective scheme administered by Public Sector Audit Appointments (PSAA).

The report proposed that the sector-wide procurement conducted by the PSAA would produce better outcomes, be more cost efficient and be less burdensome for the Council than a procurement undertaken locally. If the Council wished to take advantage of the national auditor appointment arrangements, it was required under the local audit regulations to make the decision at full Council. The opt-in period started on 22 September 2021 and closed on 11 March 2022. To opt into the national scheme from 2023/24, the Council needed to return completed opt-in documents to PSAA by 11 March 2022.

**RECOMMENDED:** That:

- 1) the Public Sector Audit Appointment's invitation to opt into the sector-led option for the appointment of external auditors to principal local government and police bodies for five financial years from 1 April 2023 be accepted; and
- 2) the Chief Finance Officer be authorised to opt in to the national scheme for auditor appointments for the provision of external audit services starting with the audit of the 2023/24 accounts.

(Audit and Standards Agenda Item 11)

Councillor A.K. Jeeawon  
Chairman of the Audit and Standards Committee

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**Rother District Council**

Report to - Council  
 Date - 20 December 2021  
 Report of the - Chief Executive  
 Subject - Political Groups – Review of Committee Seats

**Recommendation:** It be **RESOLVED:** That the revised political make-up of the Council be noted and the consequential appointment of Members on the Committees be agreed.

**Introduction**

1. Since the Council’s last meeting there has been a change to the political make-up of the Council; this report advises Council on the consequential matters.

**Political Groups**

2. On the 21 October 2021, Councillor Mrs Deirdre Earl-Williams gave formal notice of her wish to join the Conservative Group with immediate effect. Any change in political make-up of the Council triggers a review of the allocation of committee seats in accordance with the proportional representation requirements of the Local Government and Housing Act 1989.
3. The membership of the Political Groups on the Council is confirmed as follows:

<b>Group</b>	<b>Councillors</b>	<b>Seat on Committees</b>
Conservative	15	19
Association of Independents (Aol)	12	15
Liberal Democrats & Green	8	10
Labour	2	2
Non Group Member (Pebsham & St. Michaels)	1	-
<b>Total Seats</b>	<b>38</b>	<b>46</b>

4. Following the calculations of the allocation of committee seats, the current membership of committees reflects the total number of committee seats by group, but not by committee. However, all Group Leaders agree that the current allocation of seats to committees remain, with no change in substantive membership to any committee.
5. It is noted however that the Liberal Democrat Group have changed their substitute Member on Planning Committee; Councillor Mrs Cook to replace Councillor Thomas.
6. The allocation and membership on each Committee are therefore confirmed as follows:

**Audit and Standards Committee**

Councillors J. Barnes, Mrs M.L. Barnes, P.C. Courtel, K.M. Harmer, A.K. Jeeawon, Mrs E.M. Kirby-Green, C.A. Madeley and R.B. Thomas.

**Licensing and General Purposes**

Councillors R.K. Bird, G.S. Browne, S.J. Coleman, G.C. Curtis, K.M. Field, L. Hacking, K.M. Harmer, J.M. Johnson, C.A. Madeley, A.S. Mier, R.B. Thomas and H.L. Timpe.

Substitutes: C.A. Bayliss, T.J.C. Byrne, P.J. Gray and Mrs E.M. Kirby-Green.

**Overview and Scrutiny Committee**

Councillors J. Barnes, J.J. Carroll, C.A. Clark, S.J. Coleman, Mrs V. Cook, Mrs D.C. Earl-Williams, S.J. Errington, P.J. Gray, C.A. Madeley, C.R. Maynard, M. Mooney and P.N. Osborne.

Substitutes: L.M. Langlands, G.F. Stevens and R.B. Thomas.

**Planning Committee**

Councillors Mrs M.L. Barnes, G.C. Curtis, S.J. Errington, A.E. Ganly, P.J. Gray, K.M. Harmer, J.M. Johnson, L.M. Langlands, C.A. Madeley, A.S. Mier, H.J. Norton, S.M. Prochak, G.F. Stevens, and J. Vine-Hall.

Substitutes: J. Barnes, Mrs V. Cook and H.L. Timpe.

7. It is noted that as this allocation does strictly accord with political balance requirements, a nem con vote will be required, i.e. no Member voting against.

Malcolm Johnston  
Chief Executive