

Public Document Pack



RUSHMOOR BOROUGH COUNCIL

CABINET

*at the Council Offices, Farnborough on
Tuesday, 2nd May, 2017 at 7.00 pm
in the Concorde Room, Council Offices, Farnborough*

To:

Councillor D.E. Clifford, Leader of the Council
Councillor K.H. Muschamp, Deputy Leader and Business, Safety and Regulation
Portfolio

Councillor Sue Carter, Leisure and Youth Portfolio
Councillor Barbara Hurst, Health and Housing Portfolio
Councillor G.B. Lyon, Concessions and Community Support Portfolio
Councillor P.G. Taylor, Corporate Services Portfolio
Councillor M.J. Tennant, Environment and Service Delivery Portfolio

Enquiries regarding this agenda should be referred to Chris Todd, Democratic
Services, Democratic and Customer Services on 01252 398825 or e-mail:
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A full copy of this agenda can be found here:
www.rushmoor.gov.uk/9020

A G E N D A

1. MINUTES –

To confirm the Minutes of the Meeting held on 4th April, 2017 (copy attached).

2. **APPLICATIONS FOR DISCRETIONARY RATE RELIEF** – (Pages 1 - 10)
(Gareth Lyon, Concessions and Community Support Portfolio)

To consider the Head of Financial Services' (Amanda Fahey) Report No. FIN1718 (copy attached), which gives details of two applications for discretionary rate relief.

3. **STREET CLEANSING AND WEED CONTROL - STAFFING** – (Pages 11 - 14)
(Martin Tennant, Environment and Service Delivery Portfolio)

To consider the Head of Community and Environmental Services' (Peter Amies) Report No. COMM1711 (copy attached), which requests additional resources to provide increased levels of monitoring of street cleansing and weed control.

4. **HOUSING WHITE PAPER - RESPONSE TO CONSULTATION** – (Pages 15 - 40)
(Martin Tennant, Environment and Service Delivery Portfolio / Barbara Hurst, Health and Housing Portfolio)

To consider the Head of Planning's (Keith Holland) and Head of Environmental Health and Housing's (Qamer Yasin) Joint Report No. PLN1709 (copy attached), which proposes a response to the consultation by the Government on the Housing White Paper 'Fixing our broken housing market'.

5. **ADOPTION OF PUBLIC SPACES PROTECTION ORDERS** – (Pages 41 - 52)
(Ken Muschamp, Business, Safety and Regulation Portfolio)

To consider the Head of Environmental Health and Housing's (Qamer Yasin) Report No. EHH1717 (copy attached), which sets out a proposal for the adoption of Public Spaces Protection Orders in respect of Aldershot and Farnborough.

6. **ADOPTION OF ARTICLE 4 DIRECTION ORDER FOR EMPLOYMENT LAND** –
(Pages 53 - 58)
(Martin Tennant, Environment and Service Delivery Portfolio)

To consider the Head of Planning's (Keith Holland) Report No. PLN1708 (copy attached), which sets out a proposal for the adoption of an Article 4 Direction Order for employment land within the Borough.

7. **EXCLUSION OF THE PUBLIC** –

To consider resolving:

That, subject to the public interest test, the public be excluded from this meeting during the discussion of the undermentioned item to avoid the disclosure of exempt information within the paragraphs of Schedule 12A to the Local Government Act, 1972 indicated against such item:

Item No.	Schedule 12A Para. No.	Category
8	3	Information relating to financial or business affairs

8. **APPLICATION FOR SECTION 49 REMISSION OF NON-DOMESTIC RATES –**
(Pages 59 - 66)
(Gareth Lyon, Concessions and Community Support Portfolio)

To consider the Head of Financial Services' (Amanda Fahey) Exempt Report No. FIN1719 (copy attached), which gives details of an application for the remission of non-domestic rates due to hardship.

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AGENDA ITEM No. 2

CABINET

HEAD OF FINANCIAL SERVICES

02 MAY 2017

REPORT NO. FIN1716

KEY DECISION? YES/NO

APPLICATIONS FOR DISCRETIONARY RATE RELIEF

SUMMARY AND RECOMMENDATIONS:

Cabinet are requested to:

- a) Consider whether to award any Discretionary Rate Relief to the applicants as set out in the report, and
- b) If so, for what period(s).

1. INTRODUCTION

1.1 The purpose of this report is to:

- Outline the background and financial implications of Discretionary Rate Relief.
- Consider two new applications for Discretionary Rate Relief.
- Examine the overall budget position for cost impact of Discretionary Rate relief applications for 2017/18.

2. BACKGROUND

2.1 Mandatory Relief is available at 80% of the rates payable, and to qualify an organisation must:

- Occupy a property or rating hereditament which is used wholly or mainly for charitable purposes, and
- Be established for charitable purposes only, or
- Be accredited as a community amateur sports club.

2.2 A local authority had discretion to grant “top up” relief of up to the additional 20% to charities that have received the 80% mandatory relief.

2.3 In addition, an authority can grant relief of up to 100% to other ratepayers.

3 FINANCIAL IMPLICATIONS

- 3.1 Since 1st April 2013, the Business Rates Retention Scheme has introduced a fundamentally new set of arrangements for dealing with the cost of rates. The cost to the Council of granting any relief is most reliably estimated at being 40% of the value of relief granted. Although the total cost is ultimately determined by a range of factors, such as the Council's total rate receipts measured against its estimated threshold for growth, taking into account any payment levies or safety net contributions payable or receivable.
- 3.2 Appendix 1 shows those charitable organisations that qualify for 80% mandatory relief and which have been granted additional "top up" discretionary relief. The organisations are grouped together under generic headings, and the period of grant.
- 3.3 Appendix 1 also sets out summary details of the non-charitable organisations that are currently in receipt of relief. The appendix includes the value and costs of relief and period of grant.
- 3.4 If Discretionary Relief were awarded to both applications, the financial effect on the Council would be £109,041.

4 RISKS

- 4.1 If 20% Discretionary Relief is awarded to Aldershot Town FC Community Trust, the financial effect on the Council remains relatively low at £127.44 for the year 2017/18.
- 4.2 If 100% Discretionary Relief is awarded to Places for People Leisure Ltd, the overall financial effect on the Council is significant amounting to £108,914. However, 100% rate relief has been awarded on both sites for previous financial year and would be consistent with previous Cabinet decision and the current contractual position (as outlined in section 5.2).

5 THE APPLICATIONS

- 5.1 **Aldershot Town FC Community Trust**
Unit 3, 48 Camp Road, Farnborough, GU14 6EP
Billing No. 92086822



Aldershot Town FC Community Trust is a registered charity that uses sport and football to educate young people and encourage them to live healthy lifestyles.

The Trust advises that its aim is to continue to build links with the local community and ensure that the Trust plays its part in building a bright future in Aldershot and the surrounding areas.

The Trust has recently moved to its new offices in Camp Road, Farnborough having cut links with Aldershot Town FC.

More information about the trust can be found at <http://aldershottownfitc.co.uk/>

As a registered charity, Aldershot Town FC Community Trust is entitled to 80% mandatory relief and this application is for up to 20% discretionary rate relief.

The Trust has been responsible for rates at Unit 3, 48 Camp Road, Farnborough since 12 Dec 2016 and their remaining liability for the year 2016/17 (after 80% mandatory relief is applied) = £74.30 and for 2017/18 = £244.29

If the full 20% discretionary rate relief were to be awarded the financial effect on Rushmoor BC (at 40%) would be:-

2016/17 - £29.72
2017/18 - £97.72

In their application, Aldershot Town FC Community Trust advise of the following:-

What are the main objects of the charity?

The charity's objects are for the benefit of the public generally and in particular, the inhabitants of Aldershot and its surrounding areas:-

- to promote community participation in healthy recreation by providing facilities for the playing of association football and other sports capable of improving health.

- To provide and assist in providing facilities for sport, recreation or other leisure time occupation of such persons who have need for such facilities by reason of their youth, age infirmity or disablement, poverty or social and economic circumstances or for the public at large in the interests of social welfare and with the object of improving their conditions of life, and
- To advance the education of children and young people through such means as the trustees think fit in accordance with the law of charity.

Outline ways the organisation is involved at local level:

The Aldershot Town FC Community Trust Report outlines how the trust is involved locally with schools and the community.

Schools Programme - The Trust works closely with schools predominantly in Rushmoor, Hart and Surrey.

The programme has been run on a non-profit making basis, with in many cases the opportunity to receive free or heavily subsidised coaching sessions.

During the last year, 21 different schools have received curriculum time coaching from the Trust, 12 schools have received lunchtime coaching and 33 schools have received after school coaching.

CPD Training – The Trust has provided CPD training for many staff on Inset days, which has included providing teaching staff with new ideas and practices for coaching football. The training has been designed so that it suits the needs of the teachers and children they have been coaching during school PE lessons.

Fetes and Fun Days - The Trust has also assisted schools and community groups with many individual fetes, fun days and sports days.

The Stay Safe Community Cup – fourteen local teams participated in the Stay Safe Community Cup. The competition involved a variety of different organisations including Hampshire Police, Rushmoor Borough Council, The Source Café, GBZ, Goru Flyers, Aldershot Boys, Aldershot Town FITC coaches, Domino's Pizza and 2 Army sides.

The event is designed as a way of bringing the community together and was organised by the trust with Rushmoor Borough Council's Anti-Social Behaviour Officer.

With the tournament proving so successful, it is hoped the competition will become an annual event bringing the people in Aldershot and Farnborough together.

Soccer Schools – the Trust delivered holiday coaching courses in Farnborough and Aldershot and surrounding areas in the last year. All participants received coaching from qualified coaches, opportunity to play in small-sided games, certificates and gift packs, and match tickets.

Shots tots – the Trust runs tots soccer coaching sessions for children aged between 2.5 – 5 years of age. These sessions use fun football related games to develop the participating children’s ABC’s (Agility, Balance and Co-ordination).

Disability Programme – the Trust, in partnership with Rushmoor Mallards and RU Able 2 formed a pan disability team that competed against various Football League community sides.

What purpose does the organisation use the premises and facilities?

For office and administration centre. Used for meetings with stakeholders and partners.

How would an award of relief to your organisation benefit the local community?

We are heavily involved with the community, schools, the disabled, those with special educational needs etc.

We have lost £25,000 funding from the National League and also revenue from NCS courses due to the trust being excluded from the Recreation Ground by Aldershot Town FC.

We have reserves in our account to last this year and no more. If we are forced to close the Trust, those we serve within the community will suffer. We are therefore having to reduce our overheads as much as possible.

5.2 Places for People Leisure

Farnborough Leisure Centre, Westmead, Farnborough, GU14 7LD
Aldershot Pools Complex, Guildford Road, Aldershot, GU12 4BP
Billing No. 92067538 / 92067547



Places for People Leisure Ltd are a property management, development and regeneration company. They had previously acquired the company DC Leisure – a leisure management contractor that manages around 100 leisure facilities on behalf of 28 local authorities.

The sub-contractor has been changed from Leisure and Community Partnership to Places for People Leisure Ltd.

Leisure and Community Partnership were previously awarded 100% Discretionary Rate Relief. Cabinet approved the transfer of the management of this contract from Leisure and Community Partnership to Places for People Leisure Ltd in November 2012. At that time, Places for People Ltd indicated that they were applying to obtain charitable status. No application for revised rate relief was considered at the time of the transfer of ownership due to the pending charity status application. The rationale for this was that charitable status affected the amount of automatic relief that would be granted without requiring Cabinet consideration and the financial effect would be borne both locally and by the central rating pool held by Government.

On 16 January 2007, a report went to Cabinet and it was resolved that Leisure and Community Partnership Ltd (LCP) would take over the running of the

Farnborough Leisure Centre and Aldershoot Pools complex. In the same report it was agreed that 100% Business Rates relief would be awarded for 2007-08, and each subsequent year for the duration of the contract, albeit on the basis that Places for People would become a registered charity and therefore receive 80% mandatory relief and 20% discretionary relief.

The report also indicated that in the event that Business Rate Relief is withdrawn, then the contract would revert back to its current state. I.e. Rushmoor Borough Council would be responsible for payment of the business rates.

After a protracted process, Places for People Leisure Ltd were advised in 2014 not to proceed with their application for charitable status. Also during this period, the way in which business rates is accounted for and shared between tiers of government had fundamentally changed with the introduction of the business rates retention scheme. In light of these factors Places for People were awarded 100% discretionary rate relief on both sites in Farnborough and Aldershot. This relief expired on 31 March 2017, which coincided with the end of the 2010 rating list. Mandatory rate relief was not appropriate due to their decision not to seek charitable status.

The current contract for Places for People is due to expire on February 2019 and a tendering process is being drawn up for a new contract.

Farnborough Leisure Centre – the Business Rates payable for the financial year 2017/18 is £172,653.39. Assuming relief is granted, the financial effect on Rushmoor would be £69,061.36.

Aldershot Pools Complex - the Business Rates payable for the financial year 2017/18 is £99,632. Assuming relief is granted, the financial effect on Rushmoor would be £39,852.80.

In light of the issues surrounding the contract it is recommended that 100% Discretionary Relief be awarded until the end of the current contract.

BACKGROUND DOCUMENTS:

1. Local Government Finance Act 1988, Section 47.
2. Non-Domestic Rating (Discretionary Relief) Regulations 1989 (SI 989 1059).
3. Dept of the Environment Practice Note – Non-Domestic Rates, discretionary rate relief, issued 1989.
4. Full application case file in respect of the applicants.

CONTACT DETAILS:

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Head of Service – Amanda Fahey / amanda.fahey@rushmoor.gov.uk 01252 3983440

Total 20% Top Up Relief	47,220.54									
Total 20% CASC Relief	3,803.26									
Total Sports and Non-Profit	3,145.50									
Total Discretionary Rate Relief	54,169.30									
Total Cost to RBC	21,667.72									

New Applications

Discretionary Relief

Billing Number	Organisation	Address	RV	Yearly Rates	MR%	% Award	DR%	Amount of Aw Effect on RBC		
9209059	Aldershot Town FC Community Trust	Unit 3, 48 Camp Road, Farnborough	2,550	371.52	80	297.22	20	74.30	29.72	2016
9209059	Aldershot Town FC Community Trust	Unit 3, 48 Camp Road, Farnborough	2,550	1,221.45	80	977.16	20	244.29	97.72	2017
9206753	Places for People Leisure Limited	Farnborough Leisure Centre, Westemad	352,500	172,653.39	0	-	100	172,653.39	69,061.36	
9206754	Places for People Leisure Limited	Aldershot Pools Complex	208,000	99,632.00	0	-	100	99,632.00	39,852.80	
Total								272,603.98	109,041.59	

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AGENDA ITEM No. 3

Cabinet
2 May 2017

Head of Community and Environmental Services
Report No COMM1711

Street Cleansing and weed control – staffing

Summary and Recommendations

The new Waste, Recycling, Street Cleansing, Public Conveniences and Grounds Maintenance Contract to achieve higher environmental standards has seen a change in street cleansing from a frequency to a performance specification and now includes the treatment of weeds on the public highway.

The performance specification and addition of weed control will both require increased levels of monitoring which can be covered by increasing one of the Contracts Technical Officer posts from three days a week to full time.

Cabinet is recommended to approve a supplementary estimate of £12k pa which for a part year (9 months) in 2017/18 will be £9k

1.0 Introduction

- 1.1 This paper seeks a supplementary estimate of £12k pa to cover additional staff costs in monitoring the new performance specification for street cleansing and the weed control provided as an additional service by Serco in the new contract.
- 1.2 To improve the overall standards of street cleansing, the new contract with Serco will be outcome focussed to ensure streets are maintained to an acceptable level as set by the Department for the Environment, Food and Rural Affairs. This will help ensure that streets are not cleansed when already acceptably clean, enabling resources to be directed towards more problematic and high profile areas. This approach will ensure a higher standard of overall cleansing but will require more visual inspections. Pictorial standards are available to indicate acceptable and unacceptable levels of cleanliness.
- 1.3 Weed control on public Highways is the responsibility of Hampshire County Council. Following the banning of 'residual' herbicides and the prohibitive costs of manual weed control, their only option has been to use 'contact' herbicides, which are significantly less effective.
- 1.4 For many years, the County have only provided two weed sprays per year (spring and late summer), which require ideal conditions to be effective and have no lasting effect, therefore will not treat new weeds that grow between the sprays. The increased weed growth has resulted in increased complaints from both our members and residents.

- 1.5 Cabinet are aware that due to the County requiring significant savings, the number of weed sprays from this year has been reduced to only once a year and this may be reduced further when they review the service in two years.
- 1.6 Cabinet were keen not to see any further deterioration and requested officers investigate options. This included the council taking on the weed spray from the County and providing a second spray at additional cost and to raise the issue at dialogue during the retendering of the street cleansing element of our new environmental services contract.
- 1.7 Following dialogue and within the price of the new contract, Serco has committed to provide two weed control applications per year. One to be sub-contracted to a specialist contractor, the other delivered by them directly using equipment mounted on street sweepers and followed up by operatives using backpack-mounted applicators.
- 1.8 The council has discussed taking on the weed spraying for Rushmoor with the County. This would require the council, through an agency agreement, taking responsibility for weed control on the highway including high speed roads, invasive weeds (such as Japanese knot weed) and managing all complaints within a budget of £14k pa, which may be further reduced in a couple of years.
- 1.9 Given the additional responsibility, reputational risk and limited funds it is proposed we do not consider taking on the above weed spraying from the County, but that we seek to co-ordinate the work of the County's contractor with Serco, to provide an improved service equivalent to 3 treatments pa.
- 1.10 In order to carry out weed control activities using herbicides on the public highway, the council will need to secure permission from the County.

2.0 Monitoring street cleansing and weed control

- 2.1 Cabinet have stressed the importance of monitoring the new contract to ensure high standards are delivered. The performance specification for street cleansing will require more visual inspections of around 300 miles of public highway. The additional weed control elements of the Serco contract will also need to be separately monitored by staff trained in the safe use of pesticides to ensure the work is carried out, that it is effectively co-ordinated with the County's contractor and any complaints related to the service provided by Serco are investigated and resolved.
- 2.2 The estimated two days a week required to carry out this combined role cannot be absorbed by the current staff resource. With the retirement of one of the Contracts Technical Officers at the end of May this year, who currently works a three-day week, there is an opportunity to recruit a full time replacement to provide additional street cleansing inspections and the additional monitoring associated with the new weed control service.

2.3 The Contracts Technical Officers current role includes monitoring the refuse and recycling contract for half the Borough covering 20,000 homes. This includes visiting residents to encourage them to reduce contamination in their recycling bins and supporting events in order to improve recycling rates. Managing clinical waste referrals and dealing with any issues when reduced sized waste bins are provided as replacements. The postholder also deals with street cleansing complaints and some inspections, compiles fly tipping information and inspects toilets.

3.0 Financial implications

3.1 The current postholder is on G4 SCP 35 working 22 hours a week (£24k including on costs). A full time replacement at mid-point SCP31 (£36k) will require a pro rata variation of £12k pa depending on when they are appointed.

3.2 The additional cost of £12k in a full year is equivalent to an increase of £0.39p on the Council Tax. Equivalent to an increase of 0.2% on the Council Tax Rate.

4.0 Conclusions

4.1 The performance specification for street cleansing along with the offer from Serco to carry out weed control on the public highway will improve the visual appearance of the borough.

4.2 It is important to monitor a significant service of this nature to ensure street cleansing is carried out where and when required and that weed control applications only take place in the right conditions and are co-ordinated with the County`s contractor.

4.3 The retirement of the Contracts Technical Officer provides an opportunity to supplement the work of this post to carry out the additional street cleansing and weed monitoring, with a full time post likely to attract higher quality applications.

5.0 Recommendation

5.1 Cabinet is recommended to approve a variation of £12k pa (pro rata subject to date appointed) to recruit a full-time replacement for the Contracts Technical Officer, to enable the increased monitoring of both the street cleansing and weed control.

Peter Amies
Head of Community and Environmental Services

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AGENDA ITEM No. 4

CABINET

**HEAD OF PLANNING AND HEAD OF
ENVIRONMENTAL HEALTH AND HOUSING**

2 May 2017

REPORT NO. PLN1709

KEY DECISION: NO

CONSULTATION RESPONSES ON THE HOUSING WHITE PAPER: FIXING OUR BROKEN HOUSING MARKET AND PLANNING AND AFFORDABLE HOUSING FOR BUILD TO RENT

SUMMARY AND RECOMMENDATIONS:

This report summarises the key elements of the Housing White Paper: Fixing our broken housing market and seeks Cabinet approval to submit the comments set out in Appendix A and Appendix B (Planning and affordable housing for Build to Rent) as Rushmoor Borough Council's consultation responses.

1. INTRODUCTION

- 1.1 The Government published a Housing White Paper: Fixing our broken housing market in February 2017. The White Paper is a long-term strategy to build the homes the country needs and also to address people's housing needs and aspirations in the shorter term. It sets out the support the Government will provide to enhance the capacity of local authorities and industry to build the new homes needed.
- 1.2 To implement the objectives set out in the White Paper the Government is consulting on a range of specific planning proposals. The series of 38 consultation questions are set out, as attached at Appendix A, together with the Council's proposed response. In addition, proposals for Build to Rent outlined in the Housing White Paper are subject to a separate consultation. A consultation response to Planning and affordable housing for Build to Rent is set out in Appendix B.

2. BACKGROUND

- 2.1 The Government has published the White Paper in response to what is described as a broken housing market. A key objective of the proposals set out in the White Paper is to help build more homes.

3. KEY PROPOSALS AND CONSULTATION RESPONSES

Key Proposals

3.1 The key proposals in the Housing White Paper are summarised below:

For local authorities:

- Higher fees and new capacity funding to develop planning departments;
- Simplified plan making;
- More funding for infrastructure;
- Easier to take action against those who do not build permitted schemes;
- Scope of bespoke housing deals to make best of local innovation;
- Local authorities should be as ambitious and innovative as possible;
- All local authorities should develop an up-to-date local plan, decide applications for development promptly, and ensure homes are built out on time;
- Government will intervene if sufficient progress not made, with a new housing delivery test.

For private developers:

- A planning framework more supportive of higher levels of development;
- Quicker processing and determination of planning applications;
- Improved approach to developer contributions;
- Encourage modern methods of construction in house building;
- Encourage greater diversity of homebuilders, partnering with smaller and medium-sized builders and contractors, and helping with access to loan finance;
- Expect developers to build more homes and swiftly where permission is granted, engage with communities, and promote benefits of development;
- Invest in bringing forward thousands of new skilled roles.

For communities:

- Simpler and clearer planning process, easier to get involved;
- Ensure communities see the benefit of housing growth and have greater say in the design of local developments;
- Asked to accept that more housing is needed to help future generations.

For housing associations:

- Already announced expanded and more flexible Affordable Homes Programme with funding of £1.7billion;
- Provide clarity on future rent levels;
- Expect housing associations to build significantly more affordable homes.

For lenders and investors:

- Government is offering a clear and stable long-term framework for investment, including products for rent (Build to Rent);
- Lenders called upon to back developers and social landlords in building more homes.

For utility companies and infrastructure providers:

- Government is offering a clear framework and simpler plans to help them understand the demands made upon them;
- Exploring an improved approach to developer contributions to pay for new infrastructure;
- Expect providers to deliver the infrastructure that new housing needs so that development is not delayed.

Planning and Affordable Housing for Build to Rent Consultation Paper

3.2 The main proposals in the consultation paper on Planning and Affordable Housing for Build to Rent are:

- Changes to the National Planning Policy Framework to support Build to Rent through the planning system;
- The introduction of a new form of affordable housing in Build to Rent schemes: Affordable Private Rent;
- The expectation that Build to Rent schemes will offer family friendly tenancies of three years or more to households which want one.

Consultation Responses

3.3 A full response to the 38 questions set out in the Housing White Paper consultation to proposed changes to planning policy and legislation in relation to planning for housing, sustainable development and the environment is set out at Appendix A. Many of the proposals are acceptable in principle but more detail is required to fully assess their acceptability. However, some proposals are not supported as set out in Appendix A.

3.4 The key issues to highlight are:

- The introduction of a requirement to allocate small sites of half a hectare or less is not supported, as it will place a disproportionate resource burden on local planning authorities.
- National indicative minimum density standards are not supported. The appropriate density of development should be determined having regard to local site circumstances.
- A national standard to seek a minimum of 10% of all homes on individual sites for affordable home ownership products is not supported. The percentage of homes on individual sites provided as affordable home ownership should be based on local circumstances, local assessment of need, nature and location of the site, rather than being set out as a national standard in the NPPF.
- The expansion of the definition of affordable housing will increase housing choice but will dilute the ability of the Council to meet housing need for the most disadvantaged groups.

- 3.5 A full response to the consultation paper on Planning and affordable housing for Build to Rent is set out at Appendix B. The key issues are:
- That the Government's policy intervention will encourage delivery of this product, however we want to be able to determine the percentages of Affordable Private Rent locally rather than nationally to reflect our local housing market and housing need.
 - Affordable Private Rent could play a useful role in the delivery of affordable housing, however there could be unintended consequences such as undermining the role of Registered Providers and there are questions on the role of the institutional investors in supporting vulnerable people and their appetite for involvement in multi-agency working.
 - We support the opportunity for longer length tenancies but are not resourced to monitor tenancy lengths and would require nomination rights to Private Affordable Rent.
 - The Government should prescribe both a minimum covenant period and claw-back arrangements to ensure Build to Rent and Affordable Private Rent are not misused as a short-term mechanism to provide Affordable Housing.

4. IMPLICATONS OF THE DECISION

- 4.1 There are no significant financial, resource, equalities impact or other implications arising from the submission of the consultation responses.
- 4.2 There maybe be resource implications for the Council, principally in its role as a local planning authority, arising from some of the proposals set out in the White Paper, if these are implemented. Until further details are provided the resource implications cannot be fully assessed.

5. CONCLUSIONS

- 5.1 The White Paper; Fixing our broken housing market sets out a range of proposals to help tackle the long-standing problems in the housing market and help to build more homes. A response to proposed changes to planning policy and legislation in relation to planning for housing, sustainable development and the environment is set out at Appendix A. In addition, a response to the consultation paper on Planning and affordable housing for Build to Rent is set out at Appendix B.

6. RECOMMENDATIONS

- 6.1 **It is recommended that: the comments set out at Appendix A and Appendix B are endorsed as the Council's response to the consultation on the White Paper: Fixing the broken housing market**

and to the consultation paper on Planning and affordable housing for Build to Rent.

BACKGROUND DOCUMENTS:

White Paper: Fixing the broken housing market

Planning and affordable housing for Build to Rent – a consultation paper

CONTACT DETAILS:

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Consultation Response to the Government's Housing White Paper: Fixing our broken housing market

1. Do you agree with the proposals to:

- a) **Make clear in the National Planning Policy Framework that the key strategic policies that each local planning authority should maintain are those set out currently at paragraph 156 of the Framework, with an additional requirement to plan for the allocations needed to deliver the area's housing requirement?**

The strategic priorities set out in paragraph 156 of the Framework require policies to provide:

- the homes and jobs needed in the area;
- the provision of retail, leisure and other commercial development;
- the provision of infrastructure for transport, telecommunications, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);
- the provision of health, security, community and cultural infrastructure and other local facilities; and
- climate change mitigation and adaptation, conservation and enhancement of the natural and historic environment, including landscape.

Any change to the NPPF should make clear that whilst the majority of the strategic priorities listed fall within the responsibility of local planning authorities, some priorities are the responsibility of county councils (transport, minerals and waste). In addition, many other organisations have significant responsibilities in relation to these matters including public institutions, not-for-profit charities and privately owned companies working within a regulated market.

- b) **Use regulations to allow Spatial Development Strategies to allocate strategic sites, where these strategies require unanimous agreement of the members of the combined authority?**

If Spatial Development Strategies are to be used to allocate strategic sites, they should be subject to the same local public or independent scrutiny as those identified through local plans. It is important that the consideration of strategic sites takes place alongside other elements of the plan-making process such as Sustainability Appraisal and Infrastructure Planning. There would also need to be a very clear definition of what constitutes a 'strategic site'.

- c) **Revise the National Planning Policy Framework to tighten the definition of**

what evidence is required to support a ‘sound’ plan?

This change is supported. The content of all Local Plans vary according to their area and local circumstances. A pragmatic approach would therefore be supported which allowed the Councils to produce the evidence they consider to be appropriate. Set within that context it would be helpful to outline the minimum evidence base requirements.

2. What changes do you think would support more proportionate consultation and examination procedures for different types of plan and to ensure that different levels of plans work together?

The proposed change to amend the test of a “sound” plan to demonstrating it sets out “an” appropriate strategy (rather than “the most” appropriate strategy) and tightening the definition of what evidence is required to support a plan will support more proportionate examination procedures. The existing regulations allow for proportionate consultation.

3. Do you agree with the proposals to:

a) Amend national policy so that local planning authorities are expected to have clear policies for addressing the housing requirements of groups with particular needs, such as older and disabled people?

This approach is supported. Rushmoor Borough Council is already developing policies related to accessibility standards and specialist housing within our emerging Local Plan. We would also be supportive of requirements to ensure new homes are built to accessible and adaptable standards under Building Regulations Part M4 (2) requirements, these homes would have sufficient space to enable residents to meet their day-to-day needs and such homes are also more capable of being adapted to changes in personal circumstances.

b) From early 2018, use a standardised approach to assessing housing requirements as the baseline for five year housing supply calculations and monitoring housing delivery, in the absence of an up-to-date plan?

A standardised approach to assessing housing requirements is welcomed. However, the introduction of the standardised approach will need to include clear guidelines to explain how those local plans that are at an advanced stage of production will be dealt with. Requiring such plans to take on the new standardised approach could result in considerable delay and costs for the local planning authority concerned. The NPPF should provide a clear definition of what is an up-to-date plan, and no plan should be considered to be out-of-date for a 5 year period after adoption. Without such clarity, the issue of whether a plan is up to date will lead to extensive argument at s78 appeal

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inquiries. A standardised approach should also be introduced to assess requirements of housing of all types for particular groups, including older people and those with physical and/or other disabilities.

4. Do you agree with the proposals to amend the presumption in favour of sustainable development so that:

a) Authorities are expected to have a clear strategy for maximising the use of suitable land in their areas?

This proposed change is not supported as the proposed statement is open to interpretation. It is likely that the proposed wording will result in protracted discussion at examination, particularly in terms of the meaning of the words 'clear', 'suitable' and 'maximise'.

b) It makes clear that identified development needs should be accommodated unless there are strong reasons for not doing so set out in the NPPF?

The proposed amendment is not supported as the existing wording is considered appropriate

c) The list of policies which the Government regards as providing reasons to restrict development is limited to those set out currently in footnote 9 of the National Planning Policy Framework (so these are no longer presented as examples), with the addition of Ancient Woodland and aged or veteran trees?

The proposed addition is supported.

d) Its considerations are re-ordered and numbered, the opening text is simplified and specific references to local plans are removed?

The proposed change is supported.

5. Do you agree that regulations should be amended so that all local planning authorities are able to dispose of land with the benefit of consent which they have granted to themselves?

This is supported as it should assist in bringing forward publicly owned land for development.

6. How could land pooling make a more effective contribution to assembling land, and what additional powers or capacity would allow local authorities to play a more active role in land assembly (such as where 'ransom strips' delay or prevent development).

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In general terms this is supported, however, Rushmoor Borough Council has no suggestions regarding additional powers or capacities that may be needed.

7. **Do you agree that national policy should be amended to encourage local planning authorities to consider the social and economic benefits of estate regeneration when preparing their plans and in decisions on applications, and use their planning powers to help deliver estate regeneration to a high standard?**

Yes.

8. **Do you agree with the proposals to amend the National Planning Policy Framework to:**

- a) **Highlight the opportunities that neighbourhood plans present for identifying and allocating small sites that are suitable for housing?**

Yes, but any such allocations should provide some protection to that community from unplanned speculative housing development proposals.

- b) **Encourage local planning authorities to identify opportunities for villages to thrive, especially where this would support services and help meet the authority's housing needs?**

No comment.

- c) **Give stronger support for 'rural exception' sites – to make clear that these should be considered positively where they can contribute to meeting identified local housing needs, even if this relies on an element of general market housing to ensure that homes are genuinely affordable for local people?**

This approach is supported to help the delivery of more affordable housing.

- d) **Make clear that on top of the allowance made for windfall sites, at least 10% of sites allocated for residential development in local plans should be on sites of half a hectare or less?**

Rushmoor Borough Council does not support this proposal. There is likely to be an overlap between windfall sites and the small sites proposed to be allocated for residential development. Furthermore, it will impose a disproportionate resource burden on local planning authorities, particularly as part of the site allocation process the capacity of the small sites would need to be assessed in some detail.

- e) **Expect local planning authorities to work with developers to encourage the sub-division of large sites?; and**

This measure is supported.

- f) **Encourage greater use of Local Development Orders and area-wide design codes so that small sites may be brought forward for development more quickly?**

Rushmoor Borough Council has worked with developers on a large site allocation, to produce site-wide design codes. The production of design codes, as well as local development orders can be very resource intensive and time consuming for local planning authorities. Furthermore, design codes do not in themselves ensure that development comes forward more quickly.

9. **How could streamlined planning procedures support innovation and high-quality development in new garden towns and villages?**

Rushmoor Borough Council's experience suggests that innovative and high-quality development in major development, such as new garden towns and villages, can best be secured through the planning permission process, supported by design-codes.

10. **Do you agree with the proposals to amend the National Planning Policy Framework to make clear that:**

- a) **Authorities should amend Green Belt boundaries only when they can demonstrate that they have examined fully all other reasonable options for meeting their identified development requirements?**

This is agreed.

- b) **Where land is removed from the Green Belt, local policies should require compensatory improvements to the environmental quality or accessibility of remaining Green Belt land?**

This is supported in principle.

- c) **Appropriate facilities for existing cemeteries should not be regarded as 'inappropriate development' in the Green Belt?**

No comment.

- d) **Development brought forward under a Neighbourhood Development Order**

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should not be regarded as inappropriate in the Green Belt, provided it preserves openness and does not conflict with the purposes of the Green Belt?

No comment.

- e) **Where a local or strategic plan has demonstrated the need for Green Belt boundaries to be amended, the detailed boundary may be determined through a neighbourhood plan (or plans) for the area in question?**

This is agreed.

- f) **When carrying out a Green Belt review, local planning authorities should look first at using any Green Belt land which has been previously development and/or which surrounds transport hubs?**

This suggested approach sounds too simplistic and is not supported. Local planning authorities should be allowed to consider the most appropriate locations for release of land from the Green Belt, taking account of the full range of planning considerations.

11. **Are there particular options for accommodating development that national policy should expect authorities to have explored fully before Green Belt boundaries are amended, in addition to the ones set out above?**

No.

12. **Do you agree with the proposals to amend the National Planning Policy Framework to:**

- a) **Indicate that local planning authorities should provide neighbourhood planning groups with a housing requirement figure, where this is sought?**

Yes.

- b) **Make clear that local and neighbourhood plans (at the most appropriate level) and more detailed development plan documents (such as action area plans) are expected to set clear design expectations; and that visual tools such as design codes can help to provide a clear basis for making decisions on development proposals?**

This proposal is supported.

- c) **Emphasise the importance of early pre-application discussions between applicants, authorities and the local community about design and the types of homes to be provided?**

This proposal is supported.

- d) Makes clear that design should not be used as a valid reason to object to development where it accords with clear design expectations set out in statutory plans?; and**

This appears rather a simplistic statement given that design is a complex issue to assess. The Council does not support this amendment to the NPPF.

- e) Recognise the value of using a widely accepted design standard, such as Building for Life, in shaping and assessing basic design principles – and make clear that this should be reflected in plans and given weight in the planning process?**

These standards are helpful but in each case design needs to be assessed in the context of the particular site.

- 13. Do you agree with the proposals to amend national policy to make clear that plans and individual development proposals should:**

- a) Make efficient use of land and avoid building homes at low densities where there is a shortage of land for meeting identified housing needs?**

The efficient use of land is supported. The density of development should be driven by the site context and location rather than the availability of land to meet housing needs.

- b) Address the particular scope for higher-density housing in urban locations that are well served by public transport, that provide opportunities to replace low-density uses in areas of high housing demand, or which offer scope to extend buildings upwards in urban areas?**

In principle, higher-density housing development in urban locations that are well served by public transport is supported. However, the density of development should be driven by the site context and this should also be reflected in NPPF. A key issue in assessing the acceptability of extending buildings upwards is the design of the proposed development.

- c) Ensure that in doing so the density and form of development reflect the character accessibility and infrastructure capacity of an area, and the nature of local housing needs?**

This proposal is supported and welcomed.

- d) Take a flexible approach in adopting and applying policy and guidance that could inhibit these objectives in particular circumstances, such as open space provision in areas with good access to facilities nearby?**

This is a very broad-brush statement and should be made more specific if it is to be incorporated into the NPPF. However, it is agreed that there is scope to apply open space provision flexibly in areas where there is good access to existing provision.

- 14. In what types of location would indicative minimum density standards be helpful, and what should those standards be?**

National indicative minimum density standards would not be helpful and the Council objects to their introduction. The appropriate density of any scheme will depend upon a range of factors including the context of the site, the prevailing character and the overall location of a scheme, along with the type of development proposed. The setting of density requirements should be left to local planning authorities through the development of site-specific planning policies or through the development of Area Action Plans or other forms of planning guidance.

- 15. What are your views on the potential for delivering additional homes through more intensive use of existing public sector sites, or in urban locations more generally, and how this can best be supported through planning (using tools such as policy, local development orders, and permitted development rights)?**

This should be left to local planning authorities to assess on a site-specific basis.

- 16. Do you agree that:**

- a) Where local planning authorities wish to agree their housing land supply for a one-year period, national policy should require those authorities to maintain a 10% buffer on their 5 year housing land supply?**

Further explanation on how this mechanism will operate should be published and consulted on before this is brought into operation. The guidance should include recommended minimum requirements for engaging with the development industry and infrastructure providers and provisions for what will happen in the event of one or both of these sectors not engaging in the process. However, maintaining the 10% buffer appears to be a satisfactory requirement given that it is a current requirement of the NPPF.

- b) The Planning Inspectorate should consider and agree an authority's**

assessment of its housing supply for the purpose of this policy?

Further detail is required to understand how this proposal would work.

- c) If so, should the Inspectorate's consideration focus on whether the approach pursued by the authority in establishing the land supply position is robust, or should the Inspectorate make an assessment of the supply figure?**

The role of the Planning Inspectorate should be confined to establishing that the land supply position is robust.

- 17. In taking forward the protection for neighbourhood planning as set out in the Written Ministerial Statement of 12 December 2016 into the revised NPPF, do you agree that it should include the following amendments:**

- a) A requirement for the neighbourhood plan to meet its share of housing need?**

In principle, this proposal appears to be reasonable.

- b) That it is subject to the local planning authority being able to demonstrate through the housing delivery test that, from 2020, delivery has been over 65% (25% in 2018; 45% in 2019) for the wider authority area?**

In principle, this proposal appears to be reasonable.

- c) Should it remain a requirement to have site allocations in the plan or should the protection apply as long as housing supply policies will meet their share of local housing need?**

The protection should apply as long as the neighbourhood plan development strategy and housing policies will meet the fair share of the local housing need.

- 18. What are your views on the merits of introducing a fee for making a planning appeal? We would welcome views on:**

- a) How the fee could be designed in such a way that it did not discourage developers, particularly smaller and medium sized firms, from bringing forward legitimate appeals;**

A scale of fees based on size of development could address this.

- b) The level of the fee and whether it could be refunded in certain circumstances, such as when an appeal is successful; and**

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The level of fee should address the administrative costs of dealing with an appeal. The refund of fees is not supported.

c) Whether there could be lower fees for less complex cases.

This would be difficult to introduce and may add to the administrative burden.

19. Do you agree with the proposal to amend national policy so that local planning authorities are expected to have planning policies setting out how high quality digital infrastructure will be delivered in their area, and accessible from a range of providers?

Rushmoor Borough Council has emerging policies to support the delivery of high quality digital infrastructure, however, this can only be delivered with the full cooperation of broadband suppliers. It is not clear how local planning authorities would have the powers to deliver this requirement.

20. Do you agree with the proposals to amend national policy so that:

- **The status of endorsed recommendations of the National Infrastructure Commission is made clear?; and**
- **Authorities are expected to identify the additional development opportunities which strategic infrastructure improvements offer for making additional land available for housing?**

Yes, subject to an assessment of the deliverability of the development opportunities.

21. Do you agree that:

a) The planning application form should be amended to include a request for the estimated start date and build out rate for proposals for housing?

Yes, this information would be helpful.

b) That developers should be required to provide local authorities with basic information (in terms of actual and projected build out) on progress in delivering the permitted number of homes, after planning permission has been granted?

Yes, this information would be helpful for monitoring housing delivery.

c) The basic information (above) should be published as part of Authority Monitoring Reports?

Yes.

d) That large housebuilders should be required to provide aggregate information on build out rates?

For consistency in monitoring development delivery, information by planning application site is preferred.

22. Do you agree that the realistic prospect that housing will be built on a site should be taken into account in the determination of planning applications for housing on sites where there is evidence of non-implementation of earlier permissions for housing development?

The decision on a planning application should remain informed by its conformity with the NPPF, the development plan and any other material considerations. The definition of “realistic prospect” would need to be set out clearly if this approach were to be pursued in order to avoid lengthy legal arguments and planning appeals.

23. We would welcome views on whether an applicant’s track record of delivering previous, similar housing schemes should be taken into account by local authorities when determining planning applications for housing development.

It is considered inappropriate to take an applicant’s track record into account. There would be nothing to prevent an applicant gaining planning consent and then selling the consent to a developer with a poor track record.

24. If this proposal were taken forward, do you agree that the track record of an applicant should only be taken into account when considering proposals for large scales sites, so as not to deter new entrants to the market?

It is considered inappropriate to take an applicant’s track record into account. There would be nothing to prevent an applicant gaining planning consent and then selling the consent to a developer with a poor track record.

25. What are your views on whether local authorities should be encouraged to shorten the timescales for developers to implement a permission for housing development from three years to two years, except where a shorter timescale could hinder the viability or deliverability of a scheme? We would particularly welcome views on what such a change would mean for SME developers.

Agreed. Rushmoor Borough Council already grants planning permission for one

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year to reflect the need to allocate mitigation for the impact on the Thames Basin Heaths Special Protection Area.

- 26. Do you agree with the proposals to amend legislation to simplify and speed up the process of serving a completion notice by removing the requirement for the Secretary of State to confirm a completion notice before it can take effect?**

The removal of this requirement is welcomed.

- 27. What are your views on whether we should allow local authorities to serve a completion notice on a site before the commencement deadline has a lapsed, but only where works have begun? What impact do you think on lenders' willingness to lend to developers?**

This proposal is supported. The impact on lenders is not known.

- 28. Do you agree that for the purposes of introducing a housing delivery test, national guidance should make clear that:**

- a) The baseline for assessing housing delivery should be a local planning authority's annual housing requirement where this is set out in an up-to-date plan?**

This is an acceptable approach.

- b) The baseline where no local plan is in place should be the published household projections until 2018/19, with the new standard methodology for assessing housing requirements providing the baseline thereafter?**

This is an acceptable approach.

- c) Net annual housing additions should be used to measure housing delivery?**

Yes, net annual completions should be the standard form of measuring housing delivery.

- d) Delivery will be assessed over a rolling three year period, starting with 2014/15 - 2016/17?**

This is an acceptable approach.

- 29. Do you agree that the consequences for under-delivery should be:**

- a) From November 2017, an expectation that local planning authorities**

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prepare an action plan where delivery falls below 95% of the authority's annual housing requirement?

- b) From November 2017, a 20% buffer on top of the requirement to maintain a five year housing land supply where delivery falls below 85%?
- c) From November 2018, application of the presumption in favour of sustainable development where delivery falls below 25%;
- d) From November 2019, application of the presumption in favour of sustainable development where delivery falls below 45%?; and
- e) From November 2020, application of the presumption in favour of sustainable development where delivery falls below 65%?

Local planning authorities should be able to demonstrate that if the shortfall is due to circumstances outside their control (e.g. a national or international economic downturn), and they have made every positive effort to ensure that housing in their area is delivered, then the presumption in favour of sustainable development should not be applied. Rushmoor Borough Council recognises, however, that local planning authorities should still be required to actively seek to maximise housing delivery.

30. What support would be most helpful to local planning authorities in increasing housing delivery in their areas?

In Rushmoor Borough Council a key impact on the delivery of new homes is the availability of Suitable Alternative Green Space to mitigate the impacts of new housing development on Thames Basin Heaths Special Protection Area. Support to facilitate the provision of new Suitable Alternative Natural Green Space would be helpful. The Council welcomes the Government's intentions to support local authorities in delivering new homes.

31. Do you agree with our proposals to:

- a) **Amend national policy to revise the definition of affordable housing as set out in Box 4?**

The expansion of the definition of affordable housing will increase housing choice but will dilute the ability of the Council to meet housing need for the most disadvantaged groups. Further information is required to assess the acceptability of the proposed changes to the definition of affordable housing. The proposed provisions are not entirely clear. For example, under 'social rented and affordable rented housing' it states that 'affordable housing should remain at an affordable price for future eligible households or for the subsidy to be recycled for alternative affordable housing provision'; but it does not say this under the Affordable Housing or Starter Homes headings. The Council considers that any housing to be defined as affordable housing needs to meet this requirement, to help meet both current and future needs.

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In addition, the way 'Intermediate Housing' is worded suggests that Affordable Rent could also be considered as a form of intermediate housing: 'discount market sales etc and other housing that meets the following criteria: housing that is provided for ...rent at a cost above social rent, but below market levels'.

Although Starter Homes may have a role in the housing market, they should not be included as a form of affordable housing which can be delivered in place of other forms of affordable housing tenure if they are not to be treated as affordable housing in perpetuity.

b) Introduce an income cap for starter homes?

If Starter Homes are to be a form of affordable housing then an income cap is essential to prevent homes being bought by purchasers who could otherwise buy on the open market. There needs to be clear monitoring systems in place to ensure that developers only offer Starter Homes to eligible households.

c) Incorporate a definition of affordable private rent housing?

There is scope to include affordable private rent housing as a form of affordable housing, provided it remains affordable in perpetuity, and it is provided as part of a wider range of affordable housing types and tenures at different price levels to meet locally assessed needs. However, in the South East, 20% below market rent is still unaffordable to many; an issue compounded by recent welfare reforms and Local Housing Allowance rates falling well short of private rents.

The 20% below market rent is not just an issue for those on benefits. If private rent is to help ease the housing crisis and meet housing need, then it needs to be truly affordable in relation to local incomes, based on a robust local affordability assessment. It is also important that, as proposed in the White Paper, longer term tenancies are available to enable households to settle and in the interests of sustainable communities. Longer-term tenancies should also be promoted and/or incentivised for some existing private rented homes. Although we support proposals to ban letting agency fees, more also needs to be done to improve affordability, security of tenure and standards in existing private rented homes.

d) Allow for a transitional period that aligns with other proposals in the White Paper (April 2018)?

Agreed.

32. Do you agree that:

a) National planning policy should expect local planning authorities to seek a minimum of 10% of all homes on individual sites for affordable home ownership products?

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The percentage of homes on individual sites provided as affordable home ownership should be based on local circumstances, local assessment of need, nature and location of the site.

- b) That this policy should only apply to developments of over 10 units or 0.5 ha?**

This policy approach is supported and it is noted that the threshold is amended from the existing 11 unit threshold.

- 33. Should any particular types of residential development be excluded from this policy?**

No minimum percentage of homes provided for affordable home ownership should be imposed on individual sites, as any approach should be based on local needs and circumstances. If the policy is introduced, then there should be some exclusions, e.g. supported housing with special design features for vulnerable people, including hostel accommodation and care homes.

- 34. Do you agree with the proposals to amend national policy to make clear that the reference to the three dimensions of sustainable development, together with the core planning principles and policies at paragraph 18-219 of the National Planning Policy Framework, together constitute the Government's view of what sustainable development means for the planning system in England?**

The Councils consider that the NPPF is sufficiently clear in respect of sustainable development.

- 35. Do you agree with the proposals to amend national policy to:**

- a) Amend the list of climate change factors to be considered during plan-making, to include reference to rising temperatures?**

This change is supported.

- b) Make clear that local planning policies should support measures for the future resilience of communities and infrastructure to climate change?**

This change is supported.

- 36. Do you agree with these proposals to clarify flood risk policy in the National Planning Policy Framework?**

This change is supported.

- 37. Do you agree with the proposal to amend national policy to emphasise that planning policies and decisions should take account of existing businesses when locating new development nearby and, where necessary, to mitigate the impact of noise and other potential nuisances from existing development?**

This change is supported.

- 38. Do you agree that in incorporating the Written Ministerial Statement on wind energy development into paragraph 98 of the National Planning Policy Framework, no transition period should be included?**

No comment.

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Consultation Response to the Governments' Planning and Affordable Housing for Build to Rent

1. Please provide your name and contact details in the box provided, and identify whether you are responding as (please tick one):

A private Individual

On behalf of an organisation ✓

Qamer Yasin, Head of Environmental Health and Housing, Rushmoor Borough Council, Council Offices, Farnborough Road, Farnborough, GU14 7JU
Tel: 01252 398640
Email: qamer.yasin@rushmoor.gov.uk

2. If you are responding as a private individual, please identify in what capacity you are replying and whether your main interest is as:

A person living in private accommodation

A person living in affordable housing

A private landlord

Other (please specify)

3. If you are responding on behalf of an organisation, please identify in what capacity you are replying and the main interest of your organisation

An investor in Build to Rent schemes

A developer of Build to Rent homes

A lender to the Build to Rent schemes

A supplier of management and/or other services to Build to Rent homes

Other private landlord

Social Landlord, (either registered provider or local authority)

A developer or other representative body

Local Authority ✓

Other (please specify)

4. Please specify the part(s) of England in which you live, or your organisation's activities (or members) are principally located (you may tick more than one):

London

South East ✓

East of England

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South West
East midlands
West Midlands
Yorkshire and Humber
North East
North West
Other (please specify)

5. **Do you consider there are market and regulatory failures impeding the rapid development of the Build to Rent market that merit national policy intervention?**

Policy emphasis towards Build to Rent will undoubtedly encourage delivery of this product. Government policies should consider the impact to the existing house building market, including competition for sites and therefore land values, as well as impact to supply chains.

6. **Do you agree with the proposal to refer explicitly to Build to Rent in the National Policy Planning Framework?**

Yes

7. **Do you think that Government should set a policy expectation on Affordable Private Rent?**

No, we feel that this should be locally determined to ensure we have the right balance of affordable housing products to meet the housing needs and aspirations of our communities.

8. **Will a policy expectation in the National Planning Policy Framework send a sufficiently strong signal to support Affordable Private Rent as the main vehicle for affordable housing in Build to Rent?**

Yes

9. **Do you consider that Affordable Private Rent could play a useful role in the delivery of affordable housing in the area (s) where you operate?**

Yes, providing it is genuinely affordable and accessible to our residents who are in housing need.

10. **Do you consider that the efficiencies arising through on site provision of Affordable Private Rent can materially improve the viability of Build to Rent compared to other affordable housing tenures?**

This would depend on whether the discounted rents are inclusive of service charges. If they are not they would be more financially attractive and improve viability, although less affordable for tenants. If they are inclusive of service

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charges then the efficiencies are likely to be similar to tenure blind affordable housing delivery on sites through S106 agreements. Comprehensive Development Appraisals would be needed to evaluate efficiency savings.

11. Do you consider that there could be unintended consequences of Affordable Private Rent if it is accepted as a form of affordable housing?

Yes. If it is more financially attractive, it could undermine the role of Registered Providers in the delivery and management of general needs and specialist/ supported housing. This could be mitigated if the local authority is able to influence rent levels in the interests of properly meeting local housing needs. In these circumstances Affordable Private Rent could make a valuable contribution.

It is unclear how Institutional Investors will be regulated and be able to fulfill the wider role of RP's in supporting vulnerable people and engaging in multi-agency working.

12. If your answer to Q11 is yes, would these consequences be mitigated by limiting Affordable Private Rent only to Build to Rent schemes?

Yes we believe it would be best to confine Affordable Private Rent to Build to Rent schemes until it can be proven that it can meet the full range of local housing needs. Allowing traditional affordable housing tenures on other sites would be a helpful benchmark to assess the merits of Affordable Private Rent.

13. Do you think it is reasonable for Planning Authorities to specify minimum tenancy lengths in Build to Rent schemes? Please add your reasons, and give examples of such agreements where appropriate.

Whilst it would establish a precedent and make clear what a Local Authorities expectations are it should be noted that local planning authorities do not have the resources to monitor tenancy lengths.

14. Do you agree that Build to Rent tenancies should be for at least three years (with a one month break option for the tenant after the first 6 months), for all customers in the development who want one?

Yes, it will help to give people stability and encourage sustainable neighbourhoods. A mix of tenancy lengths will support the needs of different groups of people.

15. Does the definition of Build to rent set out on page 20 capture all of the appropriate elements? (If not, please state why, and what criteria should apply).

No, we do not think that there is enough information around management standards and redress for tenants if there are issues. It is not clear what professionally managed stock means and there is no clarification on space standards.

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- 16. Do you agree that the National Planning Policy Framework should put beyond doubt that Affordable Private Rent qualifies as affordable housing in Build to rent Schemes?**

Yes, but only if it can clearly demonstrate that it is meeting local, affordable housing need.

- 17. Do you agree with the proposed definition of Affordable Private Rent set out on page 21? (If not please state why and what criteria should apply)**

No. It should also include that, "*it is provided to eligible households whose needs are not met by the market*".

- 18. The government intends to set the parameters of Affordable Private rent as:**
- A minimum of 20 percent of the homes to be discounted
 - The discount to be set to a minimum of 20 percent relative to the local market
 - An offer of longer tenancies of three years or more
 - The discount to apply indefinitely (subject to claw- back arrangement if Affordable Private Rent homes are withdrawn).

Taken as a whole, are these parameters

- (i) reasonable;
- (ii) too onerous;
- (iii) insufficient?
- (iv) Don't know

Which, if any of them would you change and why?

The first two points should be set at the local level.

Longer tenancy lengths are likely to be positive for households.

How will tenancy lengths be monitored/ enforced?

A range of tenancy lengths would be better.

The claw back arrangements are simple, however, in our opinion the 20% of market value is insufficient to provide a replacement property.

- 19. Should the parameters for Affordable Private Rent appear on the face of the national Planning Policy Framework or within the Planning Practice Guidance?**

National Planning Practice Guidance

- 20. The Government is minded to leave determination of eligibility and nomination criteria for Affordable Private Rent to negotiation between developer and the local authority. Do you support this position? Will it affect take up of the policy? Please give your reasons.**

Local Authorities will want to be able to secure nominations rights to the Affordable Private Rent properties and to apply their own allocations policy / eligibility criteria. This will mean that people in greatest housing need are allocated to Affordable Private Rented properties, if investors are not happy with this it will impact on the

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take up of the policy.

- 21. The Government considers there is no need or a fixed minimum covenant period, so long as appropriate claw-back arrangements are provided for. Do you agree?**

No, we feel there should be a minimum period set to ensure that this product is not used as a short mechanism to tick the box of providing Affordable Homes.

- 22. Do you think Government should (a) prescribe the basis for calculating the amount of claw-back; (b) set a possible basis for calculating the amount of claw-back in guidance, or (c) leave the amount of claw-back to be agreed between the local authority and the applicant?**

- a. The Government should prescribe the basis for calculating the amount of claw-back.

- 23. Should the Government's Build to Rent and Affordable Private Rent Policy be identical across the whole of England, or does it need to be set differently between London and the rest of England? If it should be set differently, please use the comments box to tell us how and why the policy should vary in London from the rest of England**

We don't know, London should have to make a case for a different approach.

- 24. Would it be helpful for Government to produce model clauses (which would not be mandatory) that could be used in S106 agreements to give effect to Affordable Private Rent?**

Yes, it would provide a consistent approach across the county, which would be helpful to national investors.

- 25. Is a transitional period of 6 months appropriate for the introduction of the policy? (If not why not).**

No, we believe a year would be a more realistic timeframe to roll out such an important new policy.

- 26. Does the summary Equalities Statement in Annex A represent a fair assessment of the equalities impacts of the policy proposals in this consultation? Please provide any further evidence on this issue including how any negative impacts might be minimized and positive impacts enhanced.**

Yes

AGENDA ITEM No. 5

CABINET

HEAD OF ENVIRONMENTAL HEALTH AND HOUSING

2nd May 2017

KEY DECISION: NO

REPORT NO. EHH1717

ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014 – DRAFT PUBLIC SPACES PROTECTION ORDERS

SUMMARY AND RECOMMENDATION:

The Anti-social Behaviour, Crime and Policing Act 2014 introduced a number of new powers to deal with community protection and makes provision for both Community Protection Notices and Public Spaces Protection Orders (PSPOs).

PSPOs replace a number of existing orders including Designated Public Place Orders (DPPOs), Gating Orders and Dog Control Orders and are intended to streamline arrangements for dealing with a variety of types of anti-social behaviour.

The Act provides transitional arrangements for current orders to remain in place for three years following the commencement of the Act. These transitional arrangements end on the 19th October 2017 and we are therefore looking to introduce PSPOs to control a range of anti-social behaviour we are currently experiencing in our town centres.

There are also provisions in the Act in relation to existing DPPOs, which are still in force and were made before October 2014 to convert to PSPOs. To avoid duplication of controls, we are recommending that these DPPOs be discharged when they convert to PSPOs in October. A separate process would apply at that time.

The Act provides guidance on the process for introducing PSPOs and in accordance with this a period of consultation has been completed. This report provides feedback from the consultation on draft PSPOs for both Farnborough and Aldershot town centres.

We are therefore seeking Member approval of the PSPO orders

If approved the PSPO will be subject to ratification by the Police and PCC, then a six week period to allow for appeals. At this point the PSPO's will become active on the nominated date.

1 BACKGROUND

- 1.1. The Anti-Social Behaviour, Crime and Policing Act 2014 (the Act) introduced simpler, more effective powers to tackle anti-social behaviour that provides better protection for victims and communities.
- 1.2. This includes the introduction of Public Spaces Protection Orders (PSPOs) to control individuals or groups committing anti-social behaviour in a public space.
- 1.3. The proposed PSPOs, one for Farnborough and the second for Aldershot town centres, include restrictions to control a wider range of anti-social behaviour and are in response to the problems we are currently experiencing. The PSPOs will supersede and existing orders including the DPPO covering the restricted areas.
- 1.4. There are no other Orders in place affected by these changes.

2. PSPOs

- 2.1 Government guidance on the procedures has been followed.
- 2.2 This included ensuring that the behaviour being restricted passed 'the test' as outlined below:

A PSPO can be made by the council if they are satisfied on reasonable grounds that the activities carried out or likely to be carried out, in a public space:

- have had, or are likely to have, a detrimental effect on the quality of life of those in the locality
- is, or is likely to be persistent or continuing in nature
- is, or is likely to be, unreasonable: and
- justifies the restrictions imposed.

- 2.3 We have worked closely with the police to ensure that the controls and areas covered are necessary and proportionate.

- 2.4 The restrictions proposed cover:

- Drinking in a Public Place
- Use of Psychoactive Substances in a Public Place
- Urinating and Defecating in a Public Place
- Loitering in a Public Place
- Loitering with intent to beg in a Public Place

Public Place under section 74(1) of the Act means any place to which the public has access, on payment or otherwise, as of right or by virtue of express or implied permission.

- 2.5 The PSPOs for both Aldershot and Farnborough are attached.
- 2.6 The Police are content as is the PCC from whom we await an official reply. Hampshire County Council as the Highways Authority have been consulted but no reply received.
- 2.7 Public consultation was completed between 27th February and 27th March as advised by Cabinet.
- 2.8 225 people completed the consultation within the time period. The majority of respondents identified themselves as shoppers and patrons of restaurants, cinemas/Theatre in the Town Centre.
- 2.9 Support for the conditions proposed was as follows:
- Control drinking of alcohol 97.3%
 - Control taking of NPSs 97.3%
 - Control of urinating and defecating 98.2%
 - Control of loitering causing nuisance 94.9%
 - Control of loitering with intent to beg 90.4%
- 2.10 Where concerns were raised in relation to the control of drinking alcohol, the main theme of the comments alluded to the fact that drinking in public is not in itself an offence.
- 2.10 There were 15 comments made regarding the control of urinating and defecating in public spaces. There included:
- Not enough accessible public toilet
- 2.11 Comments received in relation to loitering and causing nuisance totalled 10 and were all concerned with the definition of loitering.
- 2.12 19 comments relating to loitering with the intent to beg were received as follows:
- Issues of fining beggars
 - Begging is not always a problem
- 2.13 In conclusion, the mandatory consultation has been completed, the consultation was advertised and distributed widely and received very strong support for the measures with respondents being from a good cross section of our community.

- 2.14 There is a requirement to publicise the PSPOs in accordance with regulations published by the Secretary of State. There is no duty to advertise in local newspapers. We are therefore planning to publicise the PSPOs through the Council website.
- 2.10 The Council will be required to erect, on or adjacent to the land in relation to which the PSPOs have been made, such notice(or notices) sufficient to draw the attention of any member of the public using the land to:
- The fact that the PSPO has been made and
 - The effect of the Order
- 2.11 Any challenge to the PSPO must be made in the High Court, by an interested person, within six weeks of it being made. If a challenge is made, the High Court can suspend the PSPO pending the verdict in part, or in totality. The High Court has the ability to uphold the PSPO, quash or vary it. This does not preclude others (such as national bodies) from seeking Judicial Review.

4. THE FUTURE

- 4.1 The maximum duration of a PSPO is three years. It is recommended that the PSPOs be in place for this period subject to any challenge.
- 4.2 There is provision that allows councils to extend PSPOs by up to a further three years if they consider that it is necessary to prevent the original behaviour from occurring or recurring.
- 4.3 If new issues arise within the area where a PSPO is in force we may vary the terms of the Order at any time providing that we follow the procedures as set out in statutory guidance.
- 4.4 It is an offence for a person, without reasonable excuse to:
- Do anything that is prohibited by a PSPO or
 - Fail to comply with a requirement imposed under a PSPO
- 4.5 Breaches may result in the service of a Fixed Penalty Notice (FPN); failure to pay the FPN may result in prosecution.
- 4.6 It is proposed that officers authorised to enforce these restrictions will include both police and council officers, and it is likely that we will be required to work closely with the police to help to ensure appropriate controls.
- 4.7 Council Officers identified to enforce these orders will need to have delegated authority from the Chief Executive Officer at Rushmoor Borough Council.

5. IMPLICATIONS

Legal Implications

- 5.1 PSPOs are subject to challenge through the High Court or Judicial Review and this may have both financial and reputational implications for the Borough.
- 5.2 The powers will only be used when the restrictions imposed by the order are breached.
- 5.3 In addition, the use of FPNs may result in an increased burden on our Legal services where any FPN remains unpaid. In the event that it is assumed an inability to pay a fine exists individuals can be served with a summons to appear before a court. Obviously, this will have financial implications for Legal Services in the preparation of Court papers.
- 5.4 Individuals who refuse to comply with the restrictions of the order may need to be made subject of a Civil Injunction, which would also require resourcing. The Council will continue with measures already in place to support and assist vulnerable individuals.

Financial and Resource Implications

- 5.5 Any costs associated with this work will be identified and set aside, recognising that this is a key priority for the council. The costs of providing signage has been established and appropriate funds identified in the Community Safety budget for Rushmoor Borough Council.

Equalities Impact Implications

- 5.6 Careful consideration must be given to ensure that vulnerable groups and individuals are not targeted unfairly as a result of the introduction of PSPOs.

6. CONCLUSIONS AND RECOMMENDATIONS

- 6.1 Current data evidences that Rushmoor Borough Council is not experiencing the same problems that led to the introduction of the DPPOs, it is however, important that we respond to current and ongoing problems in our town Centres. These issues are reflected in the restrictions imposed under the PSPOs.
- 6.2 The findings of the PSPO Consultation have been presented at Borough Services who support the introduction of PSPOs in both Farnborough and Aldershot Town Centres.
- 6.3 We are therefore seeking Member approval for the PSPOs as detailed.

- 6.4 At the point of approval, the PSPOs will be subject to ratification by the Police and PCC. The Council will publicise the order on the RBC website with immediate effect and detailing a enforcement\ date of Tuesday July 13th 2017. Following publication, interested people have a six week period in which to appeal the order (through the High Court).

QAMER YASIN
HEAD OF ENVIRONMENTAL HEALTH AND HOUSING

PETER AMIES
HEAD OF COMMUNITY AND ENVIRONMENTAL SERVICES

Appendices:

Appendix 1: PSPO- Aldershot

Appendix 2: PSPO – Farnborough

BACKGROUND DOCUMENTS:

Anti-Social Behaviour, Crime and Policing Act 2014- Cabinet report EHH 1417

Anti-Social Behaviour, Crime and Policing Act 2014

Anti-Social Behaviour, Crime and Policing Act 2014: Reform of anti-social behaviour powers. Statutory Guidance for frontline professionals (July 2014)

Anti-Social Behaviour, Crime and Policing Act 2014(Publication of PSPOs Regulations 2014)

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Moray Henderson moray.henderson@communitysafetynh.org Anti-Social Behaviour Officer

DRAFTRUSHMOOR BOROUGH COUNCILTHE ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014PUBLIC SPACES PROTECTION ORDER (ALDERSHOT) 2017

This Order may be cited as the **Rushmoor Borough Council Public Spaces Protection Order (Aldershot) 2017**.

Rushmoor Borough Council (“the Council”) in exercise of its powers under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 (“the Act”) and under all other enabling powers, hereby makes the following Order.

1. This Order shall come into operation on ----- 2017 and shall have effect for 3 years thereafter unless extended by further orders under the Council’s statutory powers.
2. The Order relates to all public places in that part of Aldershot shown edged red on the attached plan (“the Restricted Area”).
3. The Council is satisfied that the conditions set out in Section 59(2) of the Act have been met. Namely that anti-social behaviour and criminal activities have been carried out within the Exclusion Zone through the use of intoxicating substances and begging. These activities have a detrimental effect on the quality of life of those in the locality, and it is likely that these activities will be carried out within that area and have such an effect.
4. The Council is also satisfied that the conditions set out in Section 59(3) of the Act have been met. Namely, that the effect or likely effect of the activities is, or is likely to be, of a persistent or continuing nature and that these activities are unreasonable and justify the restrictions imposed by this Order and that it is in all the circumstances expedient to make this Order for the purpose of reducing crime and/or anti-social behaviour in a public place.

BY THIS ORDER

Prohibitions

The activities described below are hereby prohibited:

1. Persons shall not within the Restricted Area
 - a. continue to drink alcohol: when asked to stop by an authorised person or
 - b. fail to surrender any alcohol in their possession when asked to do so by an authorised person.
2. Persons shall not within the Restricted Area:
 - a. continue to ingest, inhale, inject, smoke or otherwise use psychoactive substances when asked by an authorised person to stop or
 - b. fail to surrender any psychoactive substance in their possession, when asked to do so by an authorised person.
 - Psychoactive Substance is given the following definition (which includes Drugs and what are commonly referred to as ‘legal highs’): Substances with the capacity to stimulate or depress the central nervous system.
 - Exemptions shall apply in cases where the substances are used for a valid and demonstrable medicinal use, are cigarettes (tobacco) or vaporisers or are food stuffs regulated by food health and safety legislation.

- Person or persons within the Restricted Area who breach this prohibition shall surrender psychoactive substances in his/her possession to an authorised person.
- An authorised person could be a Police Constable, Police Community Support Officer, Council Officer or any other person authorised by the Council.

3. Persons within the restricted area will not loiter, behaving in such a manner as to cause harassment, alarm or distress to another person

4. Persons within the restricted area will not sit or loiter in a public space with the intention of or actively begging.

5. Persons within the restricted area shall not urinate or defecate in a street or public open space

Fixed Penalty Notice and Offences

1. It is an offence for a person without reasonable excuse to engage in any activity prohibited by this Order.

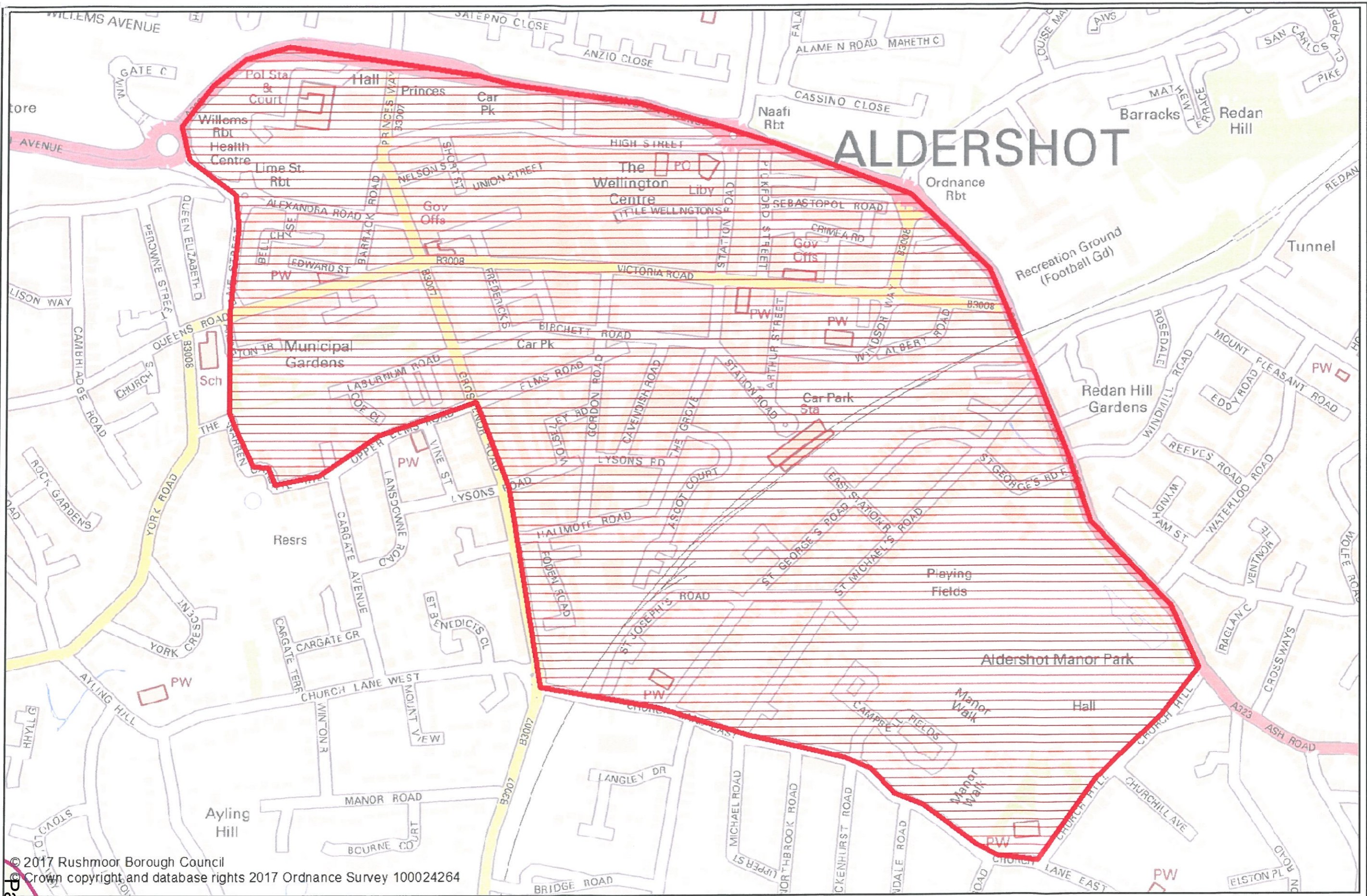
2. In accordance with section 63 of the Act, a person found to be in breach of this Order by consuming alcohol or by refusing to surrender alcohol to an authorised person is liable on summary conviction to a fine not exceeding level 2 on the standard scale which is currently £500

3. In accordance with section 67 of the Act, a person found to be in breach of this Order other than by consuming alcohol or by refusing to surrender alcohol to an authorised person is liable on summary conviction to a fine not exceeding level 3 on the standard scale which is currently £1000.

4. An authorised person may issue a Fixed Penalty Notice to anyone he or she believes has committed an offence. The amount of the fixed penalty shall be £100. The penalty can be reduced by 50% if paid within **14 days otherwise the full penalty will be due**. If you pay the Penalty within **29 days** you will not be prosecuted.

THE COMMON SEAL of }
 RUSHMOOR BOROUGH COUNCIL }
 Was hereunto affixed this ---day of ----}
 In the presence of: }

Solicitor to the Council



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Public Spaces Protection Order: Aldershot

DRAFTRUSHMOOR BOROUGH COUNCILTHE ANTI-SOCIAL BEHAVIOUR, CRIME AND POLICING ACT 2014PUBLIC SPACES PROTECTION ORDER (FARNBOROUGH) 2017

This Order may be cited as the **Rushmoor Borough Council Public Spaces Protection Order (Farnborough) 2017**.

Rushmoor Borough Council (“the Council”) in exercise of its powers under section 59 of the Anti-Social Behaviour, Crime and Policing Act 2014 (“the Act”) and under all other enabling powers, hereby makes the following Order.

1. This Order shall come into operation on ----- 2017 and shall have effect for 3 years thereafter unless extended by further orders under the Council’s statutory powers.
2. The Order relates to all public places in that part of Farnborough shown edged red on the attached plan (“the Restricted Area”).
3. The Council is satisfied that the conditions set out in Section 59(2) of the Act have been met. Namely that anti-social behaviour and criminal activities have been carried out within the Exclusion Zone through the use of intoxicating substances and begging. These activities have a detrimental effect on the quality of life of those in the locality, and it is likely that these activities will be carried out within that area and have such an effect.
4. The Council is also satisfied that the conditions set out in Section 59(3) of the Act have been met. Namely, that the effect or likely effect of the activities is, or is likely to be, of a persistent or continuing nature and that these activities are unreasonable and justify the restrictions imposed by this Order and that it is in all the circumstances expedient to make this Order for the purpose of reducing crime and/or anti-social behaviour in a public place.

BY THIS ORDER

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 - b. fail to surrender any psychoactive substance in their possession, when asked to do so by an authorised person.
 - Psychoactive Substance is given the following definition (which includes Drugs and what are commonly referred to as ‘legal highs’): Substances with the capacity to stimulate or depress the central nervous system.
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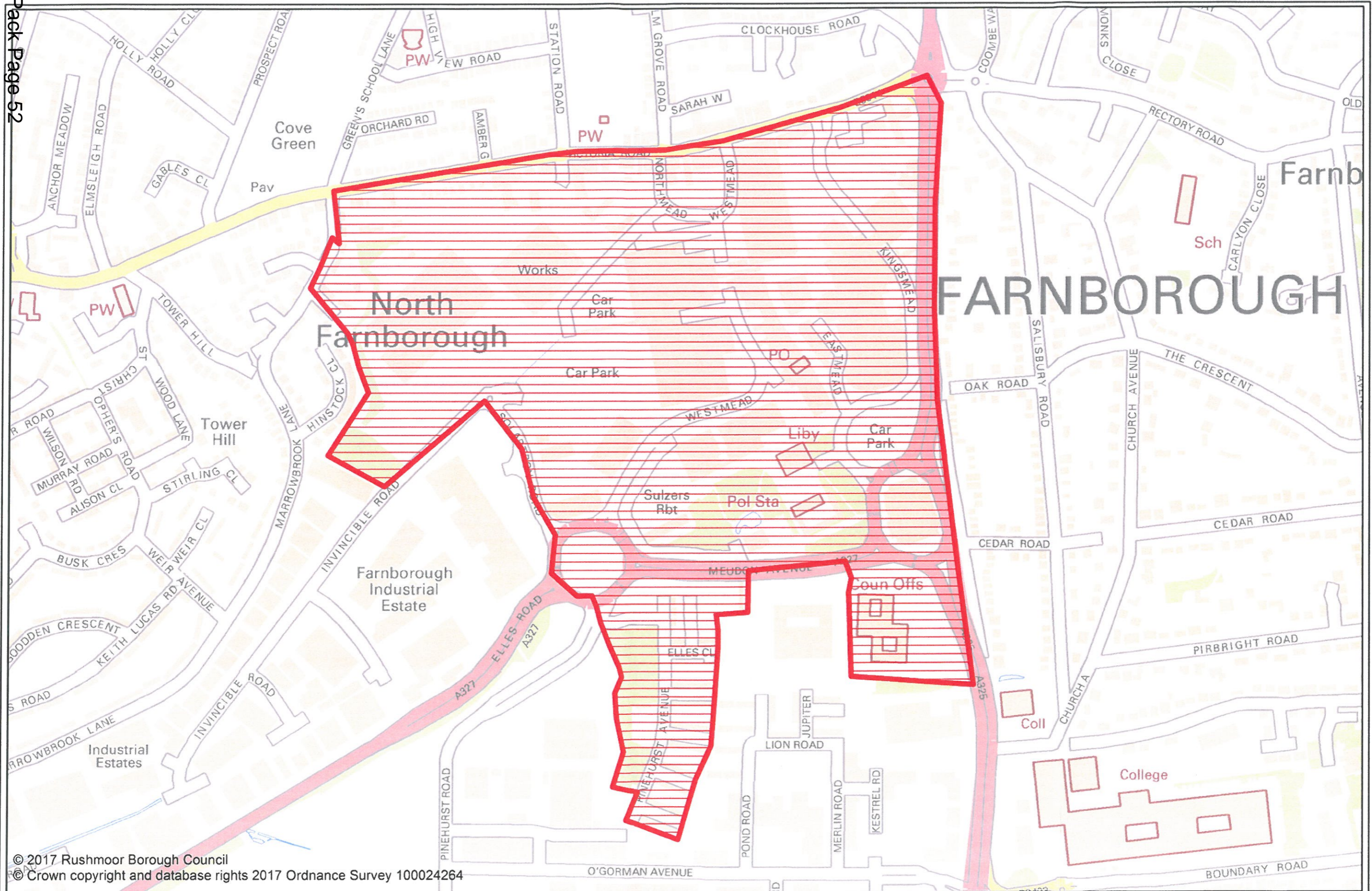
2. In accordance with section 63 of the Act, a person found to be in breach of this Order by consuming alcohol or by refusing to surrender alcohol to an authorised person is liable on summary conviction to a fine not exceeding level 2 on the standard scale which is currently £500.

3. In accordance with section 67 of the Act, a person found to be in breach of this Order other than by consuming alcohol or by refusing to surrender alcohol to an authorised person is liable on summary conviction to a fine not exceeding level 3 on the standard scale which is currently £1000.

4. An authorised person may issue a Fixed Penalty Notice to anyone he or she believes has committed an offence. The amount of the fixed penalty shall be £100. The penalty can be reduced by 50% if paid within **14 days otherwise the full penalty will be due**. If you pay the Penalty within **29 days** you will not be prosecuted.

THE COMMON SEAL of }
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 Was hereunto affixed this ---day of -----}
 In the presence of: }

Solicitor to the Council



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Public Spaces Protection Order: Farnborough

AGENDA ITEM No. 6

CABINET

HEAD OF PLANNING

2 MAY 2017

REPORT NO. PLN1708

KEY DECISION? YES

ARTICLE 4 DIRECTION FOR EMPLOYMENT LAND

SUMMARY AND RECOMMENDATIONS:

Cabinet previously approved the making of a non-immediate Article 4 direction to withdraw permitted development rights related to the change of use of offices, light-industrial units, and storage or distribution units to residential use within Strategic Employment Sites and Locally Important Employment Sites identified within the draft submission *Rushmoor Local Plan*. This report seeks Cabinet's approval to 'confirm' the Article 4 Direction.

It is recommended that Cabinet approves the confirming of the Article 4 Direction under the *Town and Country Planning (General Permitted Development) (England) Order 2015* (as amended). Once confirmed, the Direction can come into force and will enable the Council to protect Rushmoor's key employment sites by requiring developers to make a planning application for the conversion of offices, light-industrial units, and storage or distribution units to residential use. Permitted development rights remove the requirement to obtain such consent from local planning authorities.

1. INTRODUCTION

1.1 Cabinet approved the making of a non-immediate Article 4 direction in November 2016 to withdraw permitted development rights related to the change of use of offices, light-industrial units, and storage or distribution units to residential use within Strategic Employment Sites and Locally Important Employment Sites identified within the draft submission *Rushmoor Local Plan*. This report seeks Cabinet's approval to 'confirm' the Article 4 Direction.

2. BACKGROUND

2.1 In 2013, the Government introduced new 'permitted development rights' which allow an office building to change its use to a dwelling house without the need for planning permission. In 2016, it also introduced temporary permitted development rights which will allow light-industrial buildings less than 500 square metres to change use to housing without the need for

planning permission; these rights will come into effect from October 2017 and last for a period of three years. These followed the introduction of similar rights in April 2015 which allow storage or distribution buildings less than 500 square metres to be converted to residential use without planning permission until April 2018.

- 2.2 Local planning authorities can remove permitted development rights by drafting and implementing an Article 4 direction. An Article 4 direction 'does not prevent the development to which it applies but instead requires that planning permission is first obtained from the local planning authority for that development'.
- 2.3 Cabinet approved the making of a non-immediate Article 4 direction to protect Rushmoor's key employment sites in November 2016. The arguments for introducing an Article 4 direction are summarised within the accompanying Cabinet Report (No. PLN 1637), which is available at <http://www.rushmoor.gov.uk/article/9014/Cabinet-meeting---15-November-2016>. This report also contains further background detail on the permitted development rights and Article 4 directions.
- 2.4 Following Cabinet approval, the Solicitor to the Council, in consultation with the Head of Planning, made a non-immediate Article 4 direction on 10th February 2017 to withdraw the permitted development rights within the Strategic Employment Sites and the Locally Important Employment Sites identified within the draft *Rushmoor Local Plan*, with the exception of Cody Technology Park and the Royal Pavilion. Residential development would not be permitted at these two sites because they are located within 400 metres of the Thames Basin Heaths Special Protection Area. It should also be noted that since Cabinet approval, Hawley Lane South has been designated as a Locally Important Employment Site within the draft *Local Plan*. This site has not been included within the Direction, as it is exempt from permitted development under the current regulations.

3. PROPOSAL: TO CONFIRM THE ARTICLE 4 DIRECTION

- 3.1 Non-immediate Article 4 directions remove permitted development rights only after a period of public consultation. The Council held a consultation and invited views on its Article 4 Direction between 10th February and 24th March 2017. As prescribed within the Article 4 regulations, notice of the Direction was made by site display at each of the affected employment sites and by local advertisement (within Issue 233 of the Hampshire Independent, published on 10th February 2017), and the Secretary of State for Communities and Local Government and Hampshire County Council were informed. Because it was deemed impracticable to inform individual owners and occupiers at each of the sites, the Council also issued a press release.
- 3.2 One representation was received within the consultation period, and, as of writing, no others have been received since the consultation closed. The

representation supports the implementation of the Direction and is quoted in full below:

We agree that it is important that Aldershot and Farnborough retain a strong portfolio of employment sites to support and encourage economic growth and that the Article 4 direction will help retain and attract businesses, jobs and investment into the area.

The proposed sites include a diverse mix of industries and scale from single traders, through SME's to large multinationals. Removing "permitted development" on these sites does not preclude the possibility of changing use from light industrial to residential in the future, but it does provide an additional layer of protection to ensure that residential developments do not substantially outweigh the employment opportunities in the local area (which appears to be the current trend in developments in and around Ash & Tongham villages).

- 3.3 The Secretary of State was notified about the Direction in advance of its making on 7th February 2017. The Department for Communities and Local Government subsequently requested further evidence from the Council to support and justify the Direction on 16th February 2017; officers provided this information on 23rd February 2017. No further comments from the Secretary of State or the Department for Communities and Local Government have been received as of writing.
- 3.4 An Article 4 direction cannot come into force unless it is 'confirmed' by a local planning authority. Officers have reviewed the representation and do not consider that there have been any changes in planning policy at a national or local level since the making of the Direction which would have an impact on the decision of whether to confirm it. Cabinet is therefore asked to approve the confirming of the Direction. If confirmed, it will come into force on 19th February 2018.

Alternative Options

- 3.5 The alternative option is to not confirm the Article 4 Direction and to allow the permitted development rights to be exercised without restraint across Rushmoor. As summarised within Cabinet Report PLN 1637, such an approach risks undermining the strategic objectives of the new *Local Plan* and could compromise the Council's ability to retain the Borough's key employment sites in an employment designation in the long term.

4. IMPLICATIONS

Compensation Claims

- 4.1 The most significant risk associated with preparing an Article 4 direction is the potential for developers to make claims for compensation from a local

authority. As noted within Cabinet Report PLN 1637, non-immediate Article 4 directions (such as the one made by the Council) are the most risk averse and significantly reduce the threat of compensation claims. Indeed, compensation regulations state that local authorities are not liable to pay compensation if they withdraw permitted development rights in the manner prescribed within the Article 4 regulations and if notice of the withdrawal is published at least twelve months before it takes effect. It is for this reason that the Direction, if confirmed, will come into force on 19th February 2018.

Permitted Development Applications during the Notification Period

- 4.2 As developers will be able to exercise the permitted development rights during the period between the confirming of the Direction and its taking effect, there could be a rush of change-of-use applications before the rights are withdrawn, thereby reducing the supply of offices, light-industrial units, and storage or distribution units. It is not possible to safeguard against this risk. Whilst such a rush has not occurred since notice of the Direction was made, it should be noted that the Council has received a pre-application enquiry from a developer who wishes to convert a building to residential use on one of the affected sites.

Intervention by the Secretary of State

- 4.3 The Secretary of State has the power to make a direction which modifies or cancels an Article 4 direction made by a local planning authority at any time before or after it is confirmed. Officers have produced a case paper (attached as an appendix to Cabinet Report PLN 1637) which outlines the Council's arguments for introducing an Article 4 direction within the Borough; an updated version of this paper was forwarded to the Department for Communities and Local Government when it requested further evidence and information in support of making the Direction. The case for introducing an Article 4 direction must be evidence based and not geographically targeted, and officers consider the justification for an Article 4 direction within the Borough to be strong. Given that the Direction would be specifically targeted and apply only to the Borough's Strategic and Locally Important Employment Sites, the risk of intervention by the Secretary of State is considered to be low.

Legal Implications

- 4.4 There is no statutory appeal against the making or confirming of an Article 4 direction. The Council's Direction would therefore be open to challenge by way of a judicial review. However, if the Council follows the prescribed process for confirming the Direction (as it did when it made the Direction), and given that it would consider any change-of-use applications on a case-by-case basis, a successful judicial review is considered unlikely.
- 4.5 As noted, change-of-use applications may come forward during the period between the confirming of the Direction and its coming into force. Such applications would need to be determined in accordance with the prior

approval requirements. Government policy states that Article 4 directions 'cannot prevent development which has commenced or which has already been carried out'. In addition, a direction does not apply if prior approval is granted before it comes into force or where a development is completed within three years of the date of prior approval.

Financial and Resource Implications

- 4.6 The principal costs of confirming an Article 4 direction include officers' time, printing notices for site display and advertising a notice within a local newspaper. The costs of confirming the Direction can be absorbed by existing budgets.
- 4.7 It should be noted that no planning application fee is payable where a planning application is required for a change of use which would otherwise have fallen under permitted development.

Equalities Impact Implications

- 4.8 There are no equalities impact implications associated with the proposal.

5. CONCLUSIONS

- 5.1 Whilst the Council acknowledges the potential benefits of the permitted development rights in terms of increasing housing provision, the potential loss of employment sites is a key concern with regard to its ability to deliver the employment and economic policies within the draft *Local Plan*. In removing the obligation to acquire formal planning consent from local planning authorities, permitted development rights remove control over development from councils and undermine objectives and policies with regard to future development.
- 5.2 It is vital that Rushmoor has a strong portfolio of employment sites to attract investment into the area and to maintain an edge over competing locations. The implementing of the Article 4 Direction is considered crucial to ensuring that the Borough is able to retain and attract businesses and jobs. Once in force, the Direction will require developers who wish to convert offices, light-industrial units, and storage or distribution units to residential use on the Borough's Strategic and Locally Important Employment Sites which are covered by the Direction to submit a planning application, which would be considered on its merits. A direction cannot come into force, however, unless it is confirmed by a local planning authority.
- 5.3 It is recommended that Cabinet delegates authority to the Solicitor to the Council, in consultation with the Head of Planning, to take all necessary steps in confirming, serving and publicising the previously made Article 4 Direction to remove the Class O (office to residential), Class P (storage or distribution centre to residential) and Class PA (light industrial to residential) permitted development rights granted by Part 3 of Schedule 2

of the *Town and Country Planning (General Permitted Development) (England) Order 2015* (as amended) within Rushmoor's Strategic Employment Sites and Locally Important Employment Sites, excluding Cody Technology Park, Hawley Lane South and the Royal Pavilion.

BACKGROUND DOCUMENTS:

Cabinet Report, 'Article 4 Direction for Employment Land' (Report No. PLN 1637, 15th November 2016, Item 7).

Rushmoor Borough Council (2017) *Rushmoor Local Plan* (Draft Submission).

Town and Country Planning (Compensation) (England) (Amendment) Regulations 2016.

Town and Country Planning (Compensation) (England) Regulations 2015.

Town and Country Planning (General Permitted Development) (England) (Amendment) Order 2016.

Town and Country Planning (General Permitted Development) (England) Order 2015.

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Agenda Item 8

By virtue of paragraph(s) 3 of Part 1 of Schedule 12A of the Local Government Act 1972.

Document is Restricted

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