

Environment and Communities Committee

Agenda

Date: Thursday, 9th September, 2021
Time: 10.30 am
Venue: The Capesthorpe Room - Town Hall, Macclesfield SK10 1EA

PLEASE NOTE – This meeting is open to the public and anyone attending this meeting will need to wear a face covering upon entering and leaving the venue. This may only be removed when seated.

The importance of undertaking a lateral flow test in advance of attending any committee meeting. Lateral Flow Testing: Towards the end of May, test kits were sent to all Members; the purpose being to ensure that Members had a ready supply of kits to facilitate self-testing prior to formal face to face meetings. Anyone attending is asked to undertake a lateral flow test on the day of any meeting before embarking upon the journey to the venue. Please note that it can take up to 30 minutes for the true result to show on a lateral flow test. If your test shows a positive result, then you must not attend the meeting, and must follow the advice which can be found here:
https://www.cheshireeast.gov.uk/council_and_democracy/council_information/coronavirus/testing-for-covid-19.aspx

The agenda is divided into 2 parts. Part 1 is taken in the presence of the public and press. Part 2 items will be considered in the absence of the public and press for the reasons indicated on the agenda and in the report.

It should be noted that Part 1 items of Cheshire East Council decision-making meetings are audio recorded and the recordings are uploaded to the Council's website.

PART 1 – MATTERS TO BE CONSIDERED WITH THE PUBLIC AND PRESS PRESENT

1. Apologies for Absence

To note any apologies for absence from Members.

Contact: Helen Davies
Tel: 01270 685705
E-Mail: helen.davies@cheshireeast.gov.uk

2. **Declarations of Interest**

To provide an opportunity for Members and Officers to declare any disclosable pecuniary and non-pecuniary interests in any item on the agenda.

3. **Minutes of Previous Meeting** (Pages 5 - 12)

To approve as a correct record the minutes of the previous meeting held on 07 July 2021.

4. **Public Speaking/Open Session**

In accordance with paragraph 2.24 of the Council's Committee Procedure Rules and Appendix on Public Speaking, set out in the [Constitution](#), a total period of 15 minutes is allocated for members of the public to put questions to the committee on any matter relating to this agenda. Each member of the public will be allowed up to two minutes each to speak, and the Chair will have discretion to vary this where they consider it appropriate.

Members of the public wishing to speak are required to provide notice of this at least three clear working days' in advance of the meeting.

5. **To Receive Petitions** (Pages 13 - 16)

The following petitions will be presented by Members and/or members of the public to the Committee at the meeting:

1) To allocate part of the field off Hassall Road adjacent to the cemetery for future expansion of the cemetery as was originally planned by the council.

Lead petitioner: Ann Nevitt.

6. **Potential Future Items for the Work Programme**

To consider proposals brought by Councillor Mike Benson that relate to the medium and long-term provision of cemetery places within the borough.

7. **GEN4 (Recovery of forward funded infrastructure costs) SPD** (Pages 17 - 68)

To approve the draft supplementary planning document for public consultation. This is guidance on the approach (mainly financial formulas) to securing S106 contributions for infrastructure. This enables the council to recoup investment it has made in, for example, a road and then development comes forward that is reliant on the road and could not have happened if the road was not already built.

8. **Houses of Multiple Occupation SPD** (Pages 69 - 134)

To consider the feedback received to the public consultation and adopt the supplementary planning document.

9. **Environmental Protection SPD** (Pages 135 - 204)

To approve the draft supplementary planning document for public consultation.

10. **Taxi Licensing Policy** (Pages 205 - 344)

To approve the draft Taxi Licensing Policy for public consultation.

11. **Work Programme** (Pages 345 - 348)

To consider the Work Programme and determine any required amendments.

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CHESHIRE EAST COUNCIL

Minutes of a meeting of the **Environment and Communities Committee** held on Wednesday, 7th July, 2021 at The Ballroom, Sandbach Town Hall, High Street, Sandbach, CW11 1AX

PRESENT

Councillor M Warren (Chair)
Councillor Q Abel (Vice-Chair)

Councillors M Benson, J Bratherton, J Buckley, L Crane, T Dean, A Farrall, P Groves, C Leach, J Nicholas, K Parkinson and A Critchley

OFFICERS IN ATTENDANCE

Paul Bayley- Director of Environment and Neighbourhood Services
Sarah Allwood- Senior Environmental Health Officer
Tom Evans- Neighbourhood Planning Manager
Laura Woodrow-Hirst- Anti-Social Behaviour and Cimmunity Enforcement Team Leader
Jo Wilcox- Head of Financial Management
James Thomas- Senior Planning & Highways Solicitor
Helen Davies- Democratic Services

1 APOLOGIES FOR ABSENCE

Apologies for absence were received from Councillors Les Gilbert (Councillor Kate Parkinson was substituting) and Councillor Jonathan Parry (Councillor Anthony Critchley was substituting).

2 DECLARATIONS OF INTEREST

There were no declarations of interest.

3 PUBLIC SPEAKING/OPEN SESSION

Alsager Town Councillor Sue Helliwell attended the meeting and asked a question in relation to agenda item 4, Waste and Recycling Services- Implications of the Environment Act.

Sue noted that electric waste vehicles were shown to be a cleaner and quieter alternative to traditional bin collection vehicles. She hoped that Cheshire East Council would one day have its own fleet of electric waste vehicles.

Sue asked if the Council would consider weekly collection for food, clothes, home textiles and small electrical appliances and batteries. She noted that the Council operated a bulky waste collection and charges for that service and questioned if it would consider operating without charge to residents to discourage instances of flytipping.

The Chair, Councillor Mick Warren, responded to these three points. He advised

that ANSA Environmental Services was working with the Council's Carbon Reduction Team to map carbon reduction for waste collection vehicles. Trials had shown that because of the distances involved on the collection routes, battery life is not sufficient enough yet to be able to roll this technology out at this time but there was an ambition for electric waste vehicles to become part of the fleet by 2025 once battery technology improved.

In the meantime the Council and partners were utilising smaller electric vehicles and would continue to convert the live fleet to become electric. The Council had researched greener alternatives for waste vehicles such as green hydrogen to deliver carbon savings from fleet with the initial hydrogen dual fuel vehicles coming on line later this month.

The implications of the Environment Bill were part of the report the Committee were considering today, and outlined potential changes that included weekly food waste collections. The Council will be awaiting the final requirements of the Bill to consider changes as well as opportunities to help reduce waste through reuse and recycling.

Finally the Chair advised there was no clear link to show that charging for bulky waste correlated with flytipping and was not something the Council was considering at present. The current charges help offset the cost to the service costs and the Cheshire East bulky waste collection helped to support St. Pauls Centre in Crewe, a third sector organisation who use furniture and electrical items collected for social benefit locally.

4 WASTE AND RECYCLING SERVICES- IMPLICATIONS OF THE ENVIRONMENT ACT

Paul Bayley introduced the item, he advised the Committee that the report provided an overview of the potential changes to waste and recycling services within the borough, as a result of the Environmental Bill currently progressing through Parliament.

Based on proposals included within a consultation undertaken by Government, there could be mandatory changes for all Local Authorities from 2023. If these changes were mandated there could be a significant cost to the Council, although, Government have advised that any new burdens would be funded centrally.

There was some debate by the Committee that included:

- Many Local Authorities had strongly objected to the changes given the already incurred expense in setting up current waste and recycling services;
- Waste management companies had objected to the proposals and fed into the consultation;
- The question of Extended Producer Responsibility fund being able to cover the cost of the changes;
- Single use rubbish;
- The possibility of skip days, particularly in rural areas, or for those who were vulnerable or did not drive; and
- The current battery life for electric vehicles was insufficient.

The Committee agreed that any consultation documentation should be in plain English and easy to access for all residents.

It was noted the issue of bulky waste had been raised during public speaking, And that some of the Household Waste and Recycling Centres had closed down. The question of the council being able to collect small items to be recycled from community venues on designated days was discussed, Paul Bayley advised community recycling would be an idea for consideration as part of the waste and recycling changes.

It was noted the Government Consultation was scheduled from April-July 2021, the question was raised as to when this would become available.

RESOLVED: That:

- a) authority be delegated to the Head of Environmental Services to consult on potential service changes, if required by requirements of the final form of Environment bill once it passes into legislation; and
- b) the results of the Government Consultation be shared with this Committee when available.

5 CONTAMINATED LAND STRATEGY

Paul Bayley introduced the item to the Committee, he advised the Committee that Cheshire East Council had adopted the current Contaminated Land Strategy in 2015, and following a full review and consultation exercise, this was an updated Strategy for approval. Sarah Allwood attended the meeting to address any questions.

The Committee agreed the Strategy was fit for purpose, but noted the some of the completion dates within the action plan were not until another 2 years, and questioned if this was an indication that the work was given due prioritisation and attention.

Sarah Allwood provided assurance that the work was receiving appropriate prioritisation. She advised that the work involved reviewing 4,550 sites and the forecast dates for completion reflected the scale of the work involved.

RESOLVED:

That the Environment and Communities Committee approve the Contaminated Land Strategy.

6 SUSTAINABLE DRAINAGE (SUDS) SPD

Paul Bayley introduced the item to the Committee, Tom Evans attended the meeting to address any questions.

The Committee described the document as being an excellent piece of work. There was some discussion on the application of the document and the ability to enforce it in relation to planning applications. Concerns were raised about the

amount of new developments being built across the borough and the increased incidents of flooding.

Tom addressed some of the points raised by the Committee, he advised that the document was produced in collaboration with experts on flooding and design in the Environmental Policy Team and the Lead Local Flood Authority (LLFA). The document was a development tool with lots of guidance about specific measures and a set of criteria.

The impacts of Climate Change meant that the environment was getting hotter and wetter with more intense weather. Sustainable Urban Drainage Systems (SuDS) slowed down water to hold it on land for longer, and released it more slowly into the wider drainage network.

Tom advised there were two opportunities for consultation over a minimum of four weeks. The Council were keen to hear feedback from developers as key stakeholders alongside residents.

The second draft of the Strategic Planning Document would be presented to the Strategic Planning Board in their consultation and advisory role on proposed planning policy.

RESOLVED: That:

- a) the draft SUDS Supplementary Planning Document (Appendix A) for four weeks of public consultation be approved;
- b) the associated Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report ("SEA") (Appendix B) be published; and
- c) the associated Equalities Impact Assessment Screening Report ("EQIA") (Appendix C) be published.

7 ENFORCEMENT POLICY- ANTI SOCIAL BEHAVIOUR AND WASTE MANAGEMENT

Paul Bayley introduced the item to the Committee, Laura Woodrow-Hirst, attended the meeting to address any questions raised.

The Committee raised three points addressed below:

1) Dog fouling- this was an issue across the borough, any issues now had to be reported by email or phone and there was concern other Members and Town and Parish Councils were not aware of that.

Answer: Currently patrols did visit the areas of the borough with the biggest dog fouling issues and advertising was being rolled out to promote how to report, this could be extended to include Ward Members to get direct messages to wards. All signage had the website details in relation to public space protection orders.

2) The retention time of the footage from body-worn cameras was 31 days, was this long enough if a person who was filmed wanted to access that data?

Answer: The 31 days retention time was the basic compliance time for data protection if no further action was needed. There was an expectation that complaints would be received within the 31 days and from the point of complaint

that footage would be isolated. There could be a review of this retention period if complaints were being made outside of 31 days.

3) Was there a definition of Anti-Social Behaviour?

Answer: There was no firm definition, broadly it was any type of harassment, alarm or distress or having a detrimental impact on the community, although the policy includes a non-exhaustive list.

RESOLVED:

That the proposed policies for Community Enforcement, Anti-Social Behaviour Enforcement, and Body Worn Camera as set out in appendices 1-3 be approved.

8 DELEGATION OF NEIGHBOURHOOD PLANNING DECISION

Paul Bayley introduced the item to the Committee, he advised that under the previous governance arrangements, this function would have been within the responsibilities of the Portfolio Holder. Following the transition to the Committee System of decision-making, it is recommended this is delegated for the reasons set out in the report.

The Committee accepted the recommendations as per the officers report.

RESOLVED:

That the following decisions, related to the neighbourhood plan process, be delegated to the Head of Planning in consultation with the Chair of the Environment and Communities Committee:

- 1) Decisions to designate a neighbourhood area
- 2) Decisions to designate a neighbourhood forum
- 3) Decisions to consider whether plan proposals meet the requirements of Schedule 4B, paragraph 6(2) of the Town and Country Planning Act 1990.
- 4) Decisions on Examiners Recommendations (including in regard to modification proposals)
- 5) Decisions on plan proposals (including in regard to modification plan proposals)
- 6) Decisions on proposals to correct errors or make minor non material amendments to made neighbourhood plans.

9 DELEGATION OF STREET NAMING AND NUMBERING

Paul Bayley introduced the item to the Committee, he advised, as with the previous agenda item, under the previous governance arrangements, this function would have been within the responsibilities of the Portfolio Holder. Given the new Committee System of decision-making, it was recommended that these decisions be delegated for the reasons set out in the report.

The Committee raised one concern that the input of the Ward Member could be diluted with the proposed approach especially if they were not present at the decision making. The Committee noted it was important that names and events of the area were taken into account. The Head of Planning and Chair of this Committee might have no local knowledge.

Paul gave reassurances to the Committee that under the previous governance arrangements, proposals would be consulted with both the Ward Member and the Town and Parish Council, via correspondence, then through to the portfolio holder this part of the process would not change.

RESOLVED:

That decisions for street naming and numbering be delegated to the Head of Planning in consultation with the Chair of the Environment Communities Committee and relevant Ward Councillors.

10 ENVIRONMENT AND COMMUNITIES BUDGET 2021/22

Jo Wilcox attended the meeting and introduced the report and addressed any questions raised by the Committee.

The Committee raised a couple of points:

- The Knutsford Leisure Centre was not showing within the report;
- Could consultation meetings in the north and south be scheduled to accommodate Members who work full time.

Paul Bayley advised that funding for Knutsford Leisure Centre was being held on the Capital addendum until the detailed business case was approved.

RESOLVED: That:

- a) the decision of the Finance Sub-Committee to allocate the approved capital and revenue budgets, related policy proposals and earmarked reserves to the Environment and Communities Committee, as set out in Appendix A;
- b) the MTFS timelines, as set out in paragraphs 5.9 – 5.12; and
- c) the supplementary estimates and virements as set out in Appendix B be noted

11 WORK PROGRAMME

The Committee considered its Work Programme. Paul Bayley advised the committee that this Work Programme was indicative from officers' perspectives and would be added to as business progressed.

The Committee had some debate that included:

- How Members could add items to the Work Programme;
- Some concern about the number of items for the September meeting; and
- That Chapter three of the Council's Constitution still related to Cabinet and Scrutiny system and needed to be addressed.

The Chair advised that he was meeting with the Head of Democratic Services and Governance and the Monitoring Officer next week to discuss the requirements of adding to the Work Programme in his capacity as a Chair of the Constitution Working Group.

Additionally, he asked that if any Members of the Committee had any requirements for the pre-brief meeting in September, to let him know directly.

RESOLVED:

That the Work Programme be received and noted.

The meeting commenced at 10.30 am and concluded at 12.13 pm

Councillor M Warren (Chair)

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Working for a brighter future together

Environment and Communities Committee

Date of Meeting:	9 September 2021
Report Title:	Petition – Sandbach Cemetery
Report of:	David Brown, Director of Governance and Compliance
Report Reference No:	To be provided by Democratic Services
Ward(s) Affected:	Sandbach

1. Executive Summary

- 1.1. To receive a petition which has been signed by over 5000 petitioners, which is within the remit of the Committee.

2. Recommendations

- 2.1 That the petition be received.
- 2.2 That the Committee responds to the petition either by noting it, or where it is considered more appropriate, calls for an officer report on the matter.

3. Reasons for Recommendations

- 3.1. In accordance with paragraph 4.29 to 4.32 of chapter 3 of the constitution, petitions signed by over 5000 petitioners may be accepted at the start of an meeting of a Committee.

4. Other Options Considered

- 4.1. This section is not applicable.

5. Background

- 5.1. In accordance paragraph 4.29 to 4.32 of Chapter 3 of the Constitution, petitions regarding matters affecting the area or the

functions of the Council may be accepted at the start of a meeting of a service committee.

5.2. Petitions will not be accepted that are considered by the Monitoring Officer to be:

- *inappropriate, frivolous, derogatory, offensive, vexatious or otherwise improper;*
- *related to a Council employment or staffing matter*
- *potentially defamatory; or*
- *substantially the same as any question submitted to a meeting of Council during the preceding 6 months*

This petition does not fall within the above categories, and therefore may be accepted by the Committee.

5.3. The following petition has been received which has been signed by at least 5000 petitioners and now stands referred to the committee for consideration:

- *We, the undersigned, petition the council to Allocate part of the field off Hassall Road adjacent to the cemetery for future expansion of the cemetery as was originally planned by the council.*
- *It has recently been disclosed that Sandbach Cemetery has only enough spaces available for the next eight years and after that anyone wishing to be buried will be taken to Crewe or Macclesfield.*
- *It has always been in the plans that the field adjacent to the cemetery was earmarked as an extension to the Cemetery and this was changed without any consultation with the residents of the town.*
- *We are trying to establish local opinion and therefore have set up this petition to get the feeling of the townspeople as to whether the decision that was taken by the Council was in the interest of the town and if there is a strong enough feeling to get the decision reversed.*
- *We are not asking for the removal of the children's play area but the now defunct football pitch be used for its original intended purpose of a cemetery extension.*

5.4. The petition organiser will be permitted to speak at the committee for 3 minutes to outline the background to the petition.

5.5. The Committee can choose to:

- note the petition,
- Request that an officer report on the matter be submitted to the committee at a later date.

- 5.6. If the committee decides the petition is of significant importance to the whole Borough the committee may decide the petition should be debated at Full Council. The Committee is, however, recommended to call for an officer report to be brought to a future meeting.
- 5.7. The petition must be considered at Full Council if the committee recommend any action which may amend the budgetary or policy framework of the Council's Constitution Chapter 2, part 3, paragraph 1.7.

6. Implications

6.1 Legal

- 6.1.1. There are no direct legal implications, however there may be as a consequence of any further action taken.

6.2 Finance

- 6.2.1 There are no direct financial implications, however there may be as a consequence of any further action taken.

6.3 Policy

- 6.3.1 There are no direct policy implications, however there may be as a consequence of any further action taken.

6.4 Equality

- 6.4.1 **There are no direct equality implications, however there may be as a consequence of any further action taken.**

6.5 Human Resources

- 6.5.1 There are no direct human resource implications, however there may be as a consequence of any further action taken.

6.6 Risk Management

- 6.6.1 There are no direct risk management implications, however there may be as a consequence of any further action taken.

6.7 Rural Communities

- 6.7.1 There are no direct implications on rural communities, however there may be as a consequence of any further action taken.

6.8 Children and Young People/Cared for Children

- 6.8.1 There are no direct implications, however there may be as a consequence of any further action taken.

6.9 Public Health

6.9.1 There are no direct public health implications, however there may be as a consequence of any further action taken.

6.10 Climate Change

6.10.1 There are no direct climate change implications, however there may be as a consequence of any further action taken.

Access to Information	
Contact Officer:	Helen Davies – Democratic Services Officer helen.davies@cheshireeast.gov.uk 01270 685705
Appendices:	N/A
Background Papers:	Petition in relation to Sandbach Cemetery



Working for a brighter future together

Environment and Communities Committee Report

Date of Meeting:	09 September 2021
Report Title:	Draft Recovery of Forward Funded Infrastructure Supplementary Planning Document
Report of:	Paul Bayley, Director of Environment and Neighbourhood Services
Report Reference No:	EC/09/21-22
Ward(s) Affected:	All

1. Executive Summary

- 1.1.** This report seeks approval to carry out four weeks of public consultation on the draft Forward Funded Infrastructure Supplementary Planning Document ("SPD").
- 1.2.** Cheshire East Council's Corporate Plan sets out three aims. These are to be an open and enabling organisation, a Council that empowers and cares about people, and to create thriving and sustainable places. In striving to create thriving and sustainable places, a key objective is to improve the strategic infrastructure that supports sustainable and inclusive growth across the borough. As such, this SPD sets out guidance on policies contained in the Local Plan Strategy and SADPD that will support funding and delivery of strategic infrastructure.
- 1.3.** Forward Funded Infrastructure (FFI) is infrastructure that development relies upon, but has not yet contributed to funding. It is infrastructure that is built and funded, or part funded, by public money and where there is an expectation (and requirement) that future development, reliant on the infrastructure, will contribute to its funding through retrospective financial contributions.

2. Recommendations

- 2.1.** To approve the draft Forward Funded Infrastructure Supplementary Planning Document (Appendix A) for four weeks of public consultation.

- 2.2. To publish the associated Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report (“SEA”) (Appendix B).
- 2.3. To publish the associated Equalities Impact Assessment Screening Report (“EQIA”) (Appendix C).

3. Reasons for Recommendations

- 3.1. An SPD is not part of the statutory development plan. It is a recognised way of putting in place additional planning guidance and a material consideration in determining planning applications in the borough.
- 3.2. Providing clear guidance up front about policy expectations should enable applicants to better understand policy requirements. The SPD should assist applicants when making relevant planning applications, and the Council in determining them.
- 3.3. Further, Policy GEN4 of the SADPD commits the Council to provide further guidance on this issue, through the preparation of an SPD.

4. Other Options Considered

- 4.1. The Council could choose not to prepare an SPD on forward funded infrastructure. Any relevant planning application would continue to be assessed against existing planning policies. However, this would not allow the Council to provide additional practical guidance on this matter or give clarity to the approach that should be employed by all parties in a consistent way that gives certainty to applicants and decision makers.

5. Background

- 5.1. The preparation of an SPD involves two stages of public consultation. This first consultation stage will be followed by another opportunity to comment on a final draft version of the SPD. The final draft of the SPD will be accompanied by a consultation statement setting out the feedback from stage one, and how the document has been altered in response to that feedback. Having also considered comments made at stage two, the SPD may then be considered for adoption by the Council.
- 5.2. Once adopted, the SPD will provide additional planning policy guidance on the implementation of Local Plan Strategy policies IN1 ‘Infrastructure’, IN2 ‘Developer Contributions’ and the Site Allocations and Development Policies Document (SADPD) Policy GEN4 ‘Forward Funded Infrastructure’. The SPD, once adopted, will be a material consideration in decision making and support the delivery of key policies in the Development Plan.
- 5.3. One of the key objectives of the Cheshire East Local Plan Strategy (CELPS) is for the Plan to support and ensure the provision of sufficient

appropriate infrastructure to support and enable economic development and underpin a jobs-led growth strategy.

- 5.4.** Policy IN1 'Infrastructure', of the CELPS sets out the approach the Council will take to infrastructure delivery in the borough and IN2 'Developer Contributions' provides guidance on the mechanisms that will be used to secure funding contributions from development.
- 5.5.** SADPD Policy GEN4 'Forward Funded Infrastructure' establishes the approach that the Council will take to 'claw back' public funding that it has invested up-front in infrastructure delivery, and upon which future development is reliant. For example, the Congleton Link Road has been funded through a variety of public and private investment, including the Council's own capital budget and will enable future residential and commercial development to take place. Given that future development will be reliant on the existence of the link road, contributions, through s106 agreements, will be required to make retrospective contributions to the infrastructure already in place and paid for through public funds.
- 5.6.** Policy GEN4 of the SADPD sets out the circumstances when the Council will seek to recover costs associated with forward funded infrastructure and this SPD provides further detailed guidance on:
 - 5.6.1.** The overall amount to be recovered
 - 5.6.2.** The individual sites, areas or types of development that will be required to contribute; and
 - 5.6.3.** The mechanism to be used for proportionately calculating the cost of contributions.
- 5.7.** This SPD provides greater clarity to developers, landowners, communities and decision makers on the approach the Council will take to securing contributions toward Forward Funded Infrastructure and provides additional guidance to applicants on how they should respond to the policy requirements in the LPS and SADPD. It also 'signposts' sources of information, including relevant documentation and Council services.
- 5.8.** The SPD identifies existing schemes that the council has already forward funded and is actively recovering costs for and sets out how the Medium Term Financial Strategy will be used to identify future schemes that will be subject to policy GEN4 and the recovery of investment.
- 5.9.** The draft SPD has been prepared by the Strategic Planning Team with key input from the Strategic Infrastructure Team.

- 5.10.** Subject to the approval of the recommendations in this report, the SPD will be consulted on in accordance with the Council's Statement of Community Involvement for a period of four weeks.
- 5.11.** The process for preparing an SPD is similar in many respects to that of a local plan document. However, they are not subject to independent examination by the Planning Inspectorate. There are several stages in their production:
 - 5.11.1.** Publish the initial draft SPD for four weeks public consultation;
 - 5.11.2.** Consider feedback received and make any changes necessary;
 - 5.11.3.** Publish the final draft SPD, along with a consultation statement setting out who has been consulted in its preparation, the main issues raised in feedback and how those issues been addressed in the final draft SPD;
 - 5.11.4.** Having considered representations, the SPD may then be adopted;
- 5.12.** Following adoption, the SPD must be published and made available along with an adoption statement in line with the 2012 Regulations. The adoption of the SPD may be challenged in the High Court by way of judicial review within three months of its adoption.
- 5.13.** Once adopted, the effectiveness of this SPD will be monitored as part of the Authority Monitoring Report, using information from planning applications and decisions. The outcome of this ongoing monitoring work will help inform future decisions about the SPD.

6. Consultation and Engagement

- 6.1.** It is proposed that the draft SPD will be subject to four weeks consultation. Following this, all comments will be considered, and changes made to the SPD, as appropriate, before a final version of the SPD is prepared for approval and further consultation.

7. Implications

7.1. Legal

- 6.1.1** The Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning (Local Development) (England) Regulations 2012 provide the statutory Framework governing the preparation and adoption of SPDs. These include the requirements in Section 19 of the 2004 Act and various requirements in the 2012 Regulations including in Regulations 11 to 16 that apply exclusively to producing SPDs.

- 6.1.2 Amongst other things, the 2012 regulations require that an SPD contain a reasoned justification of the policies within it and for it not to conflict with adopted development plan policies.
- 6.1.3 The National Planning Policy Framework and the associated Planning Practice Guidance also set out national policy about the circumstances in which SPDs should be prepared.
- 6.1.4 SPDs provide more detailed guidance on how adopted local plan policies should be applied. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. SPDs are capable of being a material consideration in planning decisions but are not part of the development plan.

Strategic Environmental Assessment

- 6.1.5 Strategic Environmental Assessment (SEA) involves evaluation of the environmental impacts of a plan or programme. The requirement for SEA is set out in the European Directive 2001/42/EC adopted into UK law as the “Environmental Assessment of Plans or Programmes Regulations 2004”.
- 6.1.6 The SEA Directive sets out a legal assessment process that must be followed. Often within the planning context, the SEA requirements are met by incorporating it within a Sustainability Appraisal (“SA”), which is a requirement for development plan documents.
- 6.1.7 There is no legal requirement for SPDs to be accompanied by SA, and this is reinforced in Planning Practice Guidance (PPG ref: 11-008- 20140306). However, “in exceptional circumstances” there may be a requirement for SPDs to undertake Strategic Environmental Assessment where it is felt they may have a likely significant effect on the environment that has not been assessed within the SEA/SA of the local plan.
- 6.1.8 A screening assessment has been undertaken (in Appendix B) which has determined that a SEA (or an appropriate assessment under the Habitats Regulations) is not required for the SPD.

7.2. Finance

- 7.2.1. There are no significant direct financial costs arising from consultation on the SPD. The costs of printing and the staff time in developing the SPD are covered from existing budgets of the planning service.
- 7.2.2. The SPD will help to improve the process through which financial contributions are secured and recovered towards infrastructure

investment. If not secured appropriately there could be a risk that monies do not come forward and infrastructure may get delayed.

7.3. Policy

- 7.3.1. The SPD will expand and amplify existing development plan policies related to the provision of funding for infrastructure. An SPD will give additional advice to applicants on how they can demonstrate they have complied with relevant policies of the development plan related to this matter.

7.4. Equality

- 7.4.1. The Council has a duty under Section 149 of the Equalities Act to have due regard to the need to: eliminate discrimination; advance equality of opportunity between persons who share a “relevant protected characteristic” and persons who do not share it; foster good relations between persons who share a “relevant protected characteristic” and persons who do not share it.
- 7.4.2. The draft Forward Funded Infrastructure SPD provides further guidance on the approach that is expected from developers on this matter. The SPD is consistent with the LPS which was itself the subject of an Equalities Impact Assessment (EqIA) as part of an integrated Sustainability Appraisal. A draft EqIA on the draft Forward Funded Infrastructure SPD has been prepared (appendix C) and will be published alongside the draft SPD for comment.

7.5. Human Resources

- 7.5.1. There are no direct implications for human resources.

7.6. Risk Management

- 7.6.1. The subject matter of the report does not give rise for any particular risk management measures because the process for the preparation of an SPD is governed by legislative provisions (as set out in the legal section of the report).

7.7. Rural Communities

- 7.7.1. The draft Forward Funded Infrastructure SPD seeks to provide further guidance on the financial mechanisms to secure infrastructure funding. Infrastructure has a wide definition and includes provision of assets and services that will benefit many rural communities, whether directly or indirectly.

7.8. Children and Young People/Cared for Children

- 7.8.1. The draft SPD does not have a direct implication for children and young people or cared for children, but will assist in securing growth that is properly serviced and inclusive for all.

7.9. Public Health

7.9.1. The draft SPD does not have any public health implications but may assist in securing contributions to other essential services that indirectly improve public health (the delivery of walking and cycling measures in a new road scheme for example).

7.10. Climate Change

7.10.1. The draft SPD does not have any direct climate change implications but may also indirectly help reduce the impacts of climate change through providing more sustainable travel options (for example).

Access to Information	
Contact Officer:	Tom Evans, Neighbourhood Planning Manager Tom.Evans@cheshireeast.gov.uk 01625 650023 / 07772629846
Appendices:	Appendix A: Draft Forward Funded Infrastructure Supplementary Planning Document Appendix B: SEA / HRA Screening Report Appendix C: Draft Equalities Impact Assessment Screening Report
Background Papers:	N/A

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1. Introduction

- 1.1 Infrastructure is essential to the sustainable and integrated delivery of growth and development. Toward delivering the aims of the Local Plan, Cheshire East Council has one of the largest infrastructure investment programmes outside of any metropolitan area. As well as securing investment in a range of physical, green and social infrastructure through existing budgets and contributions levied through the development process, the council has directly invested in over £400million in highways infrastructure across the borough to address existing needs and enable plan led development to come forward.
- 1.2 Some of this infrastructure has been invested in upfront by the council and brought forward ahead of the development that will ultimately rely on and pay for it. Some £70million has been invested in this way, which the council will seek to recover from developers. It is essential that this funding is recovered in order for the council to continue to invest in the future infrastructure needs of the borough. This Supplementary Planning Document (“SPD”) provides guidance on how the council will seek to recover this funding.
- 1.3 Whilst the current forward funding of infrastructure relates entirely to highways projects, this SPD provides guidance on the principles that the council will use to recover costs related to other forms of infrastructure, should the need for this arise. Where infrastructure projects are forward funded by the Council, they will be identified in the Medium-Term Financial Strategy. The Council will seek to recover investment in such projects, on a proportional basis, from develop that relies on the forward funded infrastructure.
- 1.4 SPDs add further detail to policies contained within the development plan and are used to provide guidance on specific sites or particular issues. SPDs do not form part of the adopted development plan but they are a material planning consideration in decision taking.
- 1.5 This SPD is designed to assist prospective developers and applicants by providing guidance on policy GEN4 of the Site Allocations and Development Policies Document (SADPD). By providing this information upfront Cheshire East Council aims to minimise uncertainty in the development process and ensure negotiating obligations is based on a clear and consistent approach.
- 1.6 Policy GEN4 of the SADPD sets out the circumstances when the Council will seek to recover costs associated with forward funded infrastructure and this SPD provides further detailed guidance on:
 - i) The overall amount to be recovered
 - ii) The individual sites, areas or types of development that will be required to contribute; and
 - iii) The mechanism to be used for proportionately calculating the cost of contributions.

Current Schemes

- 1.7 The current schemes that will be subject to Policy GEN4 and this guidance, are detailed in this SPD. The schemes listed are identified in the [Infrastructure Delivery Plan](#) and listed within the Local Plan Strategy (LPS). The LPS identifies the sites that are reliant on the specified infrastructure, and it is these sites that are will be subject to the requirements of Policy GEN4.
- 1.8 Currently these projects are all highways schemes however the application of policy GEN4 is not limited to highways schemes and may be applied to any infrastructure that is forward funded by the Council, or its partners.

Future Schemes

- 1.9 Over time the council will introduce new forwarded funded infrastructure, fully recover its investment in some schemes, and at any given point may have part recovered its investment in some. The status of each scheme will be reported annually via the councils [Medium Term Financial Strategy](#) which will also be the mechanism to identify future schemes that will be subject to policy GEN4 and this SPD.
- 1.10 The MTFS is an annual budget report and therefore affords the opportunity to provide a status update on existing schemes and introduce new schemes that may be subject to forward funding. Where schemes are subject to forward funding they will be specified as such in the MTFS. Therefore, the MTFS will be used to identify when future schemes are subject to policy GEN4 and the guidance set out in this SPD.
- 1.11 The requirements of policy GEN4 are additional to the Community Infrastructure Levy (“CIL”) payments towards the broader infrastructure payments of the area. CIL is a charge that, subject to viability considerations, can be applied to most types of development to fund additional infrastructure to support the development of an area. However, only two types of development in Cheshire East are liable to pay a CIL charge. These are housing (excluding affordable housing and apartments) and retail development at two specific locations (the Crewe Grand Junction and Handforth Dean retail parks). All other development has a zero CIL charge for economic viability reasons. Further details on CIL are available on the Councils [website here](#).

Status of the SPD

- 1.12 The SPD has been prepared in accordance with the Planning Act 2004 and the associated Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended).
- 1.13 Once finalised and published, this document should be read alongside requirements set out in the Macclesfield Borough Council Supplementary Planning Guidance on s106 (Planning) Agreements (2004); and Congleton Borough Local Development Framework Interim Policy Note - Public Open Space Provision for New Residential Development (2008).

2. Draft SPD Consultation

2.1 Consultation on the draft SPD will take place between Xth XXXX 2021 and Xth XXXX 2021. Comments must be received by the Council **no later than Xpm on Xth XXXX 2021.**

2.2 The consultation documents can be viewed online at:

<https://cheshireeast-consult.objective.co.uk/portal/planning/spd/>

and at:

public libraries in Cheshire East during opening hours (for information about opening hours see www.cheshireeast.gov.uk/libraries or telephone 0300 123 7739).

2.3 There is no legal requirement for Supplementary Planning Documents to be accompanied by Sustainability Appraisal, and this is reinforced in national planning guidance. However, “in exceptional circumstances” there may be a requirement for SPDs to be subject to Strategic Environmental Assessment (SEA) where it is considered likely that they may have a significant effect on the environment that has not already been assessed within the SEA of the Local Plan. A screening assessment has been undertaken and concludes that further such assessment is not necessary.

2.4 A screening exercise has been carried out to determine whether the document gives rise to the need for Appropriate Assessment (under the Habitats Regulations). This similarly concludes that further such assessment is not necessary. These screening assessments have been published (Appendix 1) and you can give your views on their findings too.

Submitting your views

2.5 The council’s online consultation portal is our preferred method for submitted responses, but you can also respond by e-mail or in writing using a comment form available online and at the locations listed above. You can respond:

- **Online:** Via the consultation portal at: <https://cheshireeast-consult.objective.co.uk/portal/planning/spd/BNG>
- **By e-mail:** To planningpolicy@cheshireeast.gov.uk
- **By post:** Strategic Planning (Westfields), C/O Municipal Buildings, Earle Street, Crewe CW1 2BJ

2.6 Please make sure that your comments reach us by **5pm on the XXXX 2021.** We are not able to accept anonymous comments and you must provide us with your name and contact details. Your personal data will be processed in line with our Spatial Planning Privacy Notice, which is available on the council's website (www.cheshireeast.gov.uk). Your name and comments will be published and made available to view on the council’s online consultation portal.

What happens after the consultation?

- 2.7 Following consultation, the council will carefully consider all representations received before deciding whether any amendments to the draft SPD are needed. The final version of the SPD alongside a Consultation Statement summarising the feedback and changes to the SPD will then be published for further comment before the SPD is proposed for adoption by the Council.
- 2.8 Once adopted the SPD will be formal planning guidance and will be considered as a material consideration when assessing planning applications in Cheshire East.

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3. Planning Policy Framework

Legislation Context

- 3.1 The statutory framework for planning obligations is set out in Section 106 of the Town and Country Planning Act 1990, as amended. Regulation 122 and 123 of the Community Infrastructure Levy (“CIL”) Regulations 2010 (as amended) and paragraph 54 to 57 of the National Planning Policy Framework (February 2019) set out the Government’s policy on planning obligations.
- 3.2 Section 106 of the Town and Country Planning Act 1990 provides the mechanism for planning obligations to be secured from development. Section 106 allows anyone interested in land in the area of the planning authority to enter into planning obligations. Section 106 (1) allows a planning obligation to:
- Restrict development or use of land in a specified way.
 - Require specified operations or activities to be carried on, in or over the land.
 - Require the land to be used in any specified date or dates periodically.
 - Require a sum or sums of money to be paid to the local planning authority on a specified date or dates.
- 3.3 Regulation 122 of the CIL Regulations defines that for a planning obligation to be taken into consideration in granting planning permission, it must meet the following three tests:
- a) Necessary to make the development acceptable in planning terms;
 - b) Directly related to the development; and
 - c) Fairly and reasonably related in scale and kind to the development.
- 3.4 Regulation 123 of the CIL Regulations previously placed limitations on the pooling of planning obligations. However, it was deleted by amendment regulations that came into force on 1 September 2019, and there are now no limits on pooling planning obligations.

National Policy Context

- 3.5 The national planning policy framework (“NPPF”) identifies that local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions or planning obligations. It highlights that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition (paragraph 54). The NPPF also restates the previous three statutory tests for planning obligations which are defined in CIL Regulations (paragraph 56).
- 3.6 The NPPF sets a presumption that up-to-date policies on planning obligations should apply and says that it is up to the applicant to demonstrate whether specific circumstances justify the need for a viability assessment at the application stage. The weight to be given to a viability assessment is a matter for the decision-maker, and such assessments should reflect the approach in national guidance and be made publicly available (paragraph 57).

- 3.7 The national planning practice guidance (“PPG”) provides further advice on planning obligations and viability¹. It sets out a clear expectation that viability assessments should be made publicly available other than in exceptional circumstances. It also states that an “existing use value plus” (“EUV+”) approach should be taken to land value assumptions in viability assessments, which is based in the existing use value of the land plus a suitable premium for the landowner.
- 3.8 The National Planning Policy Framework (NPPF) sets out the government’s economic, environmental and social planning policies for England and how these should be applied. The policies set out in the NPPF apply to the preparation of local and neighbourhood plans and it is a material consideration in planning decisions.
- 3.9 Paragraph 56 states that planning obligations must only be sought where they meet all of the tests as set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010. These tests are whether the obligation can be found to be:
- i) Necessary to make the development acceptable in planning terms;
 - ii) Directly related to the development; and
 - iii) Fairly and reasonably related in scale and kind to the development.
- 3.10 The requirement on a development site to make a financial contribution will need to meet the CIL tests and this remains a question of planning judgement that will be taken at the time of planning application and the negotiations into planning obligations.
- 3.11 Seeking a planning obligation to provide funding that has already been invested, is directly related to the scheme for which funds are being recovered against, although it is acknowledged that these funds will be used to replace funding diverted from other sources and therefore may be used to support delivery of other infrastructure and elsewhere in the borough (through the council’s capital programme as set out by the Medium Term Financial Strategy).
- 3.12 If the use of planning obligations is taken forward, the planning obligations sought must be fair and reasonable in scale and kind to the development. This RFFIC strategy enables the Council to apply a reasonable approach consistently and fairly by setting out relevant mechanisms to justify the contribution being sought in these specific circumstances.

Local planning policy

- 3.13 Relevant local planning policies are set out in the development plan for the area. The development plan for Cheshire East currently comprises of the Cheshire East Local Plan Strategy and ‘saved’ policies within previous local plans which remain

¹ Planning Practice Guidance, available at:
<https://www.gov.uk/government/collections/planning-practice-guidance>

in effect until such time as they are replaced by the emerging Site Allocations and Development Policies Document (“SADPD”). Neighbourhood Development Plans that have been successful at referendum and have subsequently been ‘made’ also form part of the statutory development plan.

- 3.14 Development plan policies of relevance to planning contributions are summarised below. Consideration will also be given to other relevant planning policies within each plan, where appropriate to the planning application proposals.

Cheshire East Local Plan Strategy

- 3.15 The Cheshire East Local Plan Strategy (CELPS), adopted in July 2017, is part one of the local plan sets out a strategic framework for the borough including, housing and employment requirements, core site allocations and key infrastructure. Within the CELPS there are two policies that support the application of a recovery strategy.

3.16 **Policy IN 1: Infrastructure:**

- 3.17 IN1 sets out that broad approach to provision of infrastructure in the borough and the mechanisms that may be used to fund and deliver infrastructure.

3.18 **Policy IN2: Developer Contributions**

- 3.19 IN2 states that developer contributions will be sought to make the necessary physical, social, public realm, economic and green infrastructure in place to deliver development.

Saved Policies

- 3.8 The following Local Plans contain ‘saved policies’ that remain part of the development plan. These policies will continue to be used in determining planning applications until they are replaced by the adoption of the SADPD. Therefore, this SPD does not relate to saved policies of the local plan.

Cheshire East Council Site Allocations and Development Policies Document

- 3.9 The SADPD will form the second part of the Local Plan. It will set non-strategic and detailed planning policies to guide planning decisions and allocate additional sites for development to assist in meeting the overall development requirements set out in the LPS.
- 3.10 A revised publication draft version of the SADPD was published for a period of public representations between the 26th October and the 23rd December 2020 and Cheshire East Council voted to submit the plan to the Secretary of State for examination in public on April 19th 2021.
- 3.11 Although the submission version of the SADPD is not yet adopted and must proceed through public examination and adoption, this draft Recovery of Infrastructure Funding SPD has been prepared to be consistent with emerging planning policies in the SADPD. Whilst this is not a legal or national planning

policy requirement, this approach provides opportunity for this SPD to complement and support the implementation of future development plan policies.

- 3.12 The SADPD sets out further detail on matters related to provision of infrastructure, building on policy IN1 and IN2 of the CELPS to establish the approach that will be taken to recovering infrastructure funding for projects that have been publicly funded and without which development would not have been acceptable in planning terms and/or could not have been achieved. This SPD relates to SADPD policies:
- 3.13 **GEN 4: Recovery of forward-funded infrastructure costs.** This policy seeks to recover costs associated with forward funded infrastructure from applicants that rely on this infrastructure to mitigate the effects of their development and make it acceptable in planning terms.

Local Transport Plan (2015 – 2031)

- 3.14 [The Local Transport Plan \(LTP\)](#) for Cheshire East is divided into two parts. The first part, the Local Transport Plan, sets out the long-term transport strategy for Cheshire East with a focus on the period 2019-24. The second part of the plan is comprised of a series of [Town Delivery Plans](#) (TDP).
- 3.15 The LTP and the TDPs support delivery of adopted council-based strategy and plans, as well as maximising the opportunity and ability of CEC to successfully negotiate with developers to secure infrastructure associated with emerging development, and infrastructure that is specific to each community in Cheshire East.
- 3.16 Where infrastructure set out in the LTP or TDPs is forward funded, the guidance and approach set out in this SPD will apply.

Neighbourhood Plans

- 3.17 There 36 made neighbourhood plans in Cheshire East. Many plans include locally specific requirements in regard to the natural environment and Biodiversity, including detailed habit map that identify biodiversity assets and wildlife corridors. These should be consulted and, where relevant, worked with in establishing an approach.
- 3.18 Relevant neighbourhood plan policies are mapped and available to view on the Councils GIS network. All neighbourhood plans can be [accessed here](#).

4. Planning Obligations

What are Planning Obligations?

- 4.1 The recovery of forward funded infrastructure will be secured through the application of planning obligations.
- 4.2 Planning obligations, also known as Section 106 Agreements (“s106 agreements”), are legally binding agreements entered into between a local authority and a developer. They provide the mechanism by which measures are secured to mitigate the impact of development on the local area.
- 4.3 Unless it is stated otherwise, planning obligations run with the land in perpetuity and may be enforced against the owners, mortgagees and their successors. Planning obligations form part of the title deeds of the property and only be secured through the following type of Deed:
- Section 106 agreements with mutual obligations between the Council and owners with interest in the application site;
 - Unilateral planning obligations, sometimes called unilateral undertakings signed solely by owners with interests in the application site which can impose no obligations on the local planning authority.
- 4.4 A planning obligation will be sought where a development would otherwise be unacceptable and the objections cannot be overcome by conditions. They will be negotiated on a site by site basis. They will typically address, but are not limited to, issues such as:
- Affordable housing
 - Public Open Space
 - Transport
 - Social infrastructure, including education and healthcare.

What is a Community Infrastructure Levy?

- 4.5 The Community Infrastructure Levy (“CIL”) is a charge which is levied by local authorities on new development in their area. Cheshire East Council adopted a CIL charging schedule in February 2019. It is an important tool for local authorities to use to help them deliver the infrastructure needed to support development in their area.
- 4.6 Further details can be seen on the Councils website: https://www.cheshireeast.gov.uk/planning/view_a_planning_application/making_a_planning_application/community-infrastructure-levy.aspx

Relationship between CIL and Planning Obligations

- 4.7 On 1st September 2019, changes came into effect in relation to the preparation of the Community Infrastructure Charging Schedule as well as relating to the process of securing developer contributions as part of the planning application process

- 4.8 Prior to the CIL Regulation changes coming in on the 1st September 2019, s106 Obligations requiring payments were limited to site specific development impacts and not related to projects or types of infrastructure that will be funded by CIL. The CIL regulations required Councils to avoid “double dipping” and produce clear guidance of infrastructure needs and projects funded through s106 Obligations and CIL Regulation 123 List. From December 2020, local authorities have been required to publish an Infrastructure Funding Statement, which should identify infrastructure needs, the total cost of this infrastructure, anticipated funding from developer contributions, and the choices the authority has made about how these contributions will be used.
- 4.9 The [Council's Infrastructure Funding Statement](#) is an important report that helps inform investment decisions set out in the Council's Medium Term Financial Strategy (MTFS).

Section 278 Agreements

- 4.10 A Section 278 agreement allows developers to enter into a legal agreement with the Highway Authority to fund alterations or improvements to the public adopted highway network, having regard to the needs of the development. Examples of such works could include the construction of a new access; junction improvements on the highway; or safety related works such as traffic calming or improved facilities for pedestrians or cyclists.
- 4.11 Requirements for s278 agreements will be negotiated separately, although an obligation will be imposed as part of the s106 agreement to enter into a s278 agreement.

Planning Conditions

- 4.12 Planning conditions are the most commonly used and simplest mechanism for securing the provision of on-site infrastructure e.g. roads, sewers, play areas. They can also be used to secure the delivery of on-site affordable housing.
- 4.13 Planning conditions are imposed by the Council when granting planning permission to ensure that certain actions or elements related to the development proposal are carried out. Paragraph 55 of the National Planning Policy Framework states that planning conditions should only be imposed where they are:
- Necessary;
 - Relevant to planning and
 - To the development to be permitted;
 - Enforceable;
 - Precise; and
 - Reasonable in all other aspects.
- 4.14 No payment of money or other consideration can be positively required by a condition when granting planning permission. However, where the 6 tests are met, it may be possible to use a negatively worded condition to prohibit development or occupation until a specified action has been taken.

5. The Overall Amount to be Recovered

- 5.1 The overall amount of infrastructure investment that the council will seek to recover is based on its upfront investment. The council will seek to recover the full extent of its investment, proportionate to a development's reliance on that infrastructure. The method to establish a proportionate contribution is set out at section 6.
- 5.2 The overall amount to be recovered for each scheme will be updated annually through the MTFs and a report produced. This will be the source from which contributions toward forward funded infrastructure are calculated.
- 5.3 The council may invest in and forward fund a range of infrastructure that is potentially subject to the requirements of policy GEN4. Whilst the application of the policy is not related to highways matters alone, much of the council's current investment is in regard to a capital programme that supports delivery of highways infrastructure. Therefore, when determining whether a development proposal is subject to the requirements of GEN4, and the guidance in this SPD, it is necessary to consult the MTFs to identify which schemes have been identified as forward funded infrastructure.
- 5.4 Whilst the main focus of investment related to the LPS is for highways, any infrastructure scheme may be eligible for the policy to apply to.
- 5.5 The table below is a summary of infrastructure that has been forward funded by the Council or its partners and the allocated development sites that are reliant on the infrastructure identified. The recovery of Forward Funded Infrastructure Costs is not limited to sites in this table and may be levied on other sites that come forward where a reliance on the infrastructure can be demonstrated.

Forward Funded Infrastructure	Associated LPS Sites	CEC Forward Funded Contribution 21/22
Congleton Link Road	LPS26 Back Lane / Radnor Park; LPS27 Congleton Business Park; LPS28 Gianstwood Lane South; LPS29 Gianstwood Lane to Manchester Road; LPS30 Manchester Road to Macclesfield Road; LPS31 Tall Ash Farm	£18,998,126
Poynton Relief Road	LPS48 Land Adjacent to Hazelbadge Road; LPS49 Land at Spink Farm; LPS50 Land south of Chester Road; LPS51 Adlington Business Park Extension; Handforth Garden Village	£7,700,000
A500 Dualling	LPS2 Basford East; LPS3 Basford West; LPS7 Sydney Road; LPS8 South Cheshire Growth Village;	£5,100,000

Flowerpot Junction	LPS does not specify sites related to Flowerpot Junction but cites a future transport study that will identify such sites.	£1,200,000
Crewe Green Roundabout	LPS6 Crewe Green; LPS7 Sydney Road;	£6,200,000
Sydney Road Bridge	LPS7 Sydney Road	£2,132,494
North West Crewe Package	LPS4 Leighton West; LPS5 Leighton	£4,472,505
Middlewich Eastern Bypass	LPS42 Glebe Farm; LPS43 Brooks Lane; LPS44 Midpoint 18; LPS45 Land off Warmingham Lane	£10,330,001

6. Sites, Areas and Types of Development Required to Contribute

Future Schemes

- 6.1 Future schemes that are not identified as forward funded infrastructure in this SPD, but come forward through the MTFs will be funded by sites that are directly and demonstrably reliant on the infrastructure provided.
- 6.2 For example if a new road is invested in, all schemes that use this road to access their sites, or who benefit significantly from traffic relief on other local developments to make their access arrangements acceptable, will be required to make retrospective contributions on a proportional basis. Sites that are reliant on forward funded infrastructure will be identified in the MTFs and / or set out through the plan making process.

Existing Schemes

- 6.3 Existing Infrastructure schemes, and the sites that are reliant on them, are identified in the Local Plan Strategy.
- 6.4 All sites, as identified in the LPS, that are reliant on specifically forward funded infrastructure will be required to contribute, proportionately, to the recovery of these costs.
- 6.5 There are currently no broad areas that are identified as being eligible to the recovery of forwarded funded infrastructure costs, currently the development sites

that are eligible are specifically identified in the LPS. However where wider areas are identified in future Local Plans, they will be subject to the policy.

6.6 All types of development will be required to contribute. Further information on this is set out in section 7 regarding the recovery methodology.

6.7 Congleton Link Road

6.8 The Congleton Link Road runs to the north of the town connecting the A534 Sandbach Road to the A536 Macclesfield Road. It directly unlocks significant development opportunities for employment and residential development and was necessary to enable the allocation of development land here. The scheme was subject to planning approval in June 2016 (under application reference 15/4480C) and has been funded from multiple sources including the council's own forwarded funded investment. The scheme enables delivery of five local plan sites providing a total of 2,502 homes and 20.1 hectares of employment land.

6.9 Total Cost: £89,604,990

6.10 Forward funded contribution: £20,800,000

6.11 Poynton Relief Road

6.12 The Poynton Relief Road is a 3.5km long two-way single carriage road which forms a component of the South East Manchester Multi Modal Strategy to relieve traffic and improve connectivity between Macclesfield, Stockport, Manchester Airport and the surrounding area. The Poynton Relief Road supports and enables the delivery of LPS 50 and LPS51 pending 150 new homes and 10ha of employment land respectively.

6.13 Total cost: £50,657,266

6.14 Forward funded contribution: £7,700,000

6.15 A500 Dualling

6.16 The proposals are to widen the A500 immediately to the south of the existing carriageway to create a dual carriageway. Meremoor Moss roundabout will be enlarged to create additional capacity. Where local roads cross the A500, at Barthomley Road and Radway Green Road, the bridges will be replaced and lengthened to accommodate the wider road beneath.

6.17 The [planning application \(reference 20/1709N\)](#) was approved on 26 August 2020 with conditions. The current programme (subject to final funding approvals) is for the main works to start in 2022, with an estimated 24 to 27 month construction period.

6.18 Total cost: £68,701,355

6.19 Forward funded contribution: £5,100,000

6.20 Flowerpot Junction

6.21 The improvements will increase capacity at the junction to ease existing levels of congestion and in anticipation of planned developments around the town.

6.22 The proposed improvements will introduce:

i) A new dedicated right turn lane for vehicles turning out of Ivy Lane into Congleton Road.

ii) A new dedicated left turn lane for vehicles turning out of Park Lane into Congleton Road.

iii) A new dedicated left turn lane for vehicles turning out of Oxford Road into Park Lane.

6.23 The new dedicated lanes will separate vehicles making these manoeuvres from those heading straight across the junction or making the opposite turn, which will provide the opportunity for more vehicles to travel through the junction during each cycle of the lights. The new lanes will also provide additional queuing space on the approach to the junction.

6.24 It is proposed to reconfigure the layout of the existing pedestrian and cycle crossing facilities at the junction, install Toucan crossings on the Ivy Lane and Congleton Road arms of the junction and widen the footpath along the south side of Park Lane leading onto Congleton Road. The crossing facilities on Oxford Road and Park Lane are proposed as Puffin crossings, with a new island on the corner of Oxford Road and Park Lane.

6.25 Total cost: £5,498,428

6.26 Forward funded contribution: £1,200,000

6.27 **Crewe Green Roundabout**

6.28 The project was completed in 2018 and established a new road layout, removal of traffic lights and created wider junctions created so that traffic can merge from different directions. Shared cycleways/footways, with crossing points for cyclists and pedestrians, are also included in the scheme. Additional street lighting, kerbs and more than 470m of drainage, as well as new pedestrian crossings and footpaths and asphalt surfacing have been installed.

6.29 The roundabout has improved network capacity enabling development of strategic sites allocated in the LPS.

6.30 Total cost: £7,599,494

6.31 Forward funded contribution: £2,132,494

6.32 **Sydney Road Bridge**

6.33 The bridge was improved to alleviate a major traffic 'pinch point' on a route serving Leighton Hospital and the Bentley factory. The project includes a shared cycleway and footway over the bridge, a signal-controlled pedestrian crossing and improved cycle provision along Sydney Road. The improved bridge was opened in 2019.

6.34 Total cost: £10,922,976

6.35 Forward funded contribution: £4,472,505

6.36 North West Crewe Package

6.37 The North West Crewe scheme aims to improve transport links in Crewe – easing congestion and improve access to Leighton Hospital, bringing opportunities for local businesses to expand and improving the access to new and existing housing developments.

6.38 The project involves a series of highways and junction improvements around Leighton including the construction of a new road linking Smithy Lane, Minshull New Road and Middlewich Road (A530). The programme includes the realignment of Smithy Lane, Flowers Lane and improvement to other road junctions associated with the scheme. It is also proposed to close a section of Minshull New Road located outside of Leighton Academy to traffic.

6.39 A planning application for the North West Crewe scheme was submitted to the Local Planning Authority in December 2018 and went before the Planning Committee in March 2019. A decision notice approving the scheme was received in July 2019, [planning application details](#).

6.40 The Local Planning Authority resolved to approve outline applications from the housing developers at the Council's Strategic Planning Board in November 2020.

6.41 [Development application for land off Minshull New Road and Flowers Lane](#)

6.42 [Development application for land off Minshull New Road](#)

6.43 Total cost: £36,500,001

6.44 Forward funded contribution: £10,330,001

6.45 Middlewich Eastern Bypass

6.46 Middlewich town centre currently suffers from severe traffic congestion due to its location at the junction of two major roads; the A54 which links to the M6, Winsford and Chester, and the A533 to Sandbach and Northwich. Cheshire East Council has been working since 2015 to develop options for a bypass which will reduce traffic congestion in the town centre whilst supporting employment and housing growth in the area as a whole.

6.47 The current programme (subject to planning and final funding approvals) is for the main works to start late 2022, with an estimated 22 month construction period.

6.48 The scheme has full planning consent with conditions. Planning Permission [20/2064C](#) amended the original permission [18/5833C](#), and [20/2162C](#) formed a new permission extending the boundaries of the scheme for revised ecological mitigations and other minor changes to the design.

6.49 Two applications for minor material amendments to the permissions are currently awaiting determination. These are [21/2044C](#) and [21/2073C](#).

6.50 Total cost: £70,100,000

6.51 Forward funded contribution: £14,243,000

7. Calculating the Cost of Contributions

7.1 The Recovery of Forward Funded Infrastructure Costs will seek to maximise the recovery of funds from sites that benefit from publicly funded infrastructure as set out in the MTFS. The MTFS is updated on an annual basis and will identify the level of investment the council has made toward any given scheme and the amount of funding that will be recovered through the application of proportionate obligations.

The Role of the Medium Term Financial Strategy

7.2 This SPD identifies the current schemes that will be subject to policy GEN4 and the guidance set out here, but the council may invest in additional infrastructure in the future. Future schemes will be identified through the plan making process and /or through the [Medium Term Financial Strategy](#) (MTFS) and applicants will be required to consider whether their proposals rely on such infrastructure in planning terms.

7.3 Whilst the MTFS is not a planning policy matter in itself, the Council's budget setting cycle will be used as the mechanism to make decisions on investment in infrastructure. SADPD Policy GEN4 may be applied to infrastructure identified in the MTFS.

7.4 Through the application of SADPD Policy GEN4, the council (and on behalf of partner organisations) will seek to recover infrastructure costs where it has approved investment in infrastructure through the MTFS process. The Council will seek to recover investment where schemes have been enabled through borrowing; use of reserves; or diversion of funding from other budgets in the short term to help bring forward development on the understanding that it will be repaid.

7.5 These decisions will be set out in the MTFS and identify the infrastructure to be invested in, and the costs expected to be recovered from development that relies upon the infrastructure identified.

7.6 The schemes set out at section 6 have been included in the MTFS, alongside the forward funding that the council has invested. Development that is reliant on these schemes in planning terms will be expected to make contributions, on a proportionate basis as set out at 7.11 – 7.28, toward the recovery of this investment.

7.7 The recoverable contribution will be sought via planning obligations made pursuant to section 106 of the Town and Country Planning Act 1990 (as amended), or other agreed methods during the planning process.

7.8 The Recovery of Forward Funded Infrastructure Costs will be applicable to housing and non-residential use classes as specified in the Town and Country

Planning (Use Classes) Order 1987 (as amended) and implemented on a site-by-site basis.

- 7.9 Recovered monies will be retained in perpetuity by CEC. Recovered funding will be used repay finances borrowed or diverted from reserves or other budgets and may be recycled to enable the delivery of infrastructure elsewhere in the borough.
- 7.10 Where a site is reliant on forward funded infrastructure to demonstrate it is acceptable in planning terms a recovery fund cap calculation (necessary to apportion benefit) and financial viability assessment (to ascertain surplus or loss) will be undertaken through engagement between CEC and applicants and/or other relevant third parties, during the site specific planning application stage.
- 7.11 **Recovering Forward Funded Infrastructure:**
- 7.12 The level of funds to be recovered on any individual development site will be capped by taking a proportionate approach that requires developers to pay for the share of infrastructure investment they are reliant on. For example, if the council were to forward fund a new spine road that would enable delivery of three equally sized residential sites, with equal levels of viability, then the Council would seek one third of its forward funding investment from each development.
- 7.13 The recovery fund will be capped in this way and calculated by undertaking a dependent development analysis of an individual development site(s) to calculate the number of dwellings and level of non-residential use class land that is dependent on the publicly funded infrastructure.
- 7.14 When applications are received, an evidence base will be compiled to calculate the level of demand for the infrastructure scheme that can be linked to the dependent development. This will allow the calculation of recovery estimates that comply with state aid rules from the development site. This evidence base will utilise a variety of tools including council traffic model(s) and identify a suitable forecast year to be tested.
- 7.15 For highways schemes, the proportion of trips travelling to/from the development site using the improvement scheme will be calculated. The proportion will then be applied to the total cost of publicly funded infrastructure with the 'cap' being the monies to be recovered.
- 7.16 **Financial viability:**
- 7.17 The council will seek to secure a fair and reasonable developer contribution without adversely affecting the ability for new developments to take place. The NPPF (paragraph 57) states that it is up to the applicant to demonstrate whether particular circumstances justify the need for a viability assessment at the application stage. The weight given to a viability assessment is a matter for the decision maker, having regard to all the circumstances in the case, including whether the plan and the viability evidence underpinning it is up to date, and any change in site circumstances since the plan was brought into force.
- 7.18 As outlined in the Publication Draft SADPD Policy GEN7, the Council will recover contributions where, since consent was originally granted, market circumstances change and render a scheme viable at a later point in time.

- 7.19 Unless the developer accepts the recovery sum sought by CEC as part of the s106 contributions an assessment of the financial viability of the proposed development will need to be undertaken, at the planning application stage, by the developer for review by the Local Planning Authority to assess whether a scheme generates a sufficient surplus to make the contributions sought.
- 7.20 Government issued [National Planning Guidance on Viability](#) sets out the methodology of testing the financial viability of the site, taking into account, but not limited to, site specific costs, s106/CIL, grant funding etc. This guidance is supported by publications from the Royal Institution of Chartered Surveyors (RICS) which guide Chartered Surveyors on what must be included in a Financial Viability Assessment and how the process must be conducted. Planning applications will be assessed by reference to the relevant published guidance.
- 7.21 The Recovery of Forward Funded Infrastructure Costs (RFFIC) methodology will therefore follow these steps (the steps are not exhaustive);
- 7.22 Step 1: The publicly funded infrastructure benefit for each infrastructure scheme is calculated (See Recovery Fund cap section above)
- 7.23 Step 2: Financial Viability Assessment will by default assess the following:
- i) Value of the Completed Development (GDV) Less the:
 - ii) Benchmark Land Value
 - iii) Development costs (including Policy costs)
 - iv) Developer Profit.
- 7.24 **Financial Viability Result:**
- 7.25 If the calculation results in a surplus then viability is proven and the development is capable of paying the funds sought (up to the level of the surplus) through the RFFIC. However, should the surplus exceed the value of the recovery cap, only the value of the cap will be sought. If the calculation results in a loss, no recovery will be sought.
- 7.26 The RFFIC is a standalone document but closely aligned to existing adopted CEC documents and policies such as Policy GEN4 of the SADPD.

8. Implementation

- 8.1 Planning and Highways Development Management officers will raise awareness of the RFFIC SPD during development pre-application discussions and the planning application viability appraisal.
- 8.2 The RFFIC is a mechanism to be used by CEC officers and appropriately chosen partners to seek appropriate contributions from developers of sites that benefit from infrastructure improvements forward funded by the Council, and from promoters of development that would be likely to have an impact on travel patterns in the vicinity of the infrastructure, whether or not such proposals are already identified in the Local Plan and linked specifically to the relevant

infrastructure. CEC officers will work with developers through the planning application process to secure recovery monies in a timely manner, proportionate to their impact and reliance on the identified infrastructure.

- 8.3 The RFFIC sets out the methodology to follow when calculating a recoverable figure. The means of achieving the figure and any associated trigger points will be negotiated during the application stage but will be based upon the methodology set out in the adopted RFFIC.
- 8.4 Each planning application will agree a payment profile based upon the cash-flow specific to that planning application. Recovery fund trigger points could be agreed by house sales, occupations, and prior to occupation or post occupation or any other agreed trigger. However, these are to be negotiated during the planning application process for a particular development site.
- 8.5 The RFFIC will be monitored by relevant CEC officers and recovered funds will be held by CEC in perpetuity and used to support further infrastructure which will unlock or accelerate additional growth.
- 8.6 CEC have sought legal advice into the use of planning obligations as a means of securing funds from development sites which benefit from public forward funding. In order to use planning obligations to secure funds the planning obligation will need to meet the test set out in Regulation 122 of the CIL Regulations 2010.
- 8.7 The use of planning obligations to secure funding from developments is preferable to CEC because of the enforcement powers and security afforded by a planning obligation agreement. Planning obligations run with the land and therefore offer CEC greater security as the obligation to pay a financial contribution would be enforceable against future occupiers of the land bound by the agreement.
- 8.8 However, CEC is aware that there are limitations on what constitutes a planning obligation and that to enforce the planning obligation, it will need to meet the CIL tests set out above. In the event that it is determined that the proposed obligation does not meet the CIL tests, CEC intends to use other general powers available to it to secure funds from development sites for this purpose. Those obligations would be contractual obligations, contained within a planning agreement but not themselves planning obligations, and would be enforceable by CEC against the person giving the covenant as a contractual obligation.

9. Procedures

Pre-Application Discussions

- 9.1 The Council recommends that pre-application advice is sought before making a planning application. This provides an opportunity to enter into discussions regarding planning obligation requirements with Council officers so that the nature of planning obligations that are likely to be required for a particular development are made known to the developer as early as possible in the decision making process. Pre-application discussions can help to resolve potential problems and issues which may otherwise delay the determination of a planning application once validated.

- 9.2 Where pre-application discussions have identified that developer contributions will be required, applicants should submit draft heads of terms with their planning application. It will be essential that this be submitted as part of the application, and as part of the validation process. Please be aware that failure to submit this will result in a delay in the planning application, as the application will not be validated.
- 9.3 Details of the process for engaging with the Local Planning Authority at pre-application stage can be found on the council's web page or by contacting the Development Management service.
- 9.4 Standard templates for the legal agreements and Unilateral Undertakings can be found on the Council's webpage at:

https://www.cheshireeast.gov.uk/planning/view_a_planning_application/making_a_planning_application/s106_agreements_planning.aspx

Cross Boundary Applications

- 9.5 In the case of development applications close to the district boundary which may have implications for service delivery in adjoining authority areas, these authorities will be consulted and requests for contributions to services provided by those authorities will be duly considered. Similarly, if adjoining authorities receive applications which will have an impact on the delivery of services in Cheshire East, the District Council will seek contributions.

Security and Timing of Payment

- 9.6 Where a financial obligation is necessary, payment would normally be required on commencement or on first occupation of a development. However, in the case of a large-scale development, it may be that the payments would be phased to meet the proportional impact of each phase. Trigger points for payments will be included in the legal agreement, as will the period in which any contribution will have to be spent.

Index Linking

- 9.7 All financial contributions will be subject to indexation from the date of adoption of this SPD. The indexation period will therefore start with the date of adoption and end with the date when each payment becomes due.

Legal Fees

- 9.8 Applicants will be required to pay the Council's legal costs as well as their own for drafting and checking legal agreements and will need to provide a solicitor's undertaking to do so. Applicants should also be aware that a solicitor's undertaking and proof of title will be required by Cheshire East Council where applicable.

Monitoring and Enforcement

- 9.1 Monitoring of obligations will be undertaken by the Council's Planning Contributions Officer to ensure that all obligations entered into are complied with by both the developer and the Council.
- 9.2 The amended Community Infrastructure Levy Regulations 2019 permit Local Planning Authorities to charge fees in respect of the cost of monitoring (including reporting under the CIL Regulations) in relation to the delivery of planning obligations.
- 9.3 All monitoring fees will be subject to indexation and payable on commencement of the development.

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10. Glossary

Authority Monitoring Report	An annual report prepared by Cheshire East Council to assess progress and effectiveness of a Local Plan.
Community Infrastructure Levy	A levy allowing local authorities to raise funds from owners or developers of land undertaking new building projects in their area.
Development	Defined by the Town and Country Planning Act 1990 as “the carrying out of building, engineering, mining or other operation in, on, over or under land, or the making of any material change of use of any building or other land.” Most forms of development require planning permission, unless expressly granted planning permission via a development order.
Development Plan	This includes adopted Local Plans and Neighbourhood Plans and is defined in Section 38 of the Planning and Compulsory Planning Act 2004
Green Infrastructure	A network of multi-functional green space, urban and rural, which is capable of delivering a wide range of environmental and quality of life benefits for local communities.
Habitats Regulations Assessment	The process that competent authorities must undertake to consider whether a proposed development plan or programme is likely to have significant effects on a European site designated for its nature conservation interest.
Local Plan	<p>The plan for the development of the local area, drawn up by the local planning authority in consultation with the community.</p> <p>In law this is described as the Development Plan Documents adopted under the Planning and Compulsory Purchase Act 2004.</p> <p>Current core strategies or other planning policies, which under the regulations would be considered to be Development Plan Documents, form part of the Local Plan. This term includes old policies which have been saved under the 2004 Act.</p>

Local Plan Strategy	Development Plan Document setting out the spatial vision and strategic objectives of the planning framework for an area, having regard to the Community Strategy.
Local Planning Authority	The local authority or council that is empowered by law to exercise planning functions. In the case of this SPD, the Local Planning Authority is Cheshire East Council.
Neighbourhood Plan	A plan prepared by a parish council or neighbourhood forum for a particular neighbourhood area (made under the Planning & Compulsory Purchase Act 2004).
Site Allocations and Development Policies Document	Part of the Local Plan which will contain land allocations and detailed policies and proposals to deliver and guide the future use of that land.
Supplementary Planning Document	A Local Development Document that may cover a range of issues, thematic or site specific, and provides further detail of policies and proposals in a 'parent' Development Plan Documents.
Sustainability Appraisal	An appraisal of the economic, environmental and social effects of a plan from the outset of the preparation process to allow decisions to be made that accord with sustainable development.
Strategic Environmental Appraisal	SEA is a process and a tool for evaluating the effects of proposed policies, plans and programmes on natural resources, social, cultural and economic conditions and the institutional environment in which decisions are made.
Viability Study	A report, including a financial appraisal, to establish the profit or loss arising from a proposed development. It will usually provide an analysis of both the figures inputted and output results together with other matters of relevance. An assessment will normally provide a judgement as to the profitability, or loss, of a development.

Draft Recovery of Forward Funded Infrastructure Supplementary Planning Document

Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report

Introduction and Purpose

1. Cheshire East Council has produced a draft Recovery of Forward Funded Infrastructure Supplementary Planning Document (“SPD”). The purpose of the SPD is to provide guidance on the Council’s approach to S106 agreements in regard to the recovery of funding for infrastructure that has already been invested in or built out, upon which new developments may be reliant, adding further detail and guidance to policies contained within the Development Plan.
2. The Development Plan for Cheshire East consists of the Local Plan Strategy (“LPS”) and ‘saved’ policies in the Crewe and Nantwich, Congleton and Macclesfield Local Plans. In addition, made Neighbourhood Plans also form part of the Development Plan.
3. The policy framework for the SPD is based in the LPS, with a particular focus on Policy IN1 Infrastructure and IN2 Developer Contributions, and provides additional guidance to of the Site Allocations and Development Policies Document (“SADPD”).
4. The Council is in the process of preparing the second part of its Local Plan, the SADPD. The Revised Publication Draft SADPD (consulted on between 26 October and 23 December 2020) contains Policy GEN4 (Recovery of Forward Funded Infrastructure Costs). The draft Recovery of Forward Funded Infrastructure SPD is being prepared in conformity with the LPS and the emerging SADPD.
5. This screening report is designed to determine whether or not the contents of the draft Recovery of Forward Funded Infrastructure SPD require a Strategic Environmental Assessment (“SEA”) in accordance with the European Directive 2001/42/EC and associated Environmental Assessment of Plans and Programmes Regulations 2004. The report also addresses whether the draft Recovery of Forward Funded Infrastructure SPD has a significant adverse effect upon any internationally designated site(s) of nature conservation importance and thereby subject to the requirements of

the Habitats Regulations. The report contains separate sections that set out the findings of the screening assessment for these two issues.

6. This statement, alongside the draft Recovery of Forward Funded Infrastructure SPD, will be the subject of consultation in accordance with the relevant regulations and the Council's Statement of Community Involvement from the XXXX to XXXX. This will include consultation with the relevant statutory bodies (Natural England, Environment Agency and Historic England), and Manchester University. Comments received during the consultation on the draft Recovery of Forward Funded Infrastructure SPD and this statement will be reflected in future updates to this document.

Strategic Environmental Assessment Screening

Legislative Background

7. The objective of SEA is to provide for a high level of protection of the environment with a view to promoting the achievement of sustainable development. It is a requirement of European Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (also known as the SEA Directive). The Directive was transposed in UK law by the Environmental Assessment of Plans and Programmes Regulations 2004, often known as the SEA Regulations.
8. Article 3(3) and 3(4) of the regulations make clear that SEA is only required for plans and programmes when they have significant environmental effects. The 2008 Planning Act removed the requirement to undertake a full Sustainability Appraisal for a SPD although consideration remains as to Policy GEN4 (Recovery of Forward Funded Infrastructure Costs) whether the SPD requires SEA, in exceptional circumstances, when likely to have a significant environmental effect(s) that has not already been assessed during the preparation of a Local Plan. In addition, planning practice guidance (PPG – ref Paragraph: 008 Reference ID: 11-008-20140306) states that a SEA is unlikely to be required where an SPD deals only with a small area at local level, unless it is considered that there are likely to be significant environmental effects.

Overview of draft Recovery of Forward Funded Infrastructure SPD

9. The purpose of the draft Recovery of Forward Funded Infrastructure SPD is to provide further guidance on the implementation of LPS policy IN2 Developer Contributions and SADPD Policy GEN4 (Recovery of Forward Funded Infrastructure Costs).
10. It is important to note that policies in the LPS were the subject of Sustainability Appraisal, which incorporated the requirements of the SEA regulations (as part of an

Integrated Sustainability Appraisal). The likely significant environmental effects have already been identified and addressed – the SPD merely provides guidance on existing policies. The LPS Integrated Sustainability Appraisal has informed this SPD screening assessment.

11. SEA has been undertaken for Policy IN1 (“Infrastructure”) and IN2 (Developer Contributions”) as part of the Integrated Sustainability Appraisal that supported the LPS. For the purposes of compliance with the UK SEA Regulations and the EU SEA directive, the following reports comprised the SA “Environmental Report”:

- SD 003 – LPS Submission Sustainability (Integrated) Appraisal (May 2014);
- PS E042 – LPS Sustainability (Integrated) Appraisal of Planning for Growth Suggested Revisions (August 2015);
- RE B006 – LPS Sustainability (Integrated) Appraisal Suggested Revisions to LPS Chapters 9-14 (September 2015);
- RE F004 – Sustainability (Integrated) Appraisal – Proposed Changes (March 2016);
- PC B029 – Sustainability (Integrated) Appraisal - Proposed Changes to Strategic and Development Management Policies (July 2016);
- PC B030 – Sustainability (Integrated) Appraisal - Proposed Changes to Sites and Strategic Locations (July 2016);
- MM 002 - Sustainability (Integrated) Appraisal - Main Modifications Further Addendum Report.

12. In addition, an SA adoption statement was prepared in July 2017 to support the adoption of the LPS. It should also be noted that the emerging SADPD and the policies contained in it have also been supported by a Sustainability Appraisal (incorporating the requirements for the SEA directive).

SEA Screening Process

13. The council is required to undertake a SEA screening to assess whether the draft Recovery of Forward Funded Infrastructure SPD is likely to have significant environmental effects. If the draft Recovery of Forward Funded Infrastructure SPD is considered unlikely to have significant environmental effects through the screening process, then the conclusion will be that SEA is not necessary. This is considered in Table 1 below:-

Table 1: Establishing the need for a SEA

Stage		Decision	Rationale
1.	Is the SPD subject to preparation and/or adoption by a national, regional or local authority OR prepared through a legislative procedure by Parliament or Government? (Art. 2 (a)).	Yes	The SPD will be prepared and adopted by Cheshire East Borough Council.
2.	Is the SPD required by legislation, regulatory or administrative provisions? (Article. 2 (a)).	No	The Council's Local Development Scheme (2020 – 2022) does not specifically identify the need to produce a draft Recovery of Forward Funded Infrastructure SPD.
3.	Is the SPD prepared for agricultural, forestry, fisheries, energy, industry, transport, waste management, telecommunications, tourism, town and country planning or land use, AND does it set a framework for future development consent of projects in Annexes I and II to the EIA Directive? (Article 3.2 (a)).	No	The SPD is being prepared for town and country planning use. It does not set a framework for future development consent of projects in Annexes I and II to the EIA Directive (Article 3.2 (a)). Whilst some developments to which the guidance in the SPD applies would fall within Annex II of the EIA Directive at a local level, the SPD does not specifically plan for or allow it.
4.	Will the SPD, in view of its likely effect on sites, require an assessment under Article 6 or 7 of the Habitats Directive? Art 3.2 (b)).	No	A Habitats Regulations Assessment has been undertaken for the LPS and emerging SADPD. The SPD does not introduce new policy or allocate sites for development. Therefore, it is not considered necessary to undertake a HRA assessment for the SPD. This conclusion has been supported by an HRA screening assessment as documented through this report.
5	Does the SPD determine the use of small areas at local level, OR is it a minor modification of a PP subject to Art. 3.2? (Art 3.3)	No	The SPD will not determine the use of small areas at a local level. The SPD provides guidance on the how applicants should demonstrate the delivery of Recovery of Forward Funded Infrastructure, but it does not specifically determine the use of small areas at a local level. The SPD will be a material consideration in decision taking.
6.	Does the SPD set the framework for future development consent of projects (not just projects in Annexes to the EIA Directive)? (Art. 3.4)	No	The LPS and emerging SADPD provide the framework for the future consent of projects. The SPD elaborates upon approved and emerging policies and does not introduce new policy or allocate sites for development.

14. The SPD is considered to not have a significant effect on the environment and therefore SEA is not required. However, for completeness, Table 2 assesses whether the draft SPD will have any significant environmental effects using the criteria set out

in Annex II of SEA Directive 2001/42/EC¹ and Schedule 1 of the Environmental Assessment of Plans and Programmes Regulations 2004².

Table 2: assessment of likely significance of effects on the environment

SEA Directive Criteria Schedule 1 of Environmental Assessment of Plans and Programmes Regulations 2004	Summary of significant effects, scope and influence of the document	Is the Plan likely to have a significant environmental effect (Yes / No)
1.Characteristics of the SPD having particular regard to:		
(a) The degree to which the SPD sets out a framework for projects and other activities, either with regard to the location, nature, size or operating conditions or by allocating resources.	<p>Guidance is supplementary to policies contained in the LPS and emerging SADPD, both of which have been the subject of SA / SEA. The policies provide an overarching framework for development in Cheshire East.</p> <p>The draft Recovery of Forward Funded Infrastructure SPD provides further clarity and certainty to form the basis for the submission and determination of planning applications, consistent with policies in the LPS.</p> <p>Final decisions will be determined through the development management process.</p> <p>No resources are allocated.</p>	No
(b) The degree to which the SPD influences other plans and programmes including those in a hierarchy.	The draft SPD is in general conformity with the LPS, which has been subject to a full Sustainability Appraisal (incorporating SEA). It is adding more detail to the adopted LPS and other policies in the Development Plan including the emerging SADPD, which has itself been the subject of Sustainability Appraisal. Therefore, it is not considered to have an influence on any other plans and programmes.	No
(c) The relevance of the SPD for the integration of environmental considerations in particular with a view to promoting sustainable development.	The draft SPD promotes sustainable development, in accordance with the NPPF (2019) and LPS policies. The LPS has been the subject of a full Sustainability Appraisal (incorporating SEA). The draft SPD has relevance for the integration of environmental considerations and promotes sustainable development by providing guidance on the delivery of	No

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32001L0042&from=EN>

² http://www.legislation.gov.uk/uksi/2004/1633/pdfs/ukxi_20041633_en.pdf

SEA Directive Criteria Schedule 1 of Environmental Assessment of Plans and Programmes Regulations 2004	Summary of significant effects, scope and influence of the document	Is the Plan likely to have a significant environmental effect (Yes / No)
	Recovery of Forward Funded Infrastructure in the borough.	
(d)Environmental problems relevant to the SPD.	There are no significant environmental problems relevant to the SPD.	No
(e)The relevance of the SPD for the implementation of Community legislation on the environment (for example plans and programmes related to waste management or water protection).	The draft SPD will not impact on the implementation of community legislation on the environment.	No
2.Characteristics of the effects and area likely to be affected having particular regard to:		
(a)The probability, duration, frequency and reversibility of the effects.	The draft SPD adds detail to adopted LPS policy; itself the subject of SA.	No
(b)The cumulative nature of the effects of the SPD.	The draft SPD adds detail to adopted LPS policy, itself the subject of SA. The SA associated with the LPS and emerging SADPD have considered relevant plans and programmes. No other plans or programmes have emerged that alter this position.	No
(c)The trans-boundary nature of the effects of the SPD.	Trans-boundary effects will not be significant. The draft SPD will not lead to any transboundary effects as it just providing additional detail regarding the implementation of policies IN1, IN2 in the LPS and does not, in itself, influence the location of development.	No
(d)The risks to human health or the environment (e.g. due to accident).	The draft SPD will not cause risks to human health or the environment as it is adding detail to environmental policies in the Local Plan.	No
(e)The magnitude and spatial extent of the effects (geographic area and size of the population likely to be affected) by the SPD.	The draft SPD covers the Cheshire East administrative area. The draft SPD will assist those making planning applications in the borough.	No
(f)The value and vulnerability of the area likely to be affected by the SPD due to: • Special natural characteristics of cultural heritage	The draft SPD will not lead to significant effects on the value or vulnerability of the area. It is adding detail regarding the implementation of policies IN1 and IN2 in the LPS, and does not, in itself, influence the location of development.	No

SEA Directive Criteria Schedule 1 of Environmental Assessment of Plans and Programmes Regulations 2004	Summary of significant effects, scope and influence of the document	Is the Plan likely to have a significant environmental effect (Yes / No)
<ul style="list-style-type: none"> • Exceeded environmental quality standards or limit values • Intensive land use. 		
(g)The effects of the SPD on areas or landscapes which have recognised national Community or international protected status.	The SPD does not influence the location of development, so will not cause effects on protected landscape sites.	No

Conclusion and SEA screening outcome

15. The SPD is not setting new policy; it is supplementing and providing further guidance on an existing LPS policy. Therefore, it is considered that an SEA is not required on the draft Recovery of Forward Funded Infrastructure SPD. This conclusion will be revisited following consideration of the views of the three statutory consultees (the Environment Agency, Historic England and Natural England) and if there are significant changes to the SPD following public consultation.

Habitats Regulations Assessment Statement

16. The Council has considered whether its planning documents would have a significant adverse effect upon the integrity of internationally designated sites of nature conservation importance. European Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Flora and Fauna (Habitats Directive) provides legal protection to habitats and species of European importance. The principal aim of this directive is to maintain at, and where necessary restore to, favourable conservation status of flora, fauna and habitats found at these designated sites.
17. The Directive is transposed into English legislation through the Conservation of Habitats and Species Regulations 2017 (a consolidation of the amended Conservation of Habitats and Species Regulations, 2010) published in November 2017.
18. European sites provide important habitats for rare, endangered or vulnerable natural habitats and species of exceptional importance in the European Union. These sites consist of Special Areas of Conservation (SACs, designated under the EU Directive 92/43/EEC on the conservation of natural habitats and of fauna and flora (Habitats Directive)), and Special Protection Areas (SPAs, designated under EU Directive 2009/147/EC on the conservation of wild birds (the Birds Directive)). Government policy requires that Ramsar sites (designated under the International Wetlands Convention, UNESCO, 1971) are treated as if they are fully designated European sites for the purposes of considering development proposals that may affect them.
19. Spatial planning documents may be required to undergo Habitats Regulations Screening if they are not directly connected with or necessary to the management of a European site. As the draft Recovery of Forward Funded Infrastructure SPD is not connected with, or necessary to, the management of European sites, the HRA implications of the SPD have been considered.
20. A judgement, published on the 13 April 2018 (People Over Wind and Sweetman v Coillte Teoranta (C-323/17) clarified that measures intended to avoid or reduce the harmful effects of a proposed project on a European site may no longer be taken into account by competent authorities at the Habitat Regulations Assessment “screening stage” when judging whether a proposed plan or project is likely to have a significant effect on the integrity of a European designated site.
21. Both the LPS and emerging SADPD have been subject to HRA.

22. The draft Recovery of Forward Funded Infrastructure SPD does not introduce new policy; it provides further detail to those policies contained within the LPS. The HRA concluded that policies IN1 and IN2 of the LPS could not have a likely significant effect on a European Site. The same applies to the draft Recovery of Forward Funded Infrastructure SPD. The draft Recovery of Forward Funded Infrastructure SPD in itself, does not allocate sites and is a material consideration in decision taking, once adopted.
23. The draft Recovery of Forward Funded Infrastructure SPD either alone or in combination with other plans and programmes, is not likely to have a significant effect on any European site. Therefore, a full Appropriate Assessment under the requirements of the Habitats Regulations is not required.

Conclusion and HRA screening outcome

24. Subject to views of the three statutory consultees (the Environment Agency, Historic England and Natural England), this screening report indicates that an Appropriate Assessment under the Habitats Regulations is not required.

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EQUALITY IMPACT ASSESSMENT

TITLE: Draft Environmental Protection Supplementary Planning Document (“SPD”)

VERSION CONTROL

Date	Version	Author	Description of Changes
19.08.2021	1	Stewart House / Tom Evans	Initial Draft
-	-	Sarah Walker	EDI sign off

EQUALITY IMPACT ASSESSMENT

CHESHIRE EAST COUNCIL - EQUALITY IMPACT ASSESSMENT

Stage 1 Description: Fact finding (about your policy / service /

Department	Strategic Planning		Lead officer responsible for assessment		Tom Evans, Neighbourhood Plan Manager	
Service	Environmental and Neighbourhood Services		Other members of team undertaking assessment		Tom Evans, Neighbourhood Plan Manager	
Date	24/05/2021		Version 1			
Type of document (mark as appropriate)	Strategy YES	Plan	Function	Policy	Procedure	Service
Is this a new/ existing/ revision of an existing document (please mark as appropriate)	New YES		Existing		Revision	
Title and subject of the impact assessment (include a brief description of the aims, outcomes , operational issues as appropriate and how it fits in with the wider aims of the organisation) Please attach a copy of the strategy/ plan/ function/ policy/ procedure/ service	<p>Draft Recovery of Forward Funded Infrastructure Costs Supplementary Planning Document (“SPD”)</p> <p><u>Background</u></p> <p>Supplementary Planning Documents (“SPDs”) provide further detail to the policies contained in the development plan. They can be used to provide guidance for development on specific sites, or on particular issues, such as design. SPDs are capable of being a material consideration in planning decisions but are not part of the development plan. They must be consistent with national planning policy, must undergo consultation and must be in conformity with policies contained within the Local Plan.</p> <p>The council has prepared a draft Environmental Protection SPD for consultation. The draft SPD provides additional guidance primarily on the implementation of policy SE12 (‘Pollution, Land Contamination and Land Instability’), in the council’s Local Plan Strategy, adopted in July 2017. The SPD also provides guidance on environmental policies emerging via the councils Site Allocations and Development Policies Document (SADPD). The SPD once adopted, should assist applicants when making planning applications, and the council in determining them. The SPD provides further guidance on existing policies, rather than setting a new policy approach in relation to biodiversity and habitats.</p>					

EQUALITY IMPACT ASSESSMENT

	<p>The SPD has been prepared in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012, the National Planning Policy Framework and National Planning Practice Guidance.</p> <p>The SPD has been prepared in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended by the Local Planning, Development Management Procedure, Listed Buildings etc (England) (Coronavirus) (Amendment) Regulations 2020), the National Planning Policy Framework and National Planning Practice Guidance.</p> <p>An Equalities Impact Assessment was prepared alongside the integrated Sustainability Appraisal work which supported the Local Plan Strategy. An Equalities Impact Assessment has also been prepared to support the emerging Site Allocations and Development Policies Document. The assessment found that the LPS policies (including policies particularly relevant to the SPD) and emerging SADPD are unlikely to have negative effects on protected characteristics or persons identified under the Equality Act 2010.</p>
<p>Who are the main stakeholders and have they been engaged with? (e.g. general public, employees, Councillors, partners, specific audiences, residents)</p>	<p>Public consultation will take place on the draft SPD for at least four weeks in accordance with the Town and Country Planning ((Local Planning) (England) Regulations 2012) and the council's adopted Statement of Community Involvement. This will include the general public, town and parish councils, statutory consultees, elected members, and consultees who have registered on the strategic planning database.</p>
<p>What consultation method(s) did you use?</p>	<p>The council prepares a Statement of Community Involvement which provides detail on how it will consult on Local Plan documents and SPDs. This includes the availability of documents, how residents and stakeholders will be notified etc. The council's Local Plan consultation database, which will be notified of the consultation, also includes a number of organisations who work alongside groups with protected characteristics in the borough.</p> <p>Once consultation has taken place on the draft SPD, all comments received will be reviewed before consideration is given to any amendments required. A report of consultation will be prepared alongside the final version of the SPD and this will also be subject to further consultation. This EIA will be kept updated as the draft SPD progresses.</p>

Stage 2 Initial Screening

<p>Who is affected and what evidence have you considered to arrive at this analysis?</p>	<p>Ward councillors. Those living and working in the borough, property owners, landowners and developers, clinical commissioning group, special interest groups.</p>
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EQUALITY IMPACT ASSESSMENT

(This may or may not include the stakeholders listed above)								
Who is intended to benefit and how?	Local communities including landowners and developers. The SPD will provide additional guidance on the implementation of existing planning policies related to the assessment of planning applications on matters relating environmental protection providing guidance on how such matters as air quality, pollution, noise and odour should be dealt with by applicants and how the policies of the development plan will be applied to these matters. a gain in volume and quality of such assets should be achieved.							
Could there be a different impact or outcome for some groups?	No, the SPD builds upon existing planning policy guidance and provides further information about how the council will consider planning applications. The provision of an Environmental Protection SPD will assist in supporting the health and wellbeing of all communities where development takes place. The SPD, in applying additional guidance to assist in the interpretation of planning policies should be beneficial to all groups.							
Does it include making decisions based on individual characteristics, needs or circumstances?	No, the introduction of the SPD is not based on individual characteristics, needs or circumstances. The SPD includes information on the matters related to pollution in various forms. The content of the SPD does not relate directly to the characteristics of human populations.							
Are relations between different groups or communities likely to be affected? (eg will it favour one particular group or deny opportunities for others?)	No, the SPD is not intended to affect different groups or communities in this way.							
Is there any specific targeted action to promote equality? Is there a history of unequal outcomes (do you have enough evidence to prove otherwise)?	No, the SPD is not intended to target any group and will be consulted upon in line with the council's Statement of Community Involvement.							
Is there an actual or potential negative impact on these specific characteristics? (Please tick)								
Age	Y	N	Marriage & civil partnership	Y	N	Religion & belief	Y	N
Disability	Y	N	Pregnancy & maternity	Y	N	Sex	Y	N
Gender reassignment	Y	N	Race	Y	N	Sexual orientation	Y	N
What evidence do you have to support your findings? (quantitative and qualitative) Please provide additional information that you wish to include as appendices to this document, i.e., graphs, tables, charts							Consultation/ involvement carried out	

EQUALITY IMPACT ASSESSMENT

		Yes	No
Age	The SPD may have an impact those living and working in the borough.		X (to be carried out)
Disability	The draft Environmental Protection SPD provides further guidance on the implementation of LPS policy SE12 'Pollution, Land Contamination and Land Instability', and emerging policies et out in the SADPD. The SPD also provides guidance on policy requirements and methods that applicants can use to satisfy these requirements related to their sites.		
Gender reassignment			
Marriage & civil partnership			
Pregnancy & maternity	The guidance in the SPD may be beneficial as it will assist in supporting the health and wellbeing of communities and ensure that the environmental impacts of development are appropriately mitigated for, minimising such impacts, improving the general amenity, and in some instances the health, of human populations		
Race	The SPD provides further guidance on the policy approach set out in the Local Plan Strategy and SADPD.		
Religion & belief			
Sex	No negative impacts are identified at this stage in relation to any of the specific characteristics however public consultation will be undertaken and this may raise issues officers are not currently aware of. The EIA will be reviewed (and updated) once the initial consultation has taken place.		
Sexual orientation			
Proceed to full impact assessment? (Please tick)	Yes	No	Date: 19/08/2021
Lead officer sign off		Date	
Head of service sign off		Date	

EQUALITY IMPACT ASSESSMENT

If yes, please proceed to Stage 3. If no, please publish the initial screening as part of the suite of documents relating to this issue

DRAFT

EQUALITY IMPACT ASSESSMENT

Stage 3 Identifying impacts and evidence

This section identifies if there are impacts on equality, diversity and cohesion, what evidence there is to support the conclusion and what further action is needed

Protected characteristics	<p>Is the policy (function etc....) likely to have an adverse impact on any of the groups?</p> <p>Please include evidence (qualitative & quantitative) and consultations</p> <p><i>List what negative impacts were recorded in Stage 1 (Initial Assessment).</i></p>	<p>Are there any positive impacts of the policy (function etc....) on any of the groups?</p> <p>Please include evidence (qualitative & quantitative) and consultations</p> <p><i>List what positive impacts were recorded in Stage 1 (Initial Assessment).</i></p>	<p>Please rate the impact taking into account any measures already in place to reduce the impacts identified</p> <p>High: Significant potential impact; history of complaints; no mitigating measures in place; need for consultation</p> <p>Medium: Some potential impact; some mitigating measures in place, lack of evidence to show effectiveness of measures</p> <p>Low: Little/no identified impacts; heavily legislation-led; limited public facing aspect</p>	<p>Further action (only an outline needs to be included here. A full action plan can be included at Section 4)</p> <p><i>Once you have assessed the impact of a policy/service, it is important to identify options and alternatives to reduce or eliminate any negative impact. Options considered could be adapting the policy or service, changing the way in which it is implemented or introducing balancing measures to reduce any negative impact. When considering each option you should think about how it will reduce any negative impact, how it might impact on other groups and how it might impact on relationships between groups and overall issues around community cohesion. You should clearly demonstrate how you have considered various options and the impact of these. You must have a detailed rationale behind decisions and a justification for those alternatives that have not been accepted.</i></p>
Age				
Disability				
Gender reassignment				
Marriage & civil partnership				

EQUALITY IMPACT ASSESSMENT

Pregnancy and maternity				
Race				
Religion & belief				
Sex				
Sexual orientation				
<p>Is this change due to be carried out wholly or partly by other providers? If yes, please indicate how you have ensured that the partner organisation complies with equality legislation (e.g. tendering, awards process, contract, monitoring and performance measures)</p>				

DRAFT

Stage 4 Review and Conclusion

ASSESSMENT

Summary: provide a brief overview including impact, changes, improvement, any gaps in evidence and additional data that is needed			
Specific actions to be taken to reduce, justify or remove any adverse impacts	How will this be monitored?	Officer responsible	Target date
Please provide details and link to full action plan for actions			
When will this assessment be reviewed?			
Are there any additional assessments that need to be undertaken in relation to this assessment?			
Lead officer sign off	 Tom Evans	Date: 23/03/21	
Head of service sign off		Date:	

Please publish this completed EIA form on the relevant section of the Cheshire East website

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Working for a brighter future together

Environment and Communities Committee

Date of Meeting:	09 September 2021
Report Title:	Houses in Multiple Occupation Supplementary Planning Document
Report of:	Paul Bayley, Director of Environment and Neighbourhood Services
Report Reference No:	EC/12/21-22
Ward(s) Affected:	All wards

1. Executive Summary

- 1.1.** This report seeks approval to adopt the Houses in Multiple Occupation Supplementary Planning Document ("HMO SPD"). Upon adoption it would be a material consideration in the determination of relevant planning applications for new or extended HMOs. The HMO SPD has been subject to two separate consultation stages, the most recent of which took place in April/ June 2021.
- 1.2.** The HMO SPD builds upon existing development plan policies found in the Cheshire East Local Plan Strategy (adopted July 2017) and 'saved' policies within previous Local Plans. The SPD also identifies additional plans and policies that are currently in preparation. Guidance is provided to parties involved in the planning application process, explaining how Cheshire East Council ('the Council') will assess planning applications involving the change of use of buildings to HMOs across the Borough.
- 1.3.** This report outlines the consultation process that has been undertaken, the representations received and how they have informed the final HMO SPD.

2. Recommendations

- 2.1.** That the Environment and Communities Committee:
 - 2.1.1.** Considers the key issues raised in the responses received to the public consultation that took place between April and June 2021 and the corresponding modifications to the Houses in Multiple Occupation

Supplementary Planning Document as set out in the Report of Consultation (Appendix 1).

- 2.1.2. Approves the Houses in Multiple Occupation Supplementary Planning Document for adoption (Appendix 2).

3. Reasons for Recommendations

- 3.1. Supplementary Planning Documents (“SPDs”) are not part of the statutory development plan but are a recognised way of putting in place additional planning guidance. They are capable of being a material consideration in determining applications involving relevant planning proposals.
- 3.2. The preparation of the HMO SPD is one of the ways the Council can better manage concentrations of HMOs and improve their standards.
- 3.3. The preparation of the HMO SPD has been informed by two rounds of six-week consultation in October – December 2020 and more recently in April – June 2021. The views of the Strategic Planning Board were also sought before each consultation and comments raised taken on board in preparing the initial and final draft documents. The next step is to adopt the final version of the SPD taking into account the representations received.
- 3.4. Upon adoption, the HMO SPD would be a material consideration in the determination of all planning applications for changes of use (or extensions) to HMOs across the borough.

4. Other Options Considered

- 4.1. The Council could choose not to approve the HMO SPD for adoption. Any planning application received for Houses in Multiple Occupation (“HMOs”) would continue to be assessed against adopted planning policies.

5. Background

- 5.1. HMOs are defined as single dwellings occupied by a number of separate households/ unrelated individuals. Under the Town & Country Planning (Use Classes) Order 1987 (as amended) a small HMO (Class C4) accommodates between 3 and 6 unrelated individuals and a large HMO (Sui Generis – outside of any use class) accommodates 7 or more unrelated individuals.
- 5.2. The Town and Country Planning (General Permitted Development) Order 2015 (“GPDO”) provides permitted development rights for the change of use of a dwelling (Class C3) to a small HMO (Class C4) without the need to apply to the Council for planning permission. The change of use of a dwelling to a larger HMO (Sui Generis) always requires the submission of a planning application.
- 5.3. Article 4 of the GPDO enables local planning authorities to withdraw specified permitted development rights in a defined area. Once an Article 4

Direction comes into force, a planning application is then required for the specific permitted development withdrawn. The withdrawal of permitted development rights does not imply that planning applications will be automatically refused if they are submitted. The submission of a planning application simply gives the local planning authority opportunity to consider a proposal against relevant planning policies, supplementary planning documents (where available) and any other material planning considerations.

- 5.4.** At its meeting on the 3rd December 2019 Cabinet considered a report which sought authorisation to make 3 non-immediate Article 4 Directions to remove permitted development rights for the change of use of dwellings to small HMOs (accommodating 3-6 unrelated individuals) in parts of Crewe. The removal of permitted development rights was authorised at that meeting and justified based on evidence of high concentrations of HMOs in those particular areas together with a coincidence of local amenity issues.
- 5.5.** In the report to Cabinet, it was stated that additional planning policy guidance in the form of a draft Supplementary Planning Document (SPD) would be prepared to align with the Article 4 Direction(s) coming into force.
- 5.6.** The three non-immediate Article 4 Directions in parts of Crewe were made on the 6th October 2020 and public consultation about them took place between 19th October and 11th January 2021. The Directions were subsequently confirmed on the 4th June 2021, taking into account the feedback received and they come into effect on the 1st November 2021.
- 5.7.** Whilst it is not a requirement that an SPD is produced to support an Article 4 Direction, it is considered best practice to ensure their effective implementation. The SPD would be a material consideration in the determination of all planning applications for changes of use to HMOs across the borough, not just those dwellings that may be affected by an Article 4 Direction (once brought into effect).

The public consultation process

- 5.8.** The requirements for public consultation on a Draft SPD are contained within the Town and Country Planning (Local Planning) (England) Regulations 2012. It is highlighted that the requirements have been subject to temporary changes during the Covid-19 pandemic to enable public consultation to take place on planning policy documents without the need to place copies of documents at principal offices or other locations as appropriate. These temporary changes are currently in place until 31st December 2021.
- 5.9.** The Council's adopted Statement of Community Involvement (October 2020) reflects the temporary changes introduced to address consultation during the pandemic.

- 5.10.** Public consultation on the initial draft HMO SPD initially took place between the 26th October 2020 and 23rd December 2020. All representations received were taken into account in preparing the final draft of the HMO SPD and an accompanying Report of Consultation.
- 5.11.** The final draft HMO SPD and Report of Consultation (regarding the initial draft) were then the subject of six weeks public consultation concluding on the 7th June 2021. The documents were published on the Council's website and hard copies were placed in Public Libraries across Cheshire East.
- 5.12.** In total 14 representations were received from 11 parties. A summary of the issues raised and the proposed response to these is set out in the Report of Consultation, prepared for the final version of the HMO SPD (Appendix 1 of this report).
- 5.13.** The comments received covered a range of topics and issues. The key matters brought out during the consultation can be summarised as follows:
- There should be no more HMOs in Crewe due to the impact upon local communities/ environment of the area;
 - Issues of litter and car parking associated with HMOs;
 - Poor quality of HMO accommodation;
 - Drafting error highlighted;
 - Advice should be sought from the local authority conservation officer and from the appropriate archaeological staff where any heritage assets may be affected;
 - All HMOs should require planning permission;
 - Additional licencing controls should be introduced for HMOs accommodating less than 5 people;
 - The progress of Article 4 Directions in Cheshire East will be monitored;
 - Consideration should be given to fixing legacy imbalance issues/ scaling back existing HMOs in areas such as Crewe;
 - Exceptions should not be applied as they will not satisfy the broader aims of the SPD;
 - It should be made easier for an HMO to convert back to a dwelling where possible.
- 5.14.** The representations have been considered and the Report of Consultation includes the Council's suggested response including a number of modifications to the document in the light of this feedback. This is set out in the Report of Consultation (Appendix 1) and are incorporated into the final draft of the Framework (Appendix 2).
- 5.15.** These final changes to the HMO SPD are quite limited, as might be expected at this late stage of its development, and include:

- Additional text added to clarify that the policies cited in the document are not an exhaustive list. Proposals that affect heritage assets for example, will be considered in light of relevant development plan policies;
- Additional text added to clarify that the definition of a HMO at Section 3 of the SPD is for planning purposes only;
- Typographical error amended.

5.16. In addition, changes have been made to the current status of the Site Allocations and Development Policies Document and the Article 4 Directions in areas of Crewe simply to reflect the latest position.

6. Consultation and Engagement

6.1. This is set out earlier in this report and has most recently involved six weeks consultation during April/ June 2021. Following this all comments have been considered and modifications proposed to the SPD so that it is ready for adoption. A Report of Consultation accompanies this report (Appendix 1)

7. Implications

7.1. Legal

7.1.1. The Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning (Local Development) (England) Regulations 2012 provide the statutory framework governing the preparation and adoption of supplementary planning documents. Amongst other things, the 2012 Regulations require that an SPD contains a reasoned justification of the policies within it and stipulate that it must not conflict with adopted development plan policies. The National Planning Policy Framework and the associated Planning Practice Guidance sets out national policy and guidance about the circumstances in which SPDs should be prepared.

7.1.2. Supplementary Planning Documents are guidance which add further detail to the policies in the development plan. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. Supplementary planning documents are capable of being a material consideration in planning decisions but are not part of the development plan.

7.1.3. Regulation 35 (Availability of documents) requires the placing of documents on the Council's website plus in principal offices and other locations as considered appropriate. As set out in paragraph 5.8, this requirement has been amended temporarily through the Local Planning, Development Management Procedure, Listed Buildings etc (England) (Coronavirus) (Amendment) Regulations 2020 to enable

consultations to take place without the need to place documents in Council offices or other locations.

7.1.4. The process for preparing Supplementary Planning Document(s) is similar in some respects to that of a local plan document. However, they are not subject to independent examination by the Planning Inspectorate. There are a number of stages in the production of the SPD:

- Publish a draft SPD for public consultation. Comments were invited on the initial draft Houses in Multiple Occupation SPD between the 26th October and 23rd December 2020;
- Consider feedback received and make any changes necessary;
- Publish the final SPD along with a Report of Consultation setting out who has been consulted in its preparation, the main issues raised in feedback and how those issues been addressed in the final draft SPD.
- Invite representations on the final SPD and Report of Consultation. Representations on the final draft HMO SPD and accompanying Report of Consultation were invited between the 26th April and 7 June 2021.
- Having considered representations, the SPD may then be adopted (current stage)
- Following adoption, it must be published and made available along with an adoption statement in line with the 2012 Regulations.

7.1.5. There is no legal requirement for Supplementary Planning Documents to be accompanied by Sustainability Appraisal, and this is reinforced in Planning Practice Guidance (PPG ref: 11-008- 20140306). However, “in exceptional circumstances” there may be a requirement for SPDs to be subject to SEA where it is considered likely that they may have a significant effect on the environment that has not already been assessed within the SEA of the Local Plan. A screening assessment was undertaken for the final draft SPD which determined that a SEA is not required for the SPD.

7.1.6. The screening assessment also addressed whether the SPD has a significant adverse effect upon any internationally designated site(s) of nature conservation importance and thereby subject to the requirements of the Habitats Regulations and concludes that the SPD could not have any conceivable effect on any European site and that a full appropriate assessment under the Conservation of Habitats and Species Regulations 2017 is not required.

7.1.7. The final proposed changes to the HMO SPD are limited in their extent and do not give rise to the need to revisit the SEA (or Habitats Regulations Assessment) screening.

7.1.8. The SPD may affect a person's rights under the Human Rights Act 1998 in that Article 1 of the First Protocol: Protection of property protects a person right to enjoy their property peacefully. A public authority cannot take away a person's property, or place restrictions on its use, without very good reason. However, there will be no violation of this right if such interference, deprivation or control is carried out lawfully and in the public interest The Council considers that the introduction of the SPD is in the public interest and warranted.

7.2. Finance

7.2.1. The costs relating to the publication of the SPD and consultation report, including printing and staff time, are covered from existing planning budgets.

7.3. Policy

7.3.1. The SPD will expand and amplify existing development plan policy. It will also support the corporate plan's priorities of creating thriving and sustainable places by ensuring that development is appropriately controlled, reduces impact on the environment and supports safe and clean neighbourhoods.

7.4. Equality

7.4.1. The Council has a duty under Section 149 of the Equalities Act to have due regard to the need to: eliminate discrimination; advance equality of opportunity between persons who share a "relevant protected characteristic" and persons who do not share it; foster good relations between persons who share a "relevant protected characteristic" and persons who do not share it.

7.4.2. The SPD provides guidance on the assessment of planning applications involving the change of use of (or extensions to) buildings to HMOs. The SPD is consistent with the Local Plan Strategy which was itself subject to an Equalities Impact Assessment (EqIA) as part of an integrated Sustainability Appraisal.

7.4.3. An EqIA screening assessment has been carried out and this has not identified any actual or potential negative impact on people with protected characteristics that would warrant a full assessment being carried out. It is available to read at:

https://www.cheshireeast.gov.uk/council_and_democracy/council_information/equality-and-diversity/equality_analysis.aspx

7.4.4. The final proposed changes to the HMO SPD are limited in their extent and do not give rise to the need to revisit the EqIA.

7.5. Human Resources

7.5.1. There are no implications for human resources

7.6. Risk Management

7.6.1. The subject matter of the report does not give rise to the need for any particular risk management measures because the process for the preparation of an SPD is governed by legislative provisions (as set out in the legal section of the report).

7.6.2. Adoption of the SPD is subject to a three-month period during which legal challenges can be made.

7.7. Rural Communities

7.7.1. It is unlikely that there will be direct implications for rural communities given that the majority of HMOs tend to be located within the borough's towns. In the event that an HMO is proposed in a rural area, the SPD will provide additional guidance when considering planning applications.

7.8. Children and Young People/Cared for Children

7.8.1. Once adopted, the SPD would provide additional planning guidance when dealing with planning applications for HMOs. This guidance may have positive implications for those living within HMOs and other dwellings in the vicinity. This could benefit children and young people/ cared for children

7.9. Public Health

7.9.1. Once adopted, the SPD would provide additional planning guidance when dealing with planning applications for HMOs. This guidance may have positive implications for those living within HMOs and other dwellings in the vicinity. This could benefit well-being and public health.

7.10. Climate Change

7.10.1. The HMO SPD draws attention to development plan policies that seek to reduce carbon emissions by incorporating measures to reduce energy use and the provision of electric vehicle charging points where this is feasible.

Access to Information	
Contact Officer:	Claire Coombs, Principal Planning Officer claire.coombs@cheshireeast.gov.uk 01270 860005
Appendices:	Appendix 1: Report of Consultation Appendix 2: Houses in Multiple Occupation Supplementary Planning Document
Background Papers:	<p>Houses in Multiple Occupation Supplementary Planning Document Equalities Impact Assessment:</p> <p>https://www.cheshireeast.gov.uk/council_and_democracy/council_information/equality-and-diversity/equality_analysis.aspx</p> <p>Houses in Multiple Occupation Supplementary Planning Document Strategic Environmental Assessment and Habitats Regulations Assessment Screening</p> <p>http://ee-modernlive:9070/documents/s84259/Appendix%203%20SEA%20HRA%20screening.pdf</p> <p>Portfolio Holder Decision and Report to approve the final draft HMO SPD for representations:</p> <p>http://moderngov.cheshireeast.gov.uk/ecMinutes/mglIssueHistoryHome.aspx?Issued=62137&OptionNum=0&</p> <p>Cabinet Report 3 December 2019:</p> <p>http://moderngov.cheshireeast.gov.uk/ecminutes/documents/s73319/Article%204%20Directions%20-%20report%20final.pdf</p>

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Cheshire East Local Plan

Report of Consultation: Houses in Multiple Occupation Supplementary Planning Document

September 2021

Working for a *brighter future*  together



OFFICIAL

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1. Introduction

- 1.1 The Houses in Multiple Occupation Supplementary Planning Document (“HMO SPD”) builds upon existing development plan policies found in the Cheshire East Local Plan Strategy (adopted July 2017) and ‘saved’ policies within previous Local Plans . Guidance is provided for all parties involved in the planning application process, explaining how Cheshire East Council (‘the Council’) will assess planning applications involving the change of use of buildings to houses in multiple occupation (“HMOs”) across the Borough.
- 1.2 The initial Draft HMO SPD was published for six weeks consultation between the 26th October 2020 and 23 December 2020 and a report of consultation was prepared summarising the feedback that was received and how this influenced the final draft of the SPD.
- 1.3 The final draft of the Houses in Multiple Occupation SPD alongside a report of consultation prepared for the initial draft SPD, was consulted on from the 26 April to 7 June 2021.
- 1.4 This final report of consultation sets out how the consultation was carried out and addresses the feedback received, including the final changes to the SPD made in response.
- 1.5 Consultation has been carried out in accordance with the requirements of the Council’s Statement of Community Involvement (October 2020)

2. Consultation documents

- 2.1 Comments were invited on the final draft HMO SPD (March 2021) and accompanying report of consultation. A Strategic Environmental and Habitats Regulations Assessment Screening Assessment was also included as an appendix to the SPD.

3. Document availability

- 3.1 Electronic copies of the consultation documents were available on the Council’s consultation portal which could be accessed via the Council’s website throughout the consultation.
- 3.2 Printed copies of the consultation document were made available for inspection at public libraries in Cheshire East during opening hours.

4. Publicity and engagement

Consultation notifications

- 4.1 Notification of the consultation was sent to all active stakeholders on the Council's local plan consultation database. This consisted of 458 printed letters and 2,524 emails sent on 26th April 2021. The stakeholders on the consultation database include residents of Cheshire East, landowners and developers, as well as planning consultants, businesses and organisations, including statutory consultees.
- 4.2 Letters and emails were also sent to all town and parish councils in Cheshire East, elected members and MPs.
- 4.3 Examples of notification emails and letters are included in Appendix 1.

Other publicity

- 4.4 A number of pages on the Cheshire East Council website provided information and links to the consultation. These pages included:
- The homepage (in the 'have your say' section): www.cheshireeast.gov.uk
 - The Cheshire East Supplementary Planning Documents webpage: https://www.cheshireeast.gov.uk/planning/spatial_planning/cheshire_east_local_plan/supplementary_plan_documents/supplementary_plan_documents.aspx
 - The Article 4 Directions page for Houses in Multiple Occupation in parts of Crewe: www.cheshireeast.gov.uk/A4D referred to the SPD consultation;
 - The private sector housing/licencing webpage also included a link to the SPD consultation:
www.cheshireeast.gov.uk/housing/private_sector_housing/houses_in_multiple_occupation/houses_in_multiple_occupation.aspx
- 4.5 Screenshots of webpages can be viewed at Appendix 2.
- 4.6 A press release was issued informing people of the consultation. A copy of the media release is included in Appendix 3.
- 4.7 An item relating to the consultation on the HMO SPD was also included in the Strategic Planning Update (May 2021) edition. The Strategic Planning Update is sent to all town and parish councils and Council Members in Cheshire East. A copy is also published on the Council's website and included in Appendix 4.

5. Submitting comments

5.1 Comments could be submitted in a number of ways:

- Using the online consultation portal, linked from the Council's website: [Cheshire East Council - Final Draft Houses in Multiple Occupation Supplementary Planning Document \(objective.co.uk\)](http://objective.co.uk)
- By email to planningpolicy@cheshireeast.gov.uk;
- By post to Strategic Planning (Westfields), C/O Municipal Buildings, Earle Street, Crewe CW1 2BJ.

5.2 Printed copies of consultation response forms were available for people to take away from public libraries during opening hours. The form could also be downloaded from the Council's website. A copy of the response form is shown in Appendix 5.

5.3 Information on how to submit comments was included on the consultation portal; in the foreword of the printed and PDF versions of the draft SPD; and on the printed comments form.

6. Representations received

6.1 In total, 14 comments were received from 11 parties. These comments can be viewed on the consultation portal at: [Cheshire East Council - Final Draft Houses in Multiple Occupation Supplementary Planning Document \(objective.co.uk\)](http://objective.co.uk)

6.2 The comments received covered a range of topics and issues. The key matters brought out during the consultation can be summarised as follows:

- There should be no more HMOs in Crewe due to the impact upon local communities/ environment of the area;
- Issues of litter and car parking associated with HMOs
- Poor quality of HMO accommodation;
- Drafting error highlighted;
- Advice should be sought from the local authority conservation officer and from the appropriate archaeological staff where any heritage assets may be affected;
- All HMOs should require planning permission;
- Additional licencing controls should be introduced for HMOs accommodating less than 5 people;
- The progress of Article 4 Directions in Cheshire East will be monitored;
- Consideration should be given to fixing legacy imbalance issues/ scaling back existing HMOs in areas such as Crewe;

- Exceptions should not be applied as they will not satisfy the broader aims of the SPD;
- It should be made easier for a HMO to convert back to a dwelling where possible.

6.3 A full summary of the key issues raised alongside the Council's response and how the SPD has been amended as a result is set out in Appendix 6.

Appendix 1: Example notification letters and emails



Working for a brighter future together

To: Town and Parish Councils

Strategic Planning
Westfields, Middlewich Road
Sandbach
CW11 1HZ

Tel: 01270 685893 (please leave a message)
Email: planningpolicy@cheshireeast.gov.uk

DATE: 26/04/2021 OUR REF: SPD

Dear Town or Parish Clerk,

Cheshire East planning policy documents consultation.

Cheshire East Council has published two planning policy-related documents for consultation:

Final Draft Houses in Multiple Occupation Supplementary Planning Document ("HMO SPD")

Consultation took place between 26th October 2020 and 23rd December 2020 on the initial Draft HMO SPD.

The Final Draft HMO SPD has been now been published alongside a Report of Consultation. The Report of Consultation sets out the responses received to the initial Draft HMO SPD and how they have been taken into account in the final version.

The HMO SPD provides guidance for all parties involved in the planning application process, explaining how Cheshire East Council will assess planning applications that involve the change of use (or extension) of buildings to HMOs across the Borough.

Representations are invited to be made about the Final Draft HMO SPD and the Report of Consultation between the 26 April 2021 and 5:00pm on 7 June 2021. Further information is available on the council's consultation portal:

<https://cheshireeast-consult.objective.co.uk/portal/planning/spd/>

Draft Housing Supplementary Planning Document ("Housing SPD")

The Draft Housing SPD has been published for consultation and provides further guidance on the implementation of policies in the Local Plan, including SC4 'residential mix', SC5 'affordable homes' and SC6 'rural exceptions housing for local needs' of the Local Plan Strategy. This is the first stage of consultation on the SPD which, once adopted, will be a material consideration in decision-taking.

OFFICIAL

All other enquiries **0300 123 5500**

www.cheshireeast.gov.uk

OFFICIAL

The consultation will run from 26 April 2021 to 5:00pm on 7 June 2021. Further information is available on the council's website at:

<https://cheshireeast-consult.objective.co.uk/portal/planning/spd/>

We would be very grateful if your council is able to assist us in publicising these consultations; for example by posting a link on your website; including a short note in any parish newsletter or similar.

Please do not hesitate to contact the Strategic Planning Team using the details at the top of this letter should you require further information on any of these consultations.

Yours sincerley,



Jeremy Owens
Development Planning Manager

OFFICIAL

OFFICIAL

From: PLANNING POLICY (East)
Sent: 26 April 2021 12:11
Subject: [OFFICIAL] Cheshire East planning policy documents consultations

To whom it may concern,

You have received this email as you have previously responded to a local plan consultation or you have been asked to be kept informed of future local plan consultations. The council has published two planning policy-related documents for consultation:

Final Draft Houses in Multiple Occupation Supplementary Planning Document (“HMO SPD”)

Consultation took place between 26th October 2020 and 23rd December 2020 on the initial Draft HMO SPD.

The Final Draft HMO SPD has been now been published alongside a Report of Consultation. The Report of Consultation sets out the responses received to the initial Draft HMO SPD and how they have been taken into account in the final version.

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Representations are invited to be made about the Final Draft HMO SPD and the Report of Consultation between the **26 April 2021 and 5:00pm on 7 June 2021**.

Further information is available on the council’s consultation portal: <https://cheshireeast-consult.objective.co.uk/portal/planning/spd/>

Draft Housing Supplementary Planning Document (“Housing SPD”)

The Draft Housing SPD has been published for consultation and provides further guidance on the implementation of policies in the Local Plan, including SC4 ‘residential mix’, SC5 ‘affordable homes’ and SC6 ‘rural exceptions housing for local needs’ of the Local Plan Strategy. This is the first stage of consultation on the SPD which, once adopted, will be a material consideration in decision-taking.

The consultation will run from **26 April 2021 to 5:00pm on 7 June 2021**. Further information is available on the council’s website at:

<https://cheshireeast-consult.objective.co.uk/portal/planning/spd/>

Please do not hesitate to contact the Strategic Planning Team at planningpolicy@cheshireeast.gov.uk or telephone 01270 685893 (please leave a message) should you require further information on any of these consultations.

Yours sincerely,

Jeremy Owens
Development Planning Manager

www.cheshireeast.gov.uk

Appendix 2: Screen shots from the Council website

The screenshot displays the Cheshire East Council website interface. At the top, there is a navigation bar with the council logo, a search bar, and utility links for 'Listen and translate' and 'A to Z site index'. Below this is a prominent orange banner for 'Coronavirus - COVID-19' with the subtext 'Supporting you during the COVID-19 outbreak'. A 'I want to find...' section provides a grid of quick links to various council services such as 'jobs at the Council', 'Council Tax', and 'Council and democracy'. The main content area is divided into 'In Focus' and 'News' sections. The 'In Focus' section features a campaign titled 'Say hi! to the high street' with a date of 20-17-21. The 'News' section lists several recent articles from May 2021, including updates on tax payments, council safety measures, and a school competition. Below the news, there is a 'Have your say' section with a list of consultations and planning applications. The footer area includes 'Contact' and 'Social media' links, a 'live well Cheshire East' logo, and a 'Family Information Service' logo. At the very bottom, there are links for 'Accessibility' and 'Privacy policy and cookies'.

Cheshire East Council

Home / Download Documents / Consultations in Cheshire East

Cheshire East Council Consultations

Welcome to Cheshire East Council's Consultations page - please browse our current consultations below.

- Read about document availability
- View frequently asked questions for the individual consultations

Current consultations

What is important to you when you contact us?

Here at Cheshire East Council, we strive to provide our customers with excellent service for all. To help us achieve this, as part of our ongoing improvements and customer experience surveys, we would like to understand what would be most important to you if you were to contact the council, what we need to prioritise and what we need to improve.

Some of the questions we asked on our experience with contacting the council, but not all of them, you can answer. The majority of questions listed describe you would like to see if you could have to contact the Council in the future.

- What is important when you contact us?

Please submit your response by **15 May 2021**.

Cheshire bank Day Opportunities Questionnaire

If you, or a member of your family or voluntarily you have any responsibilities for an adult day opportunities, we'd like to hear from you to help us understand how you feel about current day opportunities, if the current offering meets your current and future expectations and what ideas you might have for new opportunities.

- Cheshire Bank Day Opportunities questionnaire
- Long Road Station: What do you like about day opportunities?

Please submit your response by **Agreed 11 May 2021**.

If you would like further information on the engagement process around Day Opportunities in Cheshire East, or to request a paper version please contact adult.dayopportunities@cheshireeast.gov.uk or [01256342000](tel:01256342000).

Final Draft Houses in Multiple Occupation Supplementary Planning Document

The Final Draft Houses in Multiple Occupation Supplementary Planning Document (HMO SPD) has been published for consultation alongside a Report of Consultation. The Final Draft HMO SPD provides guidance for all parties involved in the planning application process, explaining how Cheshire East Council will assess planning applications that involve the change of use for residential buildings, following its multiple occupation across the Borough.

- View the Final Draft Houses in Multiple Occupation Supplementary Planning Document page for more information and to submit your views.

Please submit your views by **Agreed 7 June 2021**.

Draft Housing Supplementary Planning Document

The Draft Housing Supplementary Planning Document (Housing SPD) has been published for consultation. The Draft Housing SPD provides guidance on the implementation of policies in the Local Plan, including the Local Plan Housing, Local Plan Affordable Housing and Local Plan Regeneration, Housing for Local Council and the Local Plan Housing. This is the first stage of consultation on the SPD which, when adopted, will be a material consideration in decision making.

- View the Draft Housing Supplementary Planning Document page for more information and to submit your views.

Please submit your views by **Agreed 7 June 2021**.

Homelessness and Rough Sleeping Strategy Consultation

Cheshire East Council has drafted a Homelessness and Rough Sleeping Strategy, which is now out for public consultation on:

- View your views on the Homelessness and Rough Sleeping Strategy

Please submit your response by **15 July 2021**.

On-going consultations

Cheshire bank active travel - have a say on your town

We are looking to make the towns in Cheshire East more accessible by improving walking and cycling facilities. These improvements, as a long-term strategy, include:

- Improving the quality of the walking and cycling routes
- Improving the quality of the walking and cycling routes
- Improving the quality of the walking and cycling routes

The consultation on the Strategy 2 proposals will be open from Monday 15th June to Friday 15th July. The consultation on the Strategy 1 proposals will be open from Monday 15th June to Friday 15th July. The consultation on the Strategy 3 proposals will be open from Monday 15th June to Friday 15th July. The consultation on the Strategy 4 proposals will be open from Monday 15th June to Friday 15th July. The consultation on the Strategy 5 proposals will be open from Monday 15th June to Friday 15th July. The consultation on the Strategy 6 proposals will be open from Monday 15th June to Friday 15th July. The consultation on the Strategy 7 proposals will be open from Monday 15th June to Friday 15th July. The consultation on the Strategy 8 proposals will be open from Monday 15th June to Friday 15th July. The consultation on the Strategy 9 proposals will be open from Monday 15th June to Friday 15th July. The consultation on the Strategy 10 proposals will be open from Monday 15th June to Friday 15th July. The consultation on the Strategy 11 proposals will be open from Monday 15th June to Friday 15th July. The consultation on the Strategy 12 proposals will be open from Monday 15th June to Friday 15th July. The consultation on the Strategy 13 proposals will be open from Monday 15th June to Friday 15th July. The consultation on the Strategy 14 proposals will be open from Monday 15th June to Friday 15th July. The consultation on the Strategy 15 proposals will be open from Monday 15th June to Friday 15th July. The consultation on the Strategy 16 proposals will be open from Monday 15th June to Friday 15th July. The consultation on the Strategy 17 proposals will be open from Monday 15th June to Friday 15th July. The consultation on the Strategy 18 proposals will be open from Monday 15th June to Friday 15th July. The consultation on the Strategy 19 proposals will be open from Monday 15th June to Friday 15th July. The consultation on the Strategy 20 proposals will be open from Monday 15th June to Friday 15th July. The consultation on the Strategy 21 proposals will be open from Monday 15th June to Friday 15th July. The consultation on the Strategy 22 proposals will be open from Monday 15th June to Friday 15th July. The consultation on the Strategy 23 proposals will be open from Monday 15th June to Friday 15th July. The consultation on the Strategy 24 proposals will be open from Monday 15th June to Friday 15th July. The consultation on the Strategy 25 proposals will be open from Monday 15th June to Friday 15th July. The consultation on the Strategy 26 proposals will be open from Monday 15th June to Friday 15th July. The consultation on the Strategy 27 proposals will be open from Monday 15th June to Friday 15th July. 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The consultation on the Strategy 100 proposals will be open from Monday 15th June to Friday 15th July.


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Supplementary planning documents

Supplementary planning documents add further detail to policies in the development plan and provide further guidance on specific topics or locations.

Draft supplementary planning documents

The following SPDs are currently being prepared:

- Houses in Multiple Occupation SPD** : representations are invited on the Final Draft Houses in Multiple Occupation SPD between Monday 26 April 2021 and 5pm on Monday 7 June 2021.
- Housing SPD** : representations are invited on the Draft Housing SPD between Monday 26 April 2021 and 5pm on Monday 7 June 2021.

To submit your views and find out more information please visit our [consultation portal](#).

Adopted supplementary planning documents

The following SPDs have been adopted. These are not part of the statutory development plan but may be material considerations when making planning decisions. Please note that those SPDs adopted by one of the former councils are relevant only to the area previously covered by the council that adopted them. The [map of former districts](#) shows the areas covered by each former council.

Supplementary planning document	Adopted	Adopting council
Brooks Lane (Middlewich) Development Framework (PDF, 8.0MB) plus supporting documents; BLDF report of consultation (PDF, 1.2MB) and BLDF adoption statement (PDF, 209KB)	September 2020	Cheshire East Council
The Garden Village at Handforth (PDF, 73.1MB) and supporting documents	December 2018	Cheshire East Council
Cheshire East Borough Design Guide	May 2017	Cheshire East Council
Over Peover SPD (PDF, 1.8MB)	July 2011	Cheshire East Council
Prestbury SPD (PDF, 7.8MB)	July 2011	Cheshire East Council
Alsager Town Centre Strategy (PDF, 5.2MB)	October 2010	Cheshire East Council
Local List of Historic Buildings (PDF, 5.7MB)	October 2010	Cheshire East Council
Smallwood Village Design Statement (PDF, 1.1MB)	October 2010	Cheshire East Council
Congleton Princess Street Area Development Brief (PDF, 1.6MB)	March 2009	Former Congleton Borough Council

In this section

- [Design guide supplementary planning document](#) ▶
- [Supplementary Planning Document for Bollington](#) ▶
- [Supplementary Planning Documents](#)

Contact us

Local Plan matters only

[Email Local Plan Team](#)

01270 685893

All other planning enquiries (including planning application queries)

[Email Planning Department](#)

0300 123 5014

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Home / Planning / Spatial planning / Article 4 Directions - houses in multiple occupation

Article 4 Directions - Houses in Multiple Occupation

Introduction

Planning permission is not normally required to convert a dwelling into a house in multiple occupation (HMO) provided that the property accommodates no more than six unrelated individuals. Such changes of use are normally permitted development.

Local Planning Authorities can withdraw permitted development rights through Article 4 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended). The effect of such a Direction is that planning permission is then needed for the withdrawn permitted development once the Direction comes into force.

Article 4 Directions in areas of Crewe

On the 8 October 2020, three non-immediate Article 4 Directions were made covering areas of Crewe. These cover the streets around Norwich Road, Hungerford Road and West Street. Copies of the Directions and maps of the areas affected can be viewed below:

- [Article 4 Direction: Norwich Road, Crewe \(PDF, 1.6MB\)](#)
 - [Map for Article 4 Direction: Norwich Road, Crewe \(PDF, 1.3MB\)](#)
- [Article 4 Direction: Hungerford Road, Crewe \(PDF, 1.6MB\)](#)
 - [Map for Article 4 Direction: Hungerford Road, Crewe \(PDF, 1.76MB\)](#)
- [Article 4 Direction: West Street, Crewe \(PDF, 1.5MB\)](#)
 - [Map for Article 4 Direction: West Street, Crewe \(PDF, 509KB\)](#)

Why are the directions being introduced?

The majority of the Borough's HMOs are located within Crewe and these are concentrated around the Norwich Road, Hungerford Road and West Street areas of the town.

The council's cabinet report and evidence paper (Appendix D) highlights a coincidence of environmental, economic and social issues within areas with high concentrations of HMOs – for example increased levels of fly-tipping. The Article 4 Directions will enable the council to better monitor and manage the growth of new HMOs within these areas via the planning application process.

Consultation

We invited representations to be made on the making of the three Article 4 Directions between 19 October 2020 and 11 January 2021. All representations received have been considered and a decision has now been taken to confirm the three Directions by the Portfolio Holder for Planning which will bring them into effect on the **1 November 2021**.

In the forthcoming weeks the statutory procedures necessary to confirm the Directions will be completed and notice will be given. This page will be updated in due course as the Directions are finalised.

Once the Directions come into force on the **1 November 2021**, the change of use of a dwellinghouse (C3) to a house in multiple occupation (C4) shall not be carried out in the Direction areas, unless planning permission is first granted for this change of use.

The Directions do not apply retrospectively. Any dwelling (Use Class C3) in use as a small HMO (Use Class C4) before the Directions take effect will not be affected. However, it would be in the interests of landlords and property owners to keep records to demonstrate that dwellings were in use as HMOs before the Directions take effect in the event that this is later queried.

If landlords and property owners require written confirmation that a dwelling is in compliance as a HMO (Use Class C4) then the appropriate procedure for doing so would be to submit an application for a [Local Development Certificate](#).

Other planning policy documents

Alongside the Article 4 Directions cited above, the following documents are also in production:

- [Cheshire East Site Allocations and Development Policies Document \(SADPD\)](#). This is the second part of the Cheshire East Local Plan and includes draft policy HDU4: Houses in Multiple Occupation. The Revised Publication Draft SADPD was published for representations between 20 October 2020 and 23 December 2020. You can [view the latest news about the SADPD on our Cheshire East Local Plan webpage](#).
- [Final Draft Houses in Multiple Occupation Supplementary Planning Document](#). This SPD will provide further guidance to all parties involved in the planning application process for HMOs in Multiple Occupation. This has been published for representations between 20 April 2021 and 27 June 2021. You can find out more about this on our [supplementary planning documents webpage](#).

If you have any queries, you can contact the Strategic Planning Team at: planningpolicy@cheshireeast.gov.uk or by leaving a message on 01270 685893 and we will respond as soon as possible.

In this section

- [Article 4 Directions - houses in multiple occupation](#)
- [Development Register](#)
- [Local Plan Public Notice](#)
- [Spatial planning update](#)
- [Airport Planning](#)
- [Local Development Orders \(LDOs\)](#)
- [Cheshire East Local Plan](#)
- [Planning Policy Documents Index and Price List](#)
- [Research and Evidence](#)
- [Strategic Planning](#)
- [Sewer and Other Policies](#)

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Final Draft Houses in Multiple Occupation Supplementary Planning Document

Consultation took place between 26th October 2020 and 23rd December 2020 on the initial Draft Houses in Multiple Occupation Supplementary Planning Document ("HMO SPD").

The Final Draft Houses in Multiple Occupation Supplementary Planning Document has been now been prepared alongside a Report of Consultation. The Report of Consultation sets out the responses received to the initial Draft HMO SPD and how they have been taken into account in the final version.

The SPD provides guidance for all parties involved in the planning application process, explaining how Cheshire East Council will assess planning applications that involve the change of use (or extension) of buildings to HMOs across the Borough.

Representations are invited on the Final Draft HMO SPD and the accompanying Report of Consultation between **Monday 26 April 2021** and **5pm on Monday 7 June 2021**.

Consultation document

The draft SPD document and Report of Consultation is available to download on this consultation portal:

- [Final Draft Houses in Multiple Occupation Supplementary Planning Document \(PDF file\)](#)
- [Report of Consultation \(PDF file\)](#)

A screening exercise has been carried out to determine whether the Final Draft HMO SPD gives rise to the need for further Strategic Environmental Appraisal or Appropriate Assessment (under the Habitats Regulations). This screening concludes that further such assessment is not necessary. The screening report is also available for consultation and this is included at Appendix 1 of the SPD.

An Equalities Impact Assessment ("EIA") has also been published and this concludes that the Final Draft Houses in Multiple Occupation Supplementary Planning Document will not have a significant adverse impact on persons sharing any of the characteristics protected under the Equality Act 2010. Copies of published EIAs can be found on the Council's website.

For the duration of the consultation, the document can also be viewed at public libraries in Cheshire East. Opening hours may currently be restricted due to the coronavirus pandemic and you are advised to check the current libraries opening times on our website or telephone the 24-hour library information service on 0300 123 7739.

Submit your views

To comment online using this consultation portal, please log-in or register and then click the 'Read and comment on document' button below. This is our preferred method of submitting responses, but you can also respond by email (to planningpolicy@cheshireeast.gov.uk) or in writing (to Strategic Planning Westfields, C/O Municipal Buildings, Earle Street, Crewe CW1 2BJ).

Alternatively, you can download this SPD comments form and return it by email or by post to the relevant address above.

Whichever method used, please make sure that your comments reach us by **5pm on Monday 7 June 2021**. We are not able to accept anonymous comments and you must provide us with your name and contact details. Your personal information will be processed in line with our Strategic Planning Privacy Notice and your name and comments will be published on this consultation portal.

Further information

We have also published a formal Notice of Publication of the Final Draft Supplementary Planning Document.

For further information or for assistance in making comments, you can contact the Strategic Planning Team at planningpolicy@cheshireeast.gov.uk or by leaving a message on 01270 685893 and we will respond as soon as possible.



Event Information	Supporting Documents	All Comments
<p>Access:  Login required</p> <p>Status:</p> <p>Privacy: If you take part: your name may be displayed, your answers may be displayed, your town/city will not be shown</p> <p>Description: The SPD provides guidance for all parties involved in the planning application process, explaining how Cheshire East Council will assess planning applications that involve the change of use (or extension) of buildings to HMOs across the borough.</p> <p>Organisation: Cheshire East Council</p> <p>Contact Name: Strategic Planning Team</p> <p>Contact Email: planningpolicy@cheshireeast.gov.uk</p> <p>Contact Telephone: 01270 685893 (please leave a message)</p> <p>Other Contact Information: Strategic Planning (Westfields) c/o Municipal Buildings Earle Street Crewe CW1 2BJ</p> <p>Subject: Local development plans, Planning (town and country), Local development, Local Development Framework</p>		

Appendix 3: Press release



Coronavirus - COVID-19

Supporting you during the COVID-19 outbreak

https://www.cheshireeast.gov.uk/council_and_democracy/council_information/coronavirus/coronavirus-covid-19.aspx

[Home](#) / [Council and Democracy](#) / [Council Information](#) / [Media Hub](#) / [Media releases](#) /
26/04/2021 - Council launches consultations on housing documents



Council launches consultations on housing documents

26 April 2021

Cheshire East Council is inviting comments on two housing documents that would provide further guidance to developers and property owners and support the authority in deciding planning applications.

Firstly, a draft Housing Supplementary Planning Document (SPD) has been published for consultation.

If adopted, it will provide additional guidance on three policies within the [Local Plan Strategy \(/planning/spatial-planning/cheshire_east_local_plan/local-plan-strategy/local_plan_strategy.aspx\)](#), which sets out the overall vision and planning strategy for development in the borough.

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The policies refer to the 'residential mix' of developments, including making sure that supported housing and accommodation for the elderly is available, and the provision of affordable homes, including in rural areas.

Frank Jordan, Cheshire East Council's executive director for place, said: "An SPD is not part of our statutory development plan but it is a recognised way of putting in place additional planning guidance and should be taken into account in deciding a planning application or on an appeal against a planning decision."

Secondly, the final draft of the council's Houses in Multiple Occupation Supplementary Planning Document (HMO SPD) has also been published for representations, marking the next step towards the adoption of this document.

The document provides more detailed policy guidance and, if adopted, will be used to assess planning applications for HMOs.

It includes guidance on when planning permission is required and what information needs to be provided by applicants.

The final draft HMO SPD is accompanied by a report summarising the responses received during an earlier consultation and explains how they have been taken into account in preparing the final version.



Mr Jordan added: "Providing clear guidance up front about policy expectations should support developers and property owners when they are making relevant planning applications, as well as support the council in determining them.

"If adopted, these documents would be a key component of ensuring that local needs are met, and the right type of housing is delivered in the right place."

Comments on both documents

(/council_and_democracy/council_information/consultations/consultations.aspx) are invited between 26 April 2021 and 5pm on 7 June 2021.

Feedback can also be posted to: Strategic planning (Westfields), C/O Municipal Buildings, Earle Street, Crewe CW1 2BJ.

Appendix 4: Consultation response forms



Cheshire East Local Plan Final Draft Houses in Multiple Occupation Supplementary Planning Document - Comments Form

Consultation took place between 26th October 2020 and 23rd December 2020 on the initial Draft Houses in Multiple Occupation Supplementary Planning Document ("HMO SPD"). The Final Draft HMO SPD has now been published and it provides guidance for all parties involved in the planning application process, explaining how Cheshire East Council will assess planning applications that involve the change of use (or extension) of buildings to HMOs across the Borough. The accompanying Report of Consultation sets out the responses received to the initial Draft HMO SPD and how they have been taken into account in the final version.

Representations are invited to be made about the Final Draft HMO SPD and the Report of Consultation between the **26 April 2021** and **5:00pm on 7 June 2021**.

Consultation documents

The consultation documents can be viewed online at

<https://cheshireeast-consult.objective.co.uk/portal/planning/spd/>

A screening exercise has been carried out to determine whether the draft document gives rise to the need for further Strategic Environmental Appraisal or Appropriate Assessment (under the Habitats Regulations). This screening concludes that further such assessment is not necessary. The screening report is also available for consultation and this is included at Appendix 1 of the HMO SPD.

For the duration of the consultation, the document can also be viewed at public libraries in Cheshire East during opening hours. Opening hours may be restricted due to Covid-19 and you are advised to check the current libraries opening times on the council's website or telephone the 24-hour library information service on 0300 123 7739. If you are unable to inspect copies of the documents during the representations period, please contact us using the details below to make alternative arrangements to inspect the documents.

Submit your views

The council's online consultation portal is our preferred method of submitting responses:

<https://cheshireeast-consult.objective.co.uk/portal/planning/spd/> but you can also submit responses or return this form by email or post to:

By e-mail: planningpolicy@cheshireeast.gov.uk

By post: Strategic Planning (Westfields), C/O Municipal Buildings, Earle Street, Crewe CW1 2BJ

Please make sure that your comments reach us by **5pm Monday 7 June 2021**. We are not able to accept anonymous comments and you must provide us with your name and contact details. Your personal data will be processed in line with our Spatial Planning Privacy Notice, which is available on the council's website.

For further assistance in making comments, you can contact the Strategic Planning Team at planningpolicy@cheshireeast.gov.uk or by leaving a message on 01270 685893 and we will respond as soon as possible.



Cheshire East Local Plan Draft Houses in Multiple Occupation Supplementary Planning Document - Comments Form

Please return to:

Strategic Planning C/O Municipal Buildings, Earle Street, Crewe CW1 2BJ or by email to planningpolicy@cheshireeast.gov.uk

Please return by:

Monday 7 June 2021

This comment form has two parts:

- Part A – Personal details.
- Part B – Your representation(s).

Comments Form Part A: Personal Details

	Personal Details*	Agent's Details (if applicable)
	<i>* If an agent is appointed, please complete only the Title, Name and Organisation in column 1 but complete the full contact details of the agent in column 2.</i>	
Title	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
First Name	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
Last Name	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
Job Title <small>(where relevant)</small>	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
Organisation <small>(where relevant)</small>	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
Address Line 1	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
Address Line 2	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
Address Line 3	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
Address Line 4	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
Postcode	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
Telephone Number	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
Email Address <small>(where relevant)</small>	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>
Your Reference No. <small>(if known)</small>	<input style="width: 95%;" type="text"/>	<input style="width: 95%;" type="text"/>

Please complete a separate Part B form for each comment that you would like to make. This response form provides enough space for four comments but please copy and attach further part B forms if required.

**Comment Form Part B: Final Draft Houses in Multiple Occupation
SPD Comment Form**

Name and Organisation:

Office Use Only:	
PID:	RID:

Q1. Which section of the document are you commenting on?

Page / Chapter / Paragraph / Figure
(please delete as appropriate and state which): _____

Q2. What is your overall view on this section? (please tick one box)

Support Object Comment only

Q3. Please set out your comments or views on this section:

Appendix 5: Strategic Planning Update



Cheshire East Council
(/Home.aspx)

Coronavirus - COVID-19

Supporting you during the COVID-19 outbreak
(https://www.cheshireeast.gov.uk/council_and_democracy/council_information/coronavirus/coronavirus-covid-19.aspx)

[Home](#) / [Planning](#) / [Spatial planning](#) / spatial planning update

Strategic planning update

This page provides regular updates on planning policy matters affecting Cheshire East, including:

- progress on the council's Local Plan
- other research, guidance and projects carried out by the council's Strategic Planning Team, and
- neighbourhood planning activity taking place across the borough.

May 2021 bulletin

The Strategic Planning Update is one of the ways that we aim to keep people in touch with planning policy matters affecting the borough.

Officers in the Strategic Planning Team continue to work from home. However, you can still get in touch with us about anything in this update. The best way is via email to localplan@cheshireeast.gov.uk; however, we will also pick up voicemail messages left on our general contact number (01270) 685893 and call you back.

Keyboard navigation: use the spacebar to display further information.

Site Allocations and Development Policies Document	▼
Crewe Hub Area Action Plan	▼
Housing supply	▼
Houses in multiple occupation and Article 4 Directions in Crewe	▼
Supplementary planning documents	▼

Houses in multiple occupation

In parallel with progressing the Article 4 Directions, a SPD (Supplementary Planning Document) has also been prepared to provide further, more detailed guidance on the requirements that any new proposed HMO (house in multiple occupation) will need to meet, including managing the concentration of HMOs (houses in multiple occupation) within a particular area. Although particularly relevant to the three areas of Crewe proposed to be covered by Article 4 Directions, the SPD (Supplementary Planning Document) will apply borough-wide.

Following public consultation on the draft HMO (houses in multiple occupation) SPD (Supplementary Planning Document) between October and December last year and having considered feedback received about it, the SPD (Supplementary Planning Document) has now been finalised and published to allow any further representations to be made about it and its accompanying Report of Consultation, with a deadline of 5pm on Monday 7 June for receipt of views.

Details of the HMO (house in multiple occupation) SPD (Supplementary Planning Document) including how to respond is available on the Final Draft Houses in Multiple Occupation Supplementary Planning Document page (https://cheshireeast-consult.objective.co.uk/portal/planning/spd/final_draft_hmo) of the consultation portal.

Appendix 6 Summary of key issues and response

Consultee Ref	Summary of key issues including where the comment relates	Response to issues raised	Changes required
HMO1 Mr A Colley	The problems with HMOs in Crewe have been recognised and these should be acted upon. There should be no more HMOs in Crewe due to the various social and environmental issues caused such as impact upon local communities, strain on services, litter and car parking. Accommodation standards for HMOs are poor.	<p>The issues raised with regards to the impact that HMOs have upon the social, economic and environmental quality of an area are acknowledged and noted. The SPD seeks to provide additional guidance when considering planning proposals for HMOs including avoiding concentrations and improve standards of accommodation.</p> <p>In addition to the HMO SPD, the Council has made 3 non-immediate Article 4 Directions for small HMOs in areas of Crewe which will come into effect on the 1 November 2021. This will allow the Council to consider proposals for new small HMOs in these areas which have high existing concentrations.</p>	None required.
HMO 2 Cycling UK	Supportive of guidance in relation to cycle parking	Noted	None required.
HMO 3 Cycling UK	Query if there is a drafting error and whether paragraph 5.30 should read ‘ "The store must be sensitively designed and sited so AS to NOT RESULT IN any loss of amenity to	Noted	The drafting error has been corrected in the SPD – see renumbered paragraph 4.29.

Consultee Ref	Summary of key issues including where the comment relates	Response to issues raised	Changes required
	neighbouring residents or the wider streetscene.		
HMO 4 Historic England	No comments to make. Recommend that you seek advice from the local authority conservation officer and from the appropriate archaeological staff. They are best placed to provide information on the historic environment, advise on local historic environment issues and priorities, indicate how heritage assets may be affected and identify opportunities for securing wider benefits through the conservation and enhancement of the historic environment.	The SPD provides additional guidance to assist in the assessment of planning applications for HMOs and builds upon existing policies in the development plan. . In the event that a proposal affects a heritage asset, planning applications will also be assessed against other policies in the development plan such as LPS policies SD 1 'Sustainable Development in Cheshire East', SD 2 'Sustainable Development Principles', SE 7 'The Historic Environment' and SADPD policy HER 3 'Conservation Areas'.	The SPD text has been amended at paragraph 2.6 to clarify that the policies listed in the SPD is not an exhaustive list and that other policies may also be relevant such as those relating to Heritage Assets including Conservation Areas or Listed Buildings.
HMO 5 Natural England	No comments on the SPD. A SPD requires a Strategic Environmental Assessment only in exceptional circumstances as set out in Planning Practice Guidance. While SPDs are unlikely to give rise to likely significant effects on European Sites, they should be considered as a plan under the Habitats Regulations in the same way as any other plan or project. If	The SPD is accompanied by a Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report which concludes that SEA/HRA is not required.	None required.

Consultee Ref	Summary of key issues including where the comment relates	Response to issues raised	Changes required
	your SPD requires a Strategic Environmental Assessment or Habitats Regulation Assessment, you are required to consult us at certain stages.		
HMO 6 Sandbach Town Council	Final Draft HMO policy document is noted and its adoption and implementation welcomed.	Noted	None required.
HMO 7 Cllr Farrall	Whilst appreciating that national policy provides permitted development rights, if HMO SPD is produced then all HMOs should require planning permission.	<p>As the consultee highlights, most small HMOs (accommodating 6 or less unrelated individuals) do not require planning permission as they benefit from permitted development rights. It is possible to withdraw these rights through the use of Article 4 Directions but the withdrawal of such rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area. Blanket directions are not encouraged.</p> <p>The Council has made 3 non-immediate Article 4 Directions for small HMOs in areas of Crewe and this was based on evidence of concentrations in these areas and various other environmental and social issues. These will come into effect on the 1 November 2021.</p> <p>The Council will continue to monitor the number and location of HMOs and may introduce further Article 4 Directions, or</p>	None required.

Consultee Ref	Summary of key issues including where the comment relates	Response to issues raised	Changes required
		changes to any existing ones, if there is evidence to do so.	
HMO 8 Cllr Farrell	The threshold for HMO license requirement should be reduced from 5+ to include all HMOs to ensure CEC has data on all HMOs and can ensure they meet housing and fire safety standards etc	<p>Currently a licence is required for a HMO accommodating 5 or more people. Councils can extend the requirement for licencing, however this is a separate process to the preparation of this SPD.</p> <p>At its Cabinet meeting on the 3 December 2019, the Council considered the case for introducing a Selective Licencing scheme within Cheshire East and the Nantwich Road area of Crewe was identified as a priority area for intervention. The introduction of Selective Licencing in a particular area has the effect of necessitating the need for a licence for all private rented dwellings regardless of their size.</p> <p>It was agreed at that meeting that an action plan would be developed initially to coordinate current services and then determine if additional targeted interventions could have the potential to drive improvements in the proposed area.</p> <p>A further review would then be undertaken to consider progress of the action plan and the need for a Selective Licencing Scheme to be</p>	None required.

Consultee Ref	Summary of key issues including where the comment relates	Response to issues raised	Changes required
		<p>introduced if it is apparent that existing measures alone are not sufficient to tackle the underlying problems within the area. Further information about this can be found on the Council's website:</p> <p>http://modern.gov.cheshireeast.gov.uk/ecminutes/ieDecisionDetails.aspx?ID=2324</p>	
HMO 9: The Environment Agency	No comment to make	Noted	None required.
HMO 10 Macclesfield Town Council	<p>It is disappointing that the Town Council's former comment regarding licensing was not addressed in the final document. Concern remains on the control of properties housing less than five people if a licence is not required.</p> <p>The following detail is welcomed and will assist the Planning Committee when considering HMO planning applications:</p> <ul style="list-style-type: none"> • Reference to existing planning policies, • Internal layout and room sizes, • Waste disposal and storage, 	<p>Noted. The comments previously made by the Town Council to the initial draft HMO SPD relate to licencing requirements and these are matters that cannot be addressed through planning guidance.</p> <p>Currently a licence is required for a HMO accommodating 5 or more people. Councils can extend the requirement for licencing, however this is a separate process to the preparation of this SPD.</p> <p>At its Cabinet meeting on the 3 December 2019, the Council considered the case for introducing a Selective Licencing scheme within Cheshire East and the Nantwich Road</p>	None required.

Consultee Ref	Summary of key issues including where the comment relates	Response to issues raised	Changes required
	<ul style="list-style-type: none"> • Car parking, • Cycle parking facilities, • Residential amenity. <p>The Town Council will monitor the progress of Article 4 Directions in Cheshire East in relation to HMOs.</p>	<p>area of Crewe was identified as a priority area for intervention.</p> <p>It was agreed at that meeting that an action plan would be developed initially to coordinate current services and then determine if additional targeted interventions could have the potential to drive improvements in the proposed area. The introduction of Selective Licencing in a particular area has the effect of necessitating the need for a licence for all private rented dwellings regardless of their size.</p> <p>A further review would then be undertaken to consider progress of the action plan and the need for a Selective Licencing Scheme to be introduced if it is apparent that existing measures alone are not sufficient to tackle the underlying problems within the area. Further information about this can be found on the Council's website:</p> <p>http://modern.gov.cheshireeast.gov.uk/ecminutes/ieDecisionDetails.aspx?ID=2324</p> <p>Most small HMOs (accommodating 6 or less unrelated individuals) do not require planning permission as they benefit from permitted development rights. It is possible to withdraw</p>	

Consultee Ref	Summary of key issues including where the comment relates	Response to issues raised	Changes required
		<p>these rights through the use of Article 4 Directions but the withdrawal of such rights should be limited to situations where this is necessary to protect local amenity or the wellbeing of the area. Blanket directions are not encouraged.</p> <p>The Council has made 3 non-immediate Article 4 Directions for small HMOs in areas of Crewe based on evidence of concentrations in these areas and various other environmental and social issues. These will come into effect on the 1 November 2021.</p> <p>The Council will continue to monitor the number and location of HMOs and may introduce further Article 4 Directions, or changes to any existing ones, if there is evidence to do so.</p>	
HMO 11 Cllr C Naismith	<p>The council needs to consider not just how to prevent future over concentration of HMOs but also how to fix the legacy imbalance in places like Crewe.</p> <p>In a situation where there is only one or two houses in a row full of HMOs this should be considered a</p>	The comments are noted however the scope of a SPD is limited to providing additional guidance in the assessment of planning applications for HMOs once it is adopted. It cannot be applied to dwellings already in lawful HMO use unless a proposal is submitted to extend that property.	None required.

Consultee Ref	Summary of key issues including where the comment relates	Response to issues raised	Changes required
	<p>policy challenge that needs to be addressed. Applying exceptions in this way will not satisfy the broader aims of this supplementary planning document.</p> <p>It should be made easier for existing HMOs to convert back to C3 where possible.</p>	<p>It is likely that a range of interventions may be needed to address issues surrounding HMOs, some of which will be outside the remit of planning legislation and guidance.</p> <p>In terms of exceptions, it is considered that the SPD provides an appropriate and proportionate approach – it may difficult to resist the conversion of the last dwelling to a HMO in the circumstances where all other properties within a group or row are already in HMO use. In such cases an applicant would be expected to demonstrate that they have made all reasonable attempts to sell or let the dwelling for C3 use</p>	
HMO 12 Cllr C Naismith	<p>On the whole this is a great document which will hopefully go some way towards addressing a real problem in Crewe of an over-concentration of HMOs.</p> <p>The Council should be looking not only to prevent future over-concentration of HMOs but also legacy issues in this area. Where there is a situation like the one</p>	<p>The comments are noted however the scope of a SPD is limited to providing additional planning guidance for the assessment of planning applications for HMOs once it is adopted. It cannot be applied to dwellings in lawful HMO use unless a proposal is submitted to extend that property.</p> <p>In terms of exceptions, each case will be considered on its own merits. Where an application proposes an exception, the</p>	None required.

Consultee Ref	Summary of key issues including where the comment relates	Response to issues raised	Changes required
	described in this group of paragraphs, the council should be looking to find ways of scaling back the existing over-concentration of HMOs in a phased way rather than potentially furthering the problem by allowing remaining C3 properties to also convert. The council should look to proactively make it easier for HMOs to convert back to C3 where possible.	<p>applicant should submit a supporting statement with the planning application to demonstrate that there is no reasonable demand for the existing residential property as a continued Class C3 use. No reasonable demand would be demonstrated where the property has been advertised for a period of at least 12 months on the property market offered at a reasonable price (based on an assessment of the property market in the local area) or rental level to be verified in writing by a qualified person in a relevant profession such as an estate agent, and where there has been no reasonable commitment to purchase/rent the property.</p> <p>Planning permission is not needed to convert a small HMO back to a dwelling.</p>	
HMO 13 Homes England	No comments to make.	Noted	None required.
HMO 14 Poynton Town Council	The draft Supplementary Planning Document (SPD) for HMOs aims to provide more guidance on the criteria against which planning applications for houses in multiple occupation are considered. The draft SPD would also be a material consideration in the determination of those applications. HMOs are	Noted	None required.

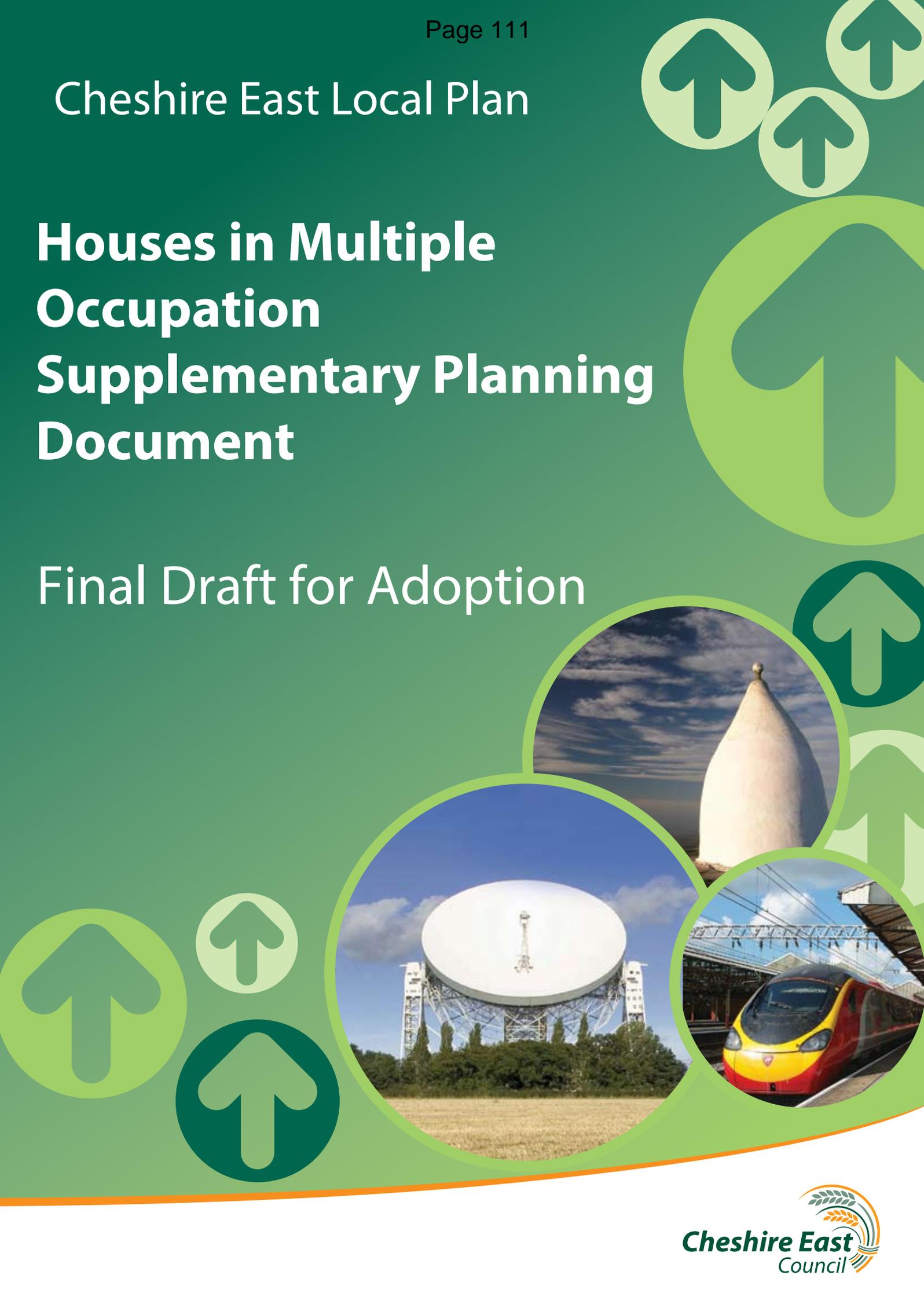
Consultee Ref	Summary of key issues including where the comment relates	Response to issues raised	Changes required
	<p>clearly a responsive and flexible part of the range of housing provision necessary to meet the needs of individuals and families within the Borough.</p> <p>A number of other local planning authorities have produced SPD documents for HMOs particularly in more urban areas.</p> <p>The draft SPD can be supported as a means of mitigating the most severe impacts of the high number of HMOs being located within particular areas of the Borough, notably Crewe town and Macclesfield town to a lesser extent.</p> <p>The absence of any registered HMOs in Poynton reflects the low numbers in the other northern towns of Cheshire East.</p> <p>The Town Council can support the aims of the draft SPD in recognising that HMOs have a role in providing a local housing offer in</p>		

Consultee Ref	Summary of key issues including where the comment relates	Response to issues raised	Changes required
	<p>the larger towns of the Borough. In the correct location, housing of appropriate quality and good management is needed.</p> <p>There is also a need to protect the number of smaller family houses in the Borough. There is a need to spread the HMOs across the two principal towns of the Borough such that mixed communities can continue and high densities of HMOs in local areas are avoided.</p> <p>In assessing planning applications for HMOs, the Borough Council should seek to ensure that the change of use would not be detrimental to the amenity of residents/tenants of the HMO itself, the neighbouring properties or the overall residential amenity of the area.</p>		

Cheshire East Local Plan

Houses in Multiple Occupation Supplementary Planning Document

Final Draft for Adoption





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1 Introduction

1.1 Supplementary Planning Documents (“SPDs”) add further detail to policies contained within the development plan and are used to provide guidance on specific sites or particular issues. SPDs do not form part of the adopted development plan but they are a material planning consideration in decision taking.

1.2 The Houses in Multiple Occupation SPD builds upon existing development plan policies found in the Cheshire East Local Plan Strategy (adopted July 2017) and ‘saved’ policies within previous Local Plans⁽¹⁾. The SPD also identifies additional plans and policies that are currently in preparation. Guidance is provided for all parties involved in the planning application process, explaining how Cheshire East Council (“the Council”) will assess planning applications involving the change of use of buildings to HMOs across the Borough.

1.3 It is acknowledged that HMOs and the wider private rented sector play an important role in meeting housing needs. However, a saturation of HMOs in a particular location can have negative impacts upon that area, for example the number of homes available for families or those wanting to purchase their first home may reduce due to a high demand for investment properties. In addition, the occupation of dwellings as HMOs by a higher number of adults compared to a typical family home, can place additional demands on services and infrastructure, for example increased waste generation.

1.4 The planning system can assist in maintaining and achieving a balance of households within the Borough’s neighbourhoods, ensuring that different housing needs are met whilst protecting the interests of other residents, landlords and businesses.

1.5 The SPD:

- Explains what a HMO is, in planning terms, and identifies the circumstances where planning permission could be needed;
- Identifies the national and local planning policies of relevance when considering planning applications for HMOs;
- Sets out more detailed policy guidance that will be used to assess planning applications for HMOs, including information requirements;
- Provides an overview of other regulatory requirements for HMOs including licencing and relevant standards for HMOs;
- Explains how the effectiveness of this SPD will be monitored.

1 Including the Congleton Local Plan, Crewe & Nantwich Local Plan and the Macclesfield Local Plan.



2 Planning Policy Framework

2.1 Planning law requires that applications for planning permission be determined in accordance with the development plan unless material considerations indicate otherwise⁽²⁾. Material planning considerations include national planning policy and adopted supplementary planning guidance, where relevant.

The National Planning Policy Framework

2.2 The National Planning Policy Framework (“NPPF”) sets out the Government’s planning policies for England and how these should be applied.

2.3 To achieve sustainable development, the NPPF expects the planning system to support strong, vibrant and healthy communities as a key social objective. This includes provision of a sufficient range of homes and a built environment that supports everyone’s health and wellbeing.

2.4 In particular, policies within the NPPF expect planning policies to reflect the range of housing types and tenures needed by different groups in the community and help achieve the creation of inclusive and safe places that promote social interaction and address identified wellbeing needs.

Local planning policy

2.5 Relevant local planning policies are set out in the development plan for the area. The development plan for Cheshire East currently comprises of the Cheshire East Local Plan Strategy and ‘saved’ policies within previous local plans which remain in effect until such time as they are replaced by the emerging Site Allocations and Development Policies Document (“SADPD”). Neighbourhood Development Plans that have been successful at referendum and have subsequently been ‘made’ also form part of the statutory development plan.

2.6 Development plan policies of relevance to planning applications for HMOs are summarised below. This is not an exhaustive list and consideration will also be given to other relevant planning policies within each plan, where appropriate to the planning application proposals. This could include proposals that also affect Heritage Assets such as Conservation Areas or Listed Buildings.

Cheshire East Local Plan Strategy

2.7 The Cheshire East Local Plan Strategy (LPS) was adopted on the 21 July 2017 and this is the strategic plan for the borough. Relevant policies include:

- **Policy SD 1: Sustainable Development in Cheshire East.** This policy states that development should wherever possible, support the health, safety, social and cultural well-being of residents, contribute towards the equality and social inclusion through positive cooperation with the local community and provide locally distinct, high quality,

² Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990.



well designed environments. The policy also encourages use of appropriate technologies to reduce carbon emissions.

- **Policy SD 2: Sustainable Development Principles.** This policy states that development is expected to contribute positively to an area's character and identity and be socially inclusive and integrate into the local community. The policy also states that proposals should be resilient to climate change and minimise energy use.
- **Policy SC 3: Health and Well-Being.** This policy promotes good housing design, ensuring that the layout and use of new development is appropriate and compatible with an area.
- **Policy SC 4: Residential Mix.** In order to support mixed, balanced and inclusive communities, provision should be made for a variety of housing tenures, types and sizes.
- **Policy SE 1: Design.** This policy states that development proposals should make a positive contribution to their surroundings, ensuring an appropriate level of privacy for new and existing residential properties, provide appropriate external storage and waste storage.
- **Policy SE 12: Pollution, Contamination and Land Instability.** The policy states that development should not have a harmful or cumulative impact upon noise or any other pollution which would adversely affect amenity.
- **Policy C0 1: Sustainable Travel and Transport.** This policy encourages the provision of secure cycle parking facilities in new developments.
- **Policy C0 2: Enabling Business Growth through Transport Infrastructure.** This policy states that recharging points should be provided for electric/hybrid vehicles in major development proposals. For residential development, where there is a clear and compelling justification to manage the road network, proposals should adhere to the adopted Cheshire East Council parking standards for cars and bicycles in Appendix C.
- **Appendix C: Parking Standards.** Appendix C sets out the minimum car and cycle parking standards that the Council will apply to new developments, including small houses in multiple occupation (Use Class C4).

'Saved' policies from previous Local Plans

2.8 The following Local Plans contain 'saved policies' that remain part of the development plan. These policies will continue to be used in determining planning applications until such time that they are replaced:

Borough of Crewe and Nantwich Replacement Local Plan

2.9 The Borough of Crewe and Nantwich Replacement Local Plan was adopted on the 17 February 2005. Relevant 'saved policies' include:

- **BE.1 Amenity.** This policy states that proposals will be permitted provided that they are compatible with neighbouring uses, do not prejudice the amenity of future occupiers or existing residents and would not result in an increase in pollution.
- **RES.9 Houses in Multiple Occupation.** This policy sets out various criteria against which proposals for HMOs will be assessed. This includes ensuring that the building is large enough to provide satisfactory living accommodation for future residents without the need for extensions, that the development does not result in adverse changes to the appearance of the building or would detract from the amenity of existing residents and



that adequate provision is made for car parking on site or adequate parking exists on street without worsening existing highway conditions.

Congleton Borough Local Plan First Review

2.10 The Congleton Borough Local Plan First Review was adopted on the 27 January 2005. Relevant 'saved' policies include:

- **GR6: Amenity and Health.** This policy states that development proposals adjoining or near to residential properties or sensitive uses will only be permitted where they do not have a detrimental impact upon amenity, for example through loss of privacy, environmental disturbance or pollution, traffic generation and parking.
- **GR7: Amenity and Health.** This policy states that development will not be permitted which leads to a loss of amenity or increased pollution.

Macclesfield Borough Local Plan

2.11 The Macclesfield Borough Local Plan was adopted on the 8th January 2004. Relevant 'saved' policies include:

- **DC3 Amenity.** The policy states that development should not significantly injure the amenity of adjoining or nearby residential properties or sensitive uses due to loss of privacy, noise, pollution, traffic generation, access and car parking.
- **DC38 Space, light and privacy.** This policy sets out the minimum spacing standards between buildings.
- **DC42 Subdivision of Property for Residential Purposes.** This policy states that applications for the subdivision of property for residential purposes will be permitted provided that the development provides a satisfactory level of amenity for proposed occupants and existing residents, the development does not materially affect the character of the area, particularly through an over-concentration of such uses and that on-site car parking should be provided.

Made Neighbourhood Development Plans

2.12 As at the 31 March 2021, 30 Neighbourhood Development Plans (NDP's) had been 'made' and now form part of the adopted development plan. Further details of these plans can be found on the Council's website:

<https://www.cheshireeast.gov.uk/planning/neighbourhood-plans/neighbourhood-planning.aspx>

Supplementary Planning Documents

2.13 The Council has adopted a number of Supplementary Planning Documents and full details of these can be found on the Council's website at:

<https://www.cheshireeast.gov.uk/localplan>

2.14 Relevant SPDs include:



Cheshire East Borough Design Guide

2.15 The Cheshire East Borough Design Guide was adopted on the 2 May 2017. It contains guidance on matters such as bin and cycle storage requirements.

Borough of Crewe & Nantwich: Development on Backland and Gardens SPD

2.16 The Development on Backland and Gardens SPD was adopted on the 15th July 2008. It contains guidance on various matters including minimum garden sizes for residential development.

Congleton Borough Local Development Framework Interim Policy Note: Public Open Space Provision for New Residential Development

2.17 The Interim Policy Note was adopted on the 24th September 2008. It contains guidance on various matters including minimum garden sizes for residential development.

Emerging plans

2.18 The Council is currently preparing a number of Local Plan Documents which once adopted, will form part of the adopted development plan. These include the Site Allocations and Development Policies Document, the Minerals and Waste Development Plan Document and the Crewe Hub Area Action Plan.

Cheshire East Site Allocations and Development Policies Document

2.19 The Cheshire East Site Allocations and Development Policies Document (“SADPD”) will form the second part of the Local Plan. It will set non-strategic and detailed planning policies to guide planning decisions and allocate additional sites for development to assist in meeting the overall development requirements set out in the LPS.

2.20 The Revised Publication Draft SADPD was submitted to the Secretary of State for examination on the 29 April 2021. Further details about this can be found on the Council’s website:

www.cheshireeast.gov.uk/localplan

2.21 The SPD has been prepared in a way that is consistent with, and supplementary to, emerging planning policies. Whilst this is not a legal or national planning policy requirement, this approach provides opportunity for this SPD to complement and support the implementation of future development plan policies too.

2.22 Relevant policies in the Revised Publication Draft SADPD include:

- **GEN 1: Design Principles.** This policy identifies a number of criteria that all developments are expected to meet. These include development contributing positively to the borough’s quality of place, creating safe places, be accessible and inclusive, integrating car and cycle parking and making appropriate arrangements for recycling and waste management including bin storage and collection.



- **ENV 7: Climate change.** This policy states that development proposals should implement opportunities to retrofit resistance and resilience measures in the existing building stock and optimise energy efficiency.
- **HOU 4: Houses in multiple occupation.** This policy states that the change of use of a dwelling to a HMO will be permitted provided that the number of existing HMOs within a 50 metre radius of an application site does not exceed 10% of all dwellings and proposals must not result in the ‘sandwiching’ of an existing single household (C3) between two HMOs. Additional criteria include that the development would not have an adverse impact upon the character and appearance of the property or the local area; on-street car parking levels; the capacity of local services/facilities and the amenity or the environment of surrounding occupiers. The property must also be of a size suitable for the proposed use, including outdoor amenity space, provision of cycle parking and waste storage.
- **HOU 10: Amenity.** This policy states that development proposals must not unacceptably harm the amenities of adjoining or nearby occupiers of residential properties for example through: loss of privacy; environmental disturbance or pollution; traffic generation, access and parking.
- **HOU 11: Residential Standards.** This policy includes a number of criteria including the need to meet minimum spacing standards between buildings and the provision of an appropriate quantity and quality of outdoor private amenity space, having regard to the type and size of the proposed development.
- **Policy RET 8: Residential accommodation in the town centre.** This policy supports the provision of residential accommodation in town centres provided that they are integrated effectively with existing businesses and community facilities and ensure appropriate and safe access arrangements; secure, well designed and accessible cycle parking; and appropriate and well located waste and recycling facilities.
- **Policy INF 3: Highway safety and access.** This states that development proposals should incorporate appropriate charging infrastructure for electric vehicles in safe, accessible and convenient locations.

Cheshire East Minerals and Waste Development Plan Document

2.23 The Minerals and Waste Development Plan Document is currently in preparation. It will set out the Council’s planning policies on minerals and waste.

Crewe Hub Area Action Plan

2.24 The Crewe Hub Area Action Plan (CHAAP) will establish a planning framework to facilitate and manage development around a future HS2 Hub station in Crewe.



3 Houses in Multiple Occupation (HMOs)

Definition

3.1 In planning terms only⁽³⁾, a HMO is a dwelling (house or flat) that is occupied by a certain number of unrelated individuals who share one or more basic amenities such as a kitchen or bathroom. They are commonly known as shared houses.

3.2 The Town and Country Planning (Use Classes) Order 1987 (as amended) classifies HMOs as:

- Use Class C4 – accommodating between 3 and 6 unrelated individuals, or;
- ‘Sui Generis’ - accommodating 7 or more unrelated individuals.

The requirement for planning permission

3.3 Planning permission can be required to change the use of a building to a HMO. The scenarios below identify when planning permission is most often needed:

Change of use of a dwelling to a large HMO

3.4 The change of use of a dwelling (Use Class C3) to a large HMO accommodating 7 or more unrelated individuals (Use Class: Sui Generis) always requires planning permission.

3.5 The same applies in reverse - the change of use of a large HMO (Sui Generis) back to a dwelling (Use Class C3) will require planning permission.

3.6 Planning permission is also required for the change of use of an existing small HMO (Use Class C4) to a larger HMO (Sui Generis).

Change of use of a dwelling to a small HMO (use Class C4)

3.7 Under normal circumstances, the change of use of a dwelling (Use Class C3) to a small HMO accommodating between three and six unrelated individuals (Use Class C4) is ‘permitted development’. This means that planning permission from the Council is not usually required in order to carry out this change of use.

3.8 The same applies in reverse – the change of use of an existing small HMO (Use Class C4) back to a dwelling (Use Class C3) would also be ‘permitted development’.

3.9 However, there are some exceptions to this normal rule. There may be areas of the Borough where ‘permitted development rights’ have been withdrawn through the use of an ‘Article 4 Direction’. Further information about this can be found below.

Change of use to HMOs from other uses

3.10 A change of use to a HMO (large or small) from other uses such as a shop or office will normally require planning permission.

³ There may be different definitions for HMOs under non-planning legislation for example Council Tax and Licencing. Landlords and property owners should therefore ensure that they comply with all relevant standards and legislation.



Article 4 Directions

3.11 The Council can use powers set out in the Town and Country (General Permitted Development) (England) Order 2015, as amended to withdraw 'permitted development rights' from defined geographical areas through the introduction of an 'Article 4 Direction'.

3.12 Once an Article 4 Direction is brought into force, planning permission from the Council is then required for the specific permitted development right that has been withdrawn.

3.13 On the 3rd December 2019, the Council authorised the making of three non-immediate Article 4 Directions for the Nantwich Road, Hungerford Road and West Street areas of Crewe. The Directions were made on the 6th October 2020 and subsequently confirmed on the 4 June 2021. The Directions come into force on the 1 November 2021.

3.14 Within the Direction areas, planning permission will be required for the change of use of any dwelling house to a small HMO accommodating between 3 and 6 unrelated individuals (Class C4). The planning application process will allow the full impacts of such proposals to be assessed by the Local Planning Authority.

3.15 Further information about the Article 4 Directions and maps defining the areas affected can be found on the Council's webpage:

www.cheshireeast.gov.uk/A4D

3.16 The Council will continue to monitor the location of all HMOs within the borough and may introduce further Article 4 Directions, or changes to any existing ones, if there is evidence to do so. Information about any Article 4 Directions affecting HMOs will be published on the Council's website.



4 Assessing planning applications for HMOs

4.1 The following issues will be taken into account by the Council when assessing planning applications for HMOs:

Avoiding/ exacerbating concentrations of HMOs

4.2 In order to maintain and support mixed and balanced communities, **a maximum of a 10% concentration of HMOs within a 50 metre radius will be applied.**

4.3 Planning permission will not be granted for new HMOs or proposals to extend existing HMOs to accommodate additional residents, where the number of dwellings already in use as HMOs within a 50 metre radius of the application site exceeds 10% of the dwellings in that area (this includes any part of a dwelling or its curtilage that falls within that radius).

4.4 Figure 4.1 shows how the 50 metre radius will be applied from the boundary of application site (shaded green) and which properties will be included within the assessment (shaded blue).



Figure 4.1: Applying a 50 metre radius

4.5 The assessment of the number of existing HMOs within a 50 metre radius includes both small and large HMOs and not just those HMOs that require planning permission. The Council will gather this information from planning permission data, licencing information and other data sources when assessing planning applications for new HMOs.



4.6 It is recognised that within certain parts of the borough, most notably areas of Crewe that will be covered by Article 4 Directions, concentrations of HMOs may already exceed or are close to, the proposed threshold of 10%. It is considered that these areas require particular protection so as not to erode the important contribution that the remaining family homes make to the balance of the community.

4.7 In addition to the 10% threshold above, **any proposals that would result in an existing property (Use Class C3) being sandwiched by HMOs on either side will not be permitted.**

4.8 Figure 4.2 below shows an example of where a proposed HMO (shaded pink) would result in existing dwellings (C3) (unshaded) being sandwiched between the proposed HMO and an existing HMO (shaded blue). Such sandwiching will not be permitted.



Figure 4.2: Sandwiching

Exceptions

4.9 There may be instances whereby almost all properties within a terrace are already HMOs with only a very small proportion (one or two) of Class C3 dwellings remaining in that group. An example of this is shown in Figure 4.3 below.



Figure 4.3: Exceptions

4.10 The Council may, by exception, allow the remaining one or two C3 dwellings in a particular terraced group to be converted to HMOs if this would have little impact on the balance and mix of households in that terrace which is already over dominated by the proportion of existing HMOs if it would not cause further harm the character of the area.

4.11 It is recognised that owner occupiers or long term residents in this situation (as described above), could struggle to sell their property for a continued Class C3 use when surrounded by existing HMOs. Each application site will be assessed on its own individual merits when considering whether this exception should be allowed.

4.12 Where an application proposes such an exception, the applicant should submit a supporting statement with the planning application to demonstrate that there is no reasonable demand for the existing residential property as a continued Class C3 use. No reasonable demand would be demonstrated where the property has been advertised for a period of at least 12 months on the property market offered at a reasonable price (based on an assessment of the property market in the local area) or rental level to be verified in writing by a qualified person in a relevant profession such as an estate agent, and where there has been no reasonable commitment to purchase/rent the property.

Achieving good standards of accommodation

4.13 The size of the dwelling and internal layout must be sufficient to accommodate the proposed number of residents in order to protect the residential amenity of future occupiers of the HMO and any adjacent residents. The internal layout of HMOs should meet the amenity and facilities standards set out in the Council's latest 'Amenities and Facilities Standards in Houses in Multiple Occupation (HMOs): Guidance for Landlords and Agents' which can be found at:



<https://www.cheshireeast.gov.uk/hmo>

4.14 The external area serving the dwelling should also be of sufficient size to accommodate waste storage requirements, make adequate provision for cycle parking, provide space for outdoor clothes drying and amenity space for residents.

Internal layout and room sizes

4.15 Planning applications should provide existing and proposed floor plans to a suitable scale for example: 1:100. Proposed floor plans should clearly identify proposed room uses, including bedrooms or communal spaces and the location of any opening windows. For bedrooms, the plans must also indicate the maximum number of occupants.

4.16 The Council applies prescribed national minimum room sizes for the size and use of rooms as sleeping accommodation/bedrooms to licenced HMOs. For planning applications, all rooms proposed for use as sleeping accommodation/ bedrooms should, as a minimum, comply with the latest published national minimum room sizes for HMOs. Currently this is:

- no room with a floor area of less than 4.64 square metres (sq.m.) can be occupied as sleeping accommodation.
- rooms with a floor area between 4.64 sq.m. and 6.51 sq.m. can only be occupied as sleeping accommodation by a single child of less than 10 years of age;
- rooms with a floor area between 6.51 sq.m. and 10.21 sq.m. can be occupied as sleeping accommodation by 1 person.
- rooms of at least 10.22 sq.m. can be occupied as sleeping accommodation by two people.

4.17 Further detailed information about prescribed national minimum room sizes can be found on the Council's website:

<https://www.cheshireeast.gov.uk/hmo>

4.18 In addition to the above standards, all rooms proposed for use as a bedroom must have access to at least one opening window.

Waste storage and disposal

4.19 When a dwelling is converted into an HMO, there is potential for increased domestic waste. For example, if a property was previously occupied by a small family, the waste generated is unlikely to be as high as if the property is occupied by a number of unrelated adults.

4.20 The design and layout of HMOs should therefore be carefully considered to ensure that there are adequate facilities for waste storage both internally and externally and for collection.

4.21 The majority of properties in Cheshire East have at least three bins: a recycling bin; a garden/food waste bin and a non-recyclable bin. Plans for the provision of storage areas should take account of these minimum requirements. Larger HMOs should consider the need for any additional waste storage requirements. Further information about the types of bins available (and sizes) can be found on the Council's website:



https://www.cheshireeast.gov.uk/waste_and_recycling/bins-waste-and-recycling.aspx

4.22 In order to ensure that adequate provision is made for waste, the following information must be provided:

- Proposed floor plans to show the location of an **internal waste storage area** to be used prior to removal to an external storage area. The internal storage area must be sited so not to be a danger to children, or cause problems with hygiene and attract pests. Internal waste storage areas should not be located within bedrooms and refuse bins must not be stored on escape routes.
- Proposed site plan and elevations to show the location, size and design of an **external waste storage area** to be used for the storage of waste and recycling bins. The plans should show the route (and distance) from the external storage area to the collection point.

The waste storage area must be in a suitable location within the curtilage of the property, sited to be accessible to all residents with a clear route available from it to the public highway in order to facilitate collection. The storage area must be sensitively sited so to be adequately ventilated, capable of being cleansed and avoid any loss of amenity to neighbouring residents or harm to the wider streetscene.

Reducing carbon emissions

4.23 As with all types of development, proposals for HMOs will be considered in the context of important policies aimed at tackling climate change. LPS Policy SD 1: Sustainable Development in Cheshire East states that development should (where possible) use appropriate technologies to reduce carbon emissions. LPS Policy SD 2: Sustainable Development Principles states that all development will be expected to be resilient to climate change and minimise energy use.

4.24 Emerging SADPD Policy ENV 7: Climate Change encourages opportunities to retrofit resistance and resilience measures into existing building stock. SADPD Policy INF 3: Highway Safety and access requires that developments incorporate charging infrastructure for vehicles in safe and convenient locations.

4.25 The majority of planning proposals for HMOs involve conversion of existing dwellings or buildings in alternatives uses. Planning proposals for HMOs should demonstrate that the development will incorporate measures to reduce carbon emissions and minimise energy use. Where it is safe, convenient and accessible to do so, proposals shall make provision for charging points for hybrid or electric vehicles.

Car parking

4.26 HMOs can place additional pressure on car parking within the local area due to the number of unrelated adults residing in the property. In considering proposals for HMOs the Council will apply the following adopted car parking standards set out in Appendix C of the Cheshire East Local Plan Strategy:



C3 / C4	Dwelling Houses and Houses in Multiple Occupation ⁽¹⁰⁸⁾	Principal Towns and Key Service Centres: for 1 bedroom - 1 space per dwelling; for 2 bedrooms - 2 spaces per dwelling; for 3+ bedrooms - 2 spaces per dwelling Remainder of borough: for 1 bedroom - 1 space per dwelling; for 2/3 bedrooms - 2 spaces per dwelling; for 4/5+ bedrooms - 3 spaces per dwelling
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Source: Cheshire East Local Plan Strategy Appendix C

4.27 As set out in paragraph C.4 and Footnote 108 of the adopted parking standards, these are recommended levels and regard will also be had to:

- Availability and cost of parking spaces on site and close by;
- Relationship between different land uses, such as how close housing is to employment, shops and leisure uses
- How easy it is to access a site by safe walking and cycling routes;
- Operational needs of proposed developments; and
- How regular and frequent public transport is;

4.28 When applying the recommended levels, there should be sufficient space for cars to park within the residential curtilage of the property. The existing and proposed site plan must identify car parking arrangements (where appropriate). Any proposed car parking must not result in the loss of front gardens and/ or boundary walls, where this would detract from the existing street scene.

Cycle parking facilities

4.29 Adequate provision must be made for secure, covered cycle storage within the curtilage of the property on the recommended basis of 1 cycle parking space per bedspace. Ground level cycle storage is preferable, and the storage area must be accessible to all residents with a clear route available from it to the public highway.

4.30 In order to ensure that adequate provision is made for cycle storage, the submitted site plan must show the location, size of the cycle storage area and elevations must be provided of the store design. The store must be sensitively designed and sited so there is no loss of amenity to neighbouring residents or the wider streetscene.

Outdoor amenity space

4.31 Separate to external waste storage and cycle parking requirements, the submitted site plan must also identify the location of an external area for clothes drying and useable amenity space for residents. The suitability of the external area to accommodate all requirements will be assessed on a case-by-case basis.

Residential amenity

4.32 Any proposed change of use (or extension of) a HMO should not have an unacceptable impact on the levels of amenity that existing neighbouring residents can reasonably expect to enjoy.



4.33 This is particularly relevant when considering the use of semi-detached or terraced properties, properties in narrow streets or densely developed areas where potential impact is likely to be more concentrated and directly affecting neighbouring residents.

4.34 Where relevant, details of sound insulation measures shall be provided with planning applications. These details should demonstrate that any noise arising from the use of the dwelling as a HMO would not have an adverse impact upon the amenity of adjacent residents.

Impact upon the character and appearance of the area

4.35 Some proposals may affect the outside appearance of a property and this must be clearly shown on submitted existing and proposed plans. Where external alterations require planning permission, they will be assessed against the Council's adopted policies, including LPS Policy SE 1 Design and those contained within 'saved' local plans. All proposals must be sensitively designed to take account of their surroundings. This includes any means of escape required for fire safety reasons.

Display of advertisements

4.36 In areas with high levels of HMOs and rented properties, there is the potential for a proliferation of signage which can detract from the street scene and adversely affect residential amenity.

4.37 The display of advertisements in England is primarily governed by the Town and Country Planning (Control of Advertisements) (England) Regulations 2007. Certain types of outdoor advertisements, including property 'for sale' and 'to let' boards benefit from 'deemed consent' under this legislation and do not require advertisement consent to be obtained from the Local Planning Authority, provided that the advert is displayed in accordance with the criteria set out in the regulations. Any board advertising a property to let must be removed within 14 days of granting a tenancy.

4.38 Should there be evidence of a proliferation of boards and issues with their timely removal, consideration may be given to taking further steps to secure compliance with legislation. This could include a voluntary code of practice or the withdrawal of deemed consent in areas with high levels of HMOs.



5 Licensing and management

5.1 In addition and separate to the planning requirements set out in this SPD, the Council also operates a mandatory licensing scheme for HMOs. All HMOs occupied by five or more people are required to have a licence. You can find out whether a property has an existing HMO licence at:

https://www.cheshireeast.gov.uk/housing/private_sector_housing/houses_in_multiple_occupation/licensed-hmo-register.aspx

5.2 Operating a licensable HMO without a licence is a criminal offence and there can be serious financial consequences arising. In addition, failure to comply with licence conditions or breaches of HMO Management Regulations is also an offence and penalties can apply.

5.3 The Council's Housing Standards & Adaptations Team deals with the licensing and management of HMOs and can be contacted by email to: HMO@cheshireeast.gov.uk or telephone 0300 123 5017 (selecting option 4).

5.4 Further information about the management of HMOs, housing standards, fire safety and the latest guidance for landlords and letting agents can be found on the housing pages of the Council's website:

www.cheshireeast.gov.uk/housing



6 Monitoring and review

6.1 The effectiveness of this Supplementary Planning Document will be monitored as part of the Authority Monitoring Report process using information from planning applications and decisions.



7 Glossary

Amenity	A positive element or elements that contribute to the overall character or enjoyment of an area. For example, open land, trees, historic buildings and the inter-relationship between them.
Article 4 Direction	A direction made under Article 4 of the Town and Country Planning (General Permitted Development) Order 2015 as amended. Article 4 Directions are used to withdraw permitted development rights granted by development order. They can take immediate effect or be non immediate.
Authority Monitoring Report	An annual report prepared by Cheshire East Council to assess progress and effectiveness of a Local Plan.
Development	Defined by the Town and Country Planning Act 1990 as “the carrying out of building, engineering, mining or other operation in, on, over or under land, or the making of any material change of use of any building or other land.” Most forms of development require planning permission, unless expressly granted planning permission via a development order.
Development Order	<p>Development Orders include the Town and Country Planning (General Permitted Development) Order 2015 as amended and the Town and Country Planning (Use Classes) Order 1987 as amended.</p> <p>Development Orders grant planning permission for certain types of development or changes of use. Such development is then referred to as ‘permitted development’.</p>
Development Plan	This includes adopted Local Plans and Neighbourhood Plans and is defined in Section 38 of the Planning and Compulsory Planning Act 2004.
Habitats Regulations Assessment	The process that competent authorities must undertake to consider whether a proposed development plan or programme is likely to



	<p>have significant effects on a European site designated for its nature conservation interest.</p>
Houses in Multiple Occupation (HMOs)	<p>A dwelling that is occupied by 3 or more unrelated individuals who share one or more basic amenities – for example a kitchen or bathroom.</p> <p>HMOs may be described as ‘small’ – occupying between 3 and 6 unrelated individuals or ‘large’ – occupying 7 or more unrelated individuals.</p>
Licence	<p>Separate to planning permission requirements, HMOs may also require a licence from the Council . At present the Council operates the mandatory licencing scheme whereby all HMOs that accommodate 5 or more individuals require a HMO licence.</p>
Local Plan	<p>The plan for the development of the local area, drawn up by the local planning authority in consultation with the community.</p> <p>In law this is described as the Development Plan Documents adopted under the Planning and Compulsory Purchase Act 2004.</p> <p>Current core strategies or other planning policies, which under the regulations would be considered to be Development Plan Documents, form part of the Local Plan. This term includes old policies which have been saved under the 2004 Act.</p>
Local Plan Strategy	<p>Development Plan Document setting out the spatial vision and strategic objectives of the planning framework for an area, having regard to the Community Strategy.</p>
Local Planning Authority	<p>The local authority or Council that is empowered by law to exercise planning functions. In the case of this SPD, the Local Planning Authority is Cheshire East Council.</p>



Neighbourhood Plan	A plan prepared by a parish Council or neighbourhood forum for a particular neighbourhood area (made under the Planning & Compulsory Purchase Act 2004).
Permitted Development	<p>Development that has been planning permission nationally by the government by means of a development order.</p> <p>Permitted development rights may be withdrawn by local planning authorities through the use of 'Article 4 Directions'.</p>
Residential Amenity	The quality of the living environment for occupants of a dwelling house, including its associated external spaces.
Site Allocations and Development Policies Document	Part of the Local Plan which will contain land allocations and detailed policies and proposals to deliver and guide the future use of that land.
Sui Generis	Not all uses of land or buildings fit within the Use Classes Order. When no use classes order category fits, the use of the land or buildings is described as sui generis, which means 'of its own kind'. All HMOs that accommodate 7 or more unrelated individuals fall into the 'sui generis' category.
Supplementary Planning Documents	A Local Development Document that may cover a range of issues, thematic or site specific, and provides further detail of policies and proposals in a 'parent' Development Plan Documents.
Sustainability Appraisal	An appraisal of the economic, environmental and social effects of a plan from the outset of the preparation process to allow decisions to be made that accord with sustainable development.
Strategic Environmental Appraisal	SEA is a process and a tool for evaluating the effects of proposed policies, plans and programmes on natural resources, social, cultural and economic conditions and the institutional environment in which decisions are made.



Cheshire East Council

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Working for a brighter future together

Environment and Communities Committee Report

Date of Meeting:	09 September 2021
Report Title:	Draft Environmental Protection Supplementary Planning Document
Report of:	Paul Bayley, Director of Environment and Neighbourhood Services
Report Reference No:	EC/21/21-22
Ward(s) Affected:	All

1. Executive Summary

- 1.1.** This report seeks approval to carry out a minimum of four weeks of public consultation on the draft Environmental Protection Supplementary Planning Document (SPD).
- 1.2.** The Environmental Protection SPD adds detailed guidance on how the policies of the Local Plan Strategy (LPS) and the Site Allocations and Development Policies Document (SADPD) should be applied to manage and mitigate the environmental impacts of new development. The SPD addresses matters including air quality, contaminated land, noise, light pollution and odour pollution.
- 1.3.** Cheshire East Council's Corporate Plan sets out three aims. These are to be an open and enabling organisation, a Council that empowers and cares about people, and to create thriving and sustainable places. In striving to create thriving and sustainable places, a key objective is to reduce impact on the environment and appropriately control development to protect and support our borough. As such, this SPD sets out guidance on how planning decisions can contribute to these aims.

2. Recommendations

- 2.1.** To approve the draft Environmental Protection Supplementary Planning Document (Appendix A) for a minimum of four weeks of public consultation, including the associated Strategic Environmental Assessment and Habitats

Regulations Assessment Screening Report (“SEA”) (at Appendix C of the SPD).

- 2.2. To publish the associated Equalities Impact Assessment Screening Report (“EQIA”) (Appendix B).

3. Reasons for Recommendations

- 3.1. An SPD is not part of the statutory development plan. It is a recognised way of putting in place additional planning guidance and a material consideration in determining planning applications in the borough.
- 3.2. Providing clear guidance on policy expectations should enable applicants to better understand policy requirements. The SPD should assist applicants when making relevant planning applications, and the Council in determining them.

4. Other Options Considered

- 4.1. The Council could choose not to prepare an SPD on Environmental Protection. Any relevant planning application would continue to be assessed against existing planning policies. However, this would not allow the Council to provide additional practical guidance on this matter or give clarity to the approach that should be employed by all parties in a consistent way that gives certainty to applicants and decision makers.

5. Background

- 5.1. The preparation of an SPD involves two stages of public consultation. This first consultation stage will be followed by another opportunity to comment on a final draft version of the SPD. The final draft of the SPD will be accompanied by a consultation statement setting out the feedback from stage one, and how the document has been altered in response to that feedback. Having also considered comments made at stage two, the SPD may then be considered for adoption by the Council.
- 5.2. Once adopted, the SPD will provide additional planning policy guidance, primarily related to the implementation of Local Plan Strategy policy SE12 ‘Pollution, Land Contamination, and Land Instability’ and a range of more detailed emerging policies set out in the SADPD, including policy ENV12 ‘Air Quality’, policy ENV13 ‘Aircraft Noise’, and policy ENV14 ‘Light Pollution’. The SPD, once adopted, will be a material consideration in decision making and support the delivery of key policies in the Development Plan.
- 5.3. One of the key objectives of the LPS is to protect and enhance environmental quality and ensure that development addresses the local

causes of water, air, light, noise and other forms of pollution and contaminated land.

- 5.4.** LPS Policy SE12 'Pollution, Land Contamination and Land Instability' sets out the approach the Council will take to these matters and how they should be addressed in planning proposals and decision making.
- 5.5.** A suite of additional policies set out in the emerging SADPD also provide detailed requirements that applicants must satisfy in order to gain planning consent.
- 5.6.** This SPD provides greater clarity to developers, landowners, communities and decision makers on the approach the Council will take to environmental protection and provides additional guidance to applicants on how they should respond to the policy requirements in the LPS and SADPD. It also 'signposts' sources of information, including relevant documentation and Council services.
- 5.7.** The draft SPD has been prepared jointly by the Strategic Planning Team and the Environmental Protection Team.
- 5.8.** Subject to the approval of the recommendations in this report, the SPD will be consulted on in accordance with the Council's Statement of Community Involvement for a period of at least four weeks.
- 5.9.** The process for preparing an SPD is similar in many respects to that of a local plan document. However, they are not subject to independent examination by the Planning Inspectorate. There are several stages in their production:
 - 5.9.1.** Publish the initial draft SPD for at least four weeks public consultation;
 - 5.9.2.** Consider feedback received and make any necessary changes;
 - 5.9.3.** Publish the final draft SPD, along with a consultation statement setting out who has been consulted in its preparation, the main issues raised in feedback and how those issues been addressed in the final draft SPD;
 - 5.9.4.** Having considered representations, the SPD may then be adopted;
- 5.10.** Following adoption, the SPD must be published and made available along with an adoption statement in line with the 2012 Regulations. The adoption of the SPD may be challenged in the High Court by way of judicial review within three months of its adoption.
- 5.11.** Once adopted, the effectiveness of this SPD will be monitored as part of the Authority Monitoring Report, using information from planning

applications and decisions. The outcome of this ongoing monitoring work will help inform future decisions about the SPD.

6. Consultation and Engagement

- 6.1.** It is proposed that the draft SPD will be subject to a minimum of four weeks consultation. Following this, all comments will be considered, and changes made to the SPD, as appropriate, before a final version of the SPD is prepared for approval and further consultation.

7. Implications

7.1. Legal

- 7.1.1.** The Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning (Local Development) (England) Regulations 2012 provide the statutory Framework governing the preparation and adoption of SPDs. These include the requirements in Section 19 of the 2004 Act and various requirements in the 2012 Regulations including in Regulations 11 to 16 that apply exclusively to producing SPDs.
- 7.1.2.** Amongst other things, the 2012 regulations require that an SPD contain a reasoned justification of the policies within it and for it not to conflict with adopted development plan policies.
- 7.1.3.** The National Planning Policy Framework and the associated Planning Practice Guidance also set out national policy about the circumstances in which SPDs should be prepared
- 7.1.4.** SPDs provide more detailed guidance on how adopted local plan policies should be applied. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. SPDs are capable of being a material consideration in planning decisions but are not part of the development plan

7.2. Strategic Environmental Assessment

- 7.2.1.** Strategic Environmental Assessment involves evaluation of the environmental impacts of a plan or programme. The requirement for SEA is set out in the European Directive 2001/42/EC adopted into UK law as the “Environmental Assessment of Plans or Programmes Regulations 2004”.
- 7.2.2.** The SEA Directive sets out a legal assessment process that must be followed. Often within the planning context, the SEA requirements are met by incorporating it within a Sustainability Appraisal (“SA”), which is a requirement for development plan documents.

7.2.3. There is no legal requirement for SPDs to be accompanied by SA, and this is reinforced in Planning Practice Guidance (PPG ref: 11-008- 20140306). However, “in exceptional circumstances” there may be a requirement for SPDs to undertake Strategic Environmental Assessment where it is felt they may have a likely significant effect on the environment that has not been assessed within the SEA/SA of the local plan.

7.2.4. A screening assessment has been undertaken (in Appendix B) which has determined that a SEA (or an appropriate assessment under the Habitats Regulations) is not required for the SPD.

7.3. Finance

7.3.1. There are no significant direct financial costs arising from consultation on the SPD. The costs of printing and the staff time in developing the SPD are covered from existing budgets of the planning service.

7.4. Policy

7.4.1. The SPD will expand on how existing development plan policies related to the environmental protection may be applied. An SPD will give additional advice to applicants on how they can demonstrate they have complied with relevant policies of the development plan related to this matter.

7.5. Equality

7.5.1. The Council has a duty under Section 149 of the Equalities Act to have due regard to the need to: eliminate discrimination; advance equality of opportunity between persons who share a “relevant protected characteristic” and persons who do not share it; foster good relations between persons who share a “relevant protected characteristic” and persons who do not share it.

7.5.2. The draft Environmental Protection SPD provides further guidance on the approach that is expected from developers on this matter. The SPD is consistent with the LPS which was itself the subject of an Equalities Impact Assessment (EQiA) as part of an integrated Sustainability Appraisal. A draft EQiA on the draft Environmental Protection SPD has been prepared (at appendix C of the SPD itself) and will be published for comment.

7.6. Human Resources

7.6.1. There are no direct implications for human resources. The work associated with the SPD will be carried out by existing staff in the Strategic Planning Team and Environmental Protection Team.

7.7. Risk Management

7.7.1. The subject matter of the report does not give rise for any particular risk management measures because the process for the preparation of an SPD is governed by legislative provisions (as set out in the legal section of this report).

7.8. Rural Communities

7.8.1. The draft Environmental Protection SPD seeks to provide further guidance on reducing, managing and mitigating impact on the environment, including development that may take place in rural areas.

7.9. Children and Young People/Cared for Children

7.9.1. The draft SPD does not have a direct implication for children and young people or cared for children but will assist in securing growth that reduces harm to the environment and support healthy communities for all residents.

7.10. Public Health

7.10.1. The draft SPD supports the improvement of public health by setting out clear requirements that protect the environment and therefore the wellbeing and public health of communities across the borough.

7.11. Climate Change

7.11.1. Whilst the draft SPD does not have any direct climate change implications it may assist in promoting more active and sustainable travel options through the management of air quality pollution related to travel.

Access to Information	
Contact Officer:	Tom Evans, Neighbourhood Planning Manager Tom.Evans@cheshireeast.gov.uk 01625 650023 / 07772629846
Appendices:	Appendix A: Draft Environmental Protection Supplementary Planning Document Appendix B: Draft Equalities Impact Assessment Screening Report
Background Papers:	N/A



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1 Introduction

1.1 Supplementary Planning Documents (SPDs) add further detail to the policies in the development plan and are used to provide guidance for development on specific sites, or on particular issues. SPDs may be a material planning consideration in planning decisions but are not part of the development plan.

1.2 This draft Environmental Protection SPD adds detail to existing development plan policies from the Cheshire East Local Plan Strategy (LPS) (adopted July 2017) and ‘saved’ policies from previous local plans, including the Borough of Crewe and Nantwich Local Plan; the Congleton Borough Local Plan; the Macclesfield Borough Local Plan, the Cheshire Minerals Local Plan and the Cheshire Waste Local Plan. The draft SPD also identifies emerging policies that are currently in draft form in the Revised Publication Draft Site Allocations and Development Policies Document (SADPD).

1.3 The draft SPD provides guidance on the council’s approach to Environmental Protection issues when considering planning applications. The specific areas covered in the draft SPD are:

- Air quality (including dust pollution);
- Contaminated land;
- Noise;
- Light pollution; and
- Odour pollution.

1.4 All these issues have the potential to impact on the health and wellbeing of Cheshire East’s residents, businesses and visitors. This draft SPD sets out the relevant technical advice aimed at preventing or reducing the impact of proposed developments and protecting public health, wellbeing and amenity across the borough.

1.5 The guidance and technical advice set out in this draft SPD will enable applicants to make sure that their proposed development meets policy requirements and is designed to minimise the impacts on public health, wellbeing and amenity.

Consultation

1.6 Consultation on the draft Environmental Protection SPD will take place between **[START DATE]** and **[END DATE]**. Comments must be received by the council no later than 5:00pm on **[END DATE]**.

1.7 The consultation documents can be viewed online using the council’s consultation portal⁽¹⁾ and at public libraries in Cheshire East. You are advised to check the current libraries opening times on the council’s website⁽²⁾ or telephone the libraries information service on 0300 123 7739.

1.8 There is no requirement for SPDs to be accompanied by a sustainability appraisal but in “exceptional circumstances”, there may be a requirement for SPDs to be subject to Strategic Environmental Assessment (SEA) where it is considered likely that they may have a significant

1 **[INSERT CONSULTATION PORTAL URL]**

2 https://www.cheshireeast.gov.uk/libraries/libraries_opening_hours.aspx



effect on the environment that has not already been assessed within the SEA of the Local Plan. A screening assessment has been carried out, which concludes that further such assessment is not necessary.

1.9 A screening exercise has also been carried out to determine whether the document requires appropriate assessment (under the Habitats Regulations). This also concludes that further such assessment is not necessary. These screening assessments are included in the draft SPD at Appendix A and you can give your views on their findings too.

Submit your views

1.10 The consultation portal is our preferred method for submitting responses, but you can also respond by email or in writing.

- Online: using the consultation portal at **[inset portal URL]**
- Email: to localplan@cheshireeast.gov.uk
- Post: to Strategic Planning (Westfields) C/O Municipal Buildings, Earle Street, Crewe CW1 2BJ.

Please make sure that your comments reach us by 5:00pm on **[END DATE]**. We are not able to accept anonymous responses and you must provide us with your name and contact details. Your personal information will be processed in accordance with our Strategic Planning Privacy Notice⁽³⁾ and your name and comments will be published for viewing on the consultation portal.

Next steps

1.11 Following the consultation, the council will consider all responses before deciding whether any amendments to the draft SPD are needed. A consultation statement will be produced, summarising the responses and any changes to the draft SPD. The consultation statement and final draft SPD will then be published for further comments before the SPD is adopted.

1.12 Once adopted, the SPD will constitute formal planning guidance and will be taken into account as a material consideration when determining relevant planning applications.

³ https://www.cheshireeast.gov.uk/council_and_democracy/council_information/website_information/privacy-notices/spatial-planning-including-neighbourhood-planning-team-privacy-notice.aspx



2 Planning policy framework

2.1 Planning applications must be determined in accordance with the development plan, unless material considerations indicate otherwise⁽⁴⁾. Material considerations can include national planning policy and adopted SPDs, where relevant.

National policy

The National Planning Policy Framework

2.2 The National Planning Policy Framework (NPPF)⁽⁵⁾ sets out the government's planning policies for England and how these should be applied.

2.3 Paragraph 8 sets out three overarching objectives for the planning system. As part of the environmental objective, the NPPF seeks to minimise pollution.

2.4 Paragraph 174 requires planning policies and decisions to contribute to and enhance the natural and local environment by: *"...(e) preventing new and existing development from contributing to, being put at unacceptable risk from, or being adversely affected by, unacceptable levels of soil, air, water or noise pollution or land instability. Development should, wherever possible, help to improve local environmental conditions such as air and water quality, taking into account relevant information such as river basin management plans; and (f) remediating and mitigating despoiled, degraded, derelict, contaminated and unstable land, where appropriate."*

2.5 Paragraphs 183-187 consider ground conditions and pollution:

"183. Planning policies and decisions should ensure that:

- a. a site is suitable for its proposed use taking account of ground conditions and any risks arising from land instability and contamination. This includes risks arising from natural hazards or former activities such as mining, and any proposals for mitigation including land remediation (as well as potential impacts on the natural environment arising from that remediation);*
- b. after remediation, as a minimum, land should not be capable of being determined as contaminated land under Part IIA of the Environmental Protection Act 1990; and*
- c. adequate site investigation information, prepared by a competent person, is available to inform these assessments.*

184. Where a site is affected by contamination or land stability issues, responsibility for securing a safe development rests with the developer and/or landowner.

185. Planning policies and decisions should also ensure that new development is appropriate for its location taking into account the likely effects (including cumulative effects) of pollution on health, living conditions and the natural environment, as well as the potential sensitivity of the site or the wider area to impacts that could arise from the development. In doing so they should:

⁴ Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990
⁵ <https://www.gov.uk/guidance/national-planning-policy-framework>



- a. *mitigate and reduce to a minimum potential adverse impacts resulting from noise from new development – and avoid noise giving rise to significant adverse impacts on health and the quality of life [See Explanatory Note to the Noise Policy Statement for England (Department for Environment, Food & Rural Affairs, 2010).];*
- b. *identify and protect tranquil areas which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason; and*
- c. *limit the impact of light pollution from artificial light on local amenity, intrinsically dark landscapes and nature conservation.*

186. Planning policies and decisions should sustain and contribute towards compliance with relevant limit values or national objectives for pollutants, taking into account the presence of Air Quality Management Areas and Clean Air Zones, and the cumulative impacts from individual sites in local areas. Opportunities to improve air quality or mitigate impacts should be identified, such as through traffic and travel management, and green infrastructure provision and enhancement. So far as possible these opportunities should be considered at the plan-making stage, to ensure a strategic approach and limit the need for issues to be reconsidered when determining individual applications. Planning decisions should ensure that any new development in Air Quality Management Areas and Clean Air Zones is consistent with the local air quality action plan.

187. Planning policies and decisions should ensure that new development can be integrated effectively with existing businesses and community facilities (such as places of worship, pubs, music venues and sports clubs). Existing businesses and facilities should not have unreasonable restrictions placed on them as a result of development permitted after they were established. Where the operation of an existing business or community facility could have a significant adverse effect on new development (including changes of use) in its vicinity, the applicant (or 'agent of change') should be required to provide suitable mitigation before the development has been completed.

188. The focus of planning policies and decisions should be on whether proposed development is an acceptable use of land, rather than the control of processes or emissions (where these are subject to separate pollution control regimes). Planning decisions should assume that these regimes will operate effectively. Equally, where a planning decision has been made on a particular development, the planning issues should not be revisited through the permitting regimes operated by pollution control authorities."

2.6 With specific reference to minerals, paragraph 210 requires planning policies to "set out criteria or requirements to ensure that permitted and proposed operations do not have unacceptable impacts on the natural and historic environment or human health, taking into account the cumulative effects of individual sites and/or a number of sites in a locality" and "when developing noise limits, recognise that some noisy short term activities, which may otherwise be regarded as unacceptable, are unavoidable to facilitate minerals extraction". Paragraph 211 requires minerals planning authorities to "ensure that any unavoidable noise, dust and particle emissions and any blasting vibrations are controlled, mitigated or removed at source [National planning guidance on minerals sites sets out how these policies should be implemented.], and establish appropriate noise limits for extraction in proximity to noise sensitive properties".



National Planning Policy for Waste

2.7 The National Planning Policy for Waste (NPPW)⁽⁶⁾ sets out detailed waste planning policies.

2.8 When determining waste planning applications, paragraph 7 requires waste planning authorities to consider the likely impact on the local environment and on amenity against a number of criteria, including protection of water quality, land instability, air emissions (including dust), odours, noise, light, vibration and litter.

Noise Policy Statement for England

2.9 Paragraph 185 of the NPPF highlights the need to avoid giving rise to significant adverse impacts on health and the quality of life; and refers to the Explanatory Note to the Noise Policy Statement for England (NPSE)⁽⁷⁾.

2.10 The Explanatory Note sets out various parameters from established toxicology concepts that are currently applied to noise impacts, which are:

- **NOEL** (No Observed Effect Level), which is the level below which no effect can be detected. In simple terms, below this level, there is no detectable effect on health and quality of life due to the noise.
- **LOAEL** (Lowest Observed Adverse Effect Level), which is the level above which adverse effects on health and quality of life can be detected.

2.11 These concepts were extended by the NPSE to include:

- **SOAEL** (Significant Observed Adverse Effect Level), which is the level above which significant adverse effects on health and quality of life occur.

2.12 The NPSE goes on to set out three aims, which are:

- *"To avoid significant adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development".*
- *Mitigate and minimise adverse impacts on health and quality of life from environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development.*
- *Where possible, contribute to the improvement of health and quality of life through the effective management and control of environmental, neighbour and neighbourhood noise within the context of Government policy on sustainable development."*

National Planning Practice Guidance

2.13 The government's National Planning Practice Guidance⁽⁸⁾ also gives detailed guidance on several topics, including:

6 <https://www.gov.uk/government/publications/national-planning-policy-for-waste>
 7 <https://www.gov.uk/government/publications/noise-policy-statement-for-england>
 8 <https://www.gov.uk/government/collections/planning-practice-guidance>



- Guidance on how planning can take account of the impact of new development on air quality.
- Guiding principles on how planning can deal with land affected by contamination.
- Advice on how to ensure that development is suitable to its ground conditions and how to avoid risks caused by unstable land or subsidence.
- Advice on light pollution and how to consider light within the planning system.
- Guidance on how planning can manage potential noise impacts in new development.

Local policy

2.14 Local planning policies are set out in the development plan for the area. The development plan for Cheshire East currently comprises:

- The Cheshire East Local Plan Strategy adopted July 2017;
- Saved policies from the: Borough of Crewe and Nantwich Local Plan 2005; Cheshire Replacement Minerals Local Plan 1999; Cheshire Replacement Waste Local Plan 2007; Congleton Borough Local Plan 2005; and Macclesfield Borough Local Plan 2004; and
- Completed neighbourhood plans.

2.15 The draft Site Allocations and Development Policies Document was submitted to the Secretary of State on 29 April 2021 under Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012. It will now be subject to examination by an independent planning inspector.

2.16 It is anticipated that the SADPD will be adopted and become part of the development plan during 2022. On adoption, its policies will supersede those saved policies from the Borough of Crewe and Nantwich Local Plan 2005, Congleton Borough Local Plan 2005, and Macclesfield Borough Local Plan 2004.

2.17 A Minerals and Waste Development Plan Document is also being prepared, which will set out planning policies on minerals and waste. Once adopted, these will replace the saved policies from the Cheshire Minerals Local Plan 1999 and the Cheshire Waste Local Plan 2007.

2.18 In addition, the Crewe Hub Area Action Plan is in preparation, which will set out a planning framework to facilitate and manage development around Crewe Railway Station, in response to HS2 proposals and other matters.

Local Plan Strategy

2.19 Within the LPS⁽⁹⁾, one of the four Strategic Priorities relates to 'Protecting and enhancing environmental quality'. This will be delivered by a range of measures, including addressing the local causes of water, air, light, noise and all other forms of pollution and the contamination of land.

2.20 The key strategic policy relevant to Environmental Protection is **Policy SE 12 'Pollution, land contamination and land instability'**. This states:

9 <https://www.cheshireeast.gov.uk/localplanstrategy>



Policy SE 12

Pollution, Land Contamination and Land Instability

1. The council will seek to ensure all development is located and designed so as not to result in a harmful or cumulative impact upon air quality, surface water and groundwater, noise, smell, dust, vibration, soil contamination, light pollution or any other pollution which would unacceptably affect the natural and built environment, or detrimentally affect amenity or cause harm. Developers will be expected to minimise, and mitigate the effects of possible pollution arising from the development itself, or as a result of the development (including additional traffic) during both the construction and the life of the development. Where adequate mitigation cannot be provided, development will not normally be permitted.
2. Development for new housing or other environmentally sensitive development will not normally be permitted where existing air pollution, soil contamination, noise, smell, dust, vibration, light or other pollution levels are unacceptable and there is no reasonable prospect that these can be mitigated against.
3. Development should support improvements to air quality, not contradict the Air Quality Strategy or Air Quality Action Plan and seek to promote sustainable transport policies.
4. Where a proposal may affect or be affected by contamination or land instability (including natural dissolution and/or brine pumping related subsidence), at the planning application stage, developers will be required to provide a report which investigates the extent of the contamination or stability issues and the possible affect it may have on the development and its future users, the natural and built environment. This report should be written in line with best practice guidance.
5. In most cases, development will only be deemed acceptable where it can be demonstrated that any contamination or land instability issues can be appropriately mitigated against and remediated, if necessary.

2.21 Other strategic policies relevant to Environmental Protection include:

- **Policy SD 1 ‘Sustainable Development in Cheshire East’**, which requires that, where possible, development supports the health, safety, social and cultural well-being of the residents of Cheshire East.
- **Policy SD 2 ‘Sustainable Development Principles’**, which states that all development will be expected to use appropriate design, construction, insulation, layout and orientation to create developments that... minimise waste and pollution.
- **Policy SC 3 ‘Health and well-being’**, which requires screening assessments for all major development proposals, including a review of the possible health impacts.

Saved policies

2.22 There are several saved policies relevant to Environmental Protection.



Borough of Crewe and Nantwich Local Plan 2005

2.23 Relevant policies in the Borough of Crewe and Nantwich Local Plan⁽¹⁰⁾ include:

- **Policy NE.15 ‘Re-use and adaptation of a rural building for a commercial, industrial or recreational use’** only allows for such proposals where they will not harm the local environment through the creation of noise, dust, smoke, fumes, grit, vibration or any form of water, soil or air pollution.
- **Policy NE.17 ‘Pollution control’**, which requires measures to prevent, reduce or minimise pollution. Development proposals will not be permitted where they are likely to increase water or air pollution; increase risks to life or health; permanently increase noise levels unacceptably; or result in an unacceptable noise impact on any proposed noise-sensitive development.
- **Policy NE.21 ‘New development and landfill sites’**, seeks to restrict new development in close proximity to existing or former landfill sites to protect the environment and public health.
- **Policy BE.1 ‘Amenity’**, which protects the amenity of occupiers including through noise, disturbance and odour; and requires proposals not to lead to an increase in air, noise or water pollution that might have an adverse effect of the other use of land.
- **Policy BE.6 ‘Development on potentially contaminated land’** requires potential contamination to be investigated and treated, contained or controlled so as not to expose occupiers to unacceptable risk; lead to contamination of water resources; or contaminate adjoining land. Contamination should usually be treated on site.
- **Policy RT.16 ‘Noise generating sports’** requires proposals for noisy and intrusive recreational activities to be located where the impact on the amenity of the adjacent area and nearby residents can be minimised.

Congleton Borough Local Plan 2005

2.24 Relevant policies in the Congleton Borough Local Plan⁽¹¹⁾ include:

- **Policy GR6 ‘Amenity and health’** requires development near sensitive uses not to have an unduly detrimental effect on amenity due to environmental disturbance or pollution.
- **Policy GR7 ‘Amenity and health’** does not allow development that is likely to: contribute to significantly increased air, land, water, light or noise pollution to unacceptable levels; involve significantly greater risk to people’s lives and health; expose people to unacceptable risk; or be a significant source of statutory nuisance, apprehension, danger, or loss of amenity.
- **Policy GR8 ‘Amenity and health’** does not allow for sensitive uses in areas around potential or existing sources of air, land, water or noise pollution if unacceptable damage or nuisance to the new use is likely.
- **Policy GR11 ‘Development involving new roads and other transportation projects’** requires highways and transportation schemes to reduce noise, congestion and atmospheric pollution in residential areas and areas of high pedestrian activity; and to include noise attenuation measures in the vicinity of new road schemes.

10 https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/crewe_and_nantwich_local_plan/crewe_and_nantwich_local_plan.aspx

11 https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/congleton_local_plan/congleton_local_plan.aspx



- **Policy NR6 'Reclamation of land'** is supportive of proposals for the reclamation of contaminated land, subject to other relevant policies of the plan.
- **Policy RC3 'Nuisance sports'** requires proposals for recreational and sporting activities that may adversely affect the amenity of nearby residents to include appropriate noise attenuation measures; and cause minimum detriment to nearby residents.
- **Policy RC13 'Day nurseries'** requires facilities not to be of significant detriment to amenity by virtue of noise and general disturbance; and measures must be taken to minimise noise disturbance.

Macclesfield Borough Local Plan 2004

2.25 Relevant policies in the Macclesfield Borough Local Plan⁽¹²⁾ include:

- **Policy T18 'Restriction on development within NNI zones'** seeks to restrict noise sensitive development in the areas most affected by aircraft noise and requires mitigation measures in other areas affected by aircraft noise.
- **Policy DC3 'Amenity'** requires that development should not significantly injure the amenity of nearby residential properties or sensitive uses due to noise, vibration, smells, fumes, smoke, soot, ash, dust, grit, environmental pollution, hazardous substances and industrial processes.
- **Policy DC13 'Noise'** does not allow noise generating development, which cumulatively would increase the ambient noise level to an unacceptable level.
- **Policy DC14 'Noise'** allows for development where the effects of noise can be mitigated by soundproofing measures.
- **Policy DC33 'Outdoor commercial recreation'** requires that proposals do not result in significant adverse impact upon existing residential amenity; and necessary lighting does not cause undue intrusion or significant adverse impact.
- **Policy DC54 'Restaurants, cafés and hot food takeaways'** requires that these uses do not materially harm the amenities of occupiers of residential property by virtue of noise, disturbance, cooking smells and fumes.
- **Policy DC63 'Contaminated land including landfill gas'** only allows development unless contamination (including landfill gas) is treated, contained or controlled so as not to expose occupiers to unacceptable risk; threaten the structural integrity of buildings; lead to the contamination of water resources; or cause the contamination of adjoining land or allow such contamination to continue.
- **Policy DC64 'Floodlighting'** requires proposals for floodlighting of sporting facilities not to: have a significant adverse impact on the landscape character in terms of the sensitivity of a given area to the introduction of exterior lighting (night time); or have a significant impact on the amenity of residents.

Cheshire Minerals Local Plan 1999

2.26 Relevant policies in the Cheshire Minerals Local Plan⁽¹³⁾ include:

- **Policy 9 'Planning applications'** requires applications to evaluate the direct and indirect effects of a proposal and propose mitigation measures addressing noise levels, dust levels, illumination levels, air-over pressure and peak particle velocity levels.

¹² https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/macclesfield_local_plan/macclesfield_local_plan.aspx

¹³ https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/cheshire_minerals_local_plan/cheshire_minerals_local_plan.aspx



- **Policy 12 'Conditions'** highlights that conditions will be attached to planning consents to control noise, dust, illumination and vibration levels; and to ensure pollution control measures.
- **Policy 26 'Noise'** does not permit development where it would give rise to unacceptable levels of noise pollution.
- **Policy 27 'Noise'** seeks to control noise emissions by limited the length of time for engineering works, controlling hours of operation, requiring best practice vehicle and plant silencing and maintenance, requiring noise mitigation measures and setting noise limits.
- **Policy 28 'Dust'** allows development, only where it would minimise dust emission levels by phasing working and restoration, surface and maintain internal haul roads, sheet all mineral bearing lorries, seed screen mounds, use a water bowser or similar to damp down, use wheel cleaning facilities, regular sweep and spray of hard surfaces, limit the area of mineral stripped of soil/overburden ant any time, and monitor dust emissions where appropriate.
- **Policy 38 'Blasting'** only permits blasting where ground vibration is minimised, air over pressure is minimised, blasts are monitored, no secondary blasting occurs and blasting is limited to between 0900 and 1800 hours Mondays to Fridays.

Cheshire Waste Local Plan 2007

2.27 Relevant policies in the Cheshire Waste Local Plan⁽¹⁴⁾ include:

- **Policy 1 'Sustainable waste management'** expects applications to demonstrate how the development would protect environmental assets.
- **Policy 12 'Impact of development proposals'** requires applications to evaluate the likely direct, indirect and cumulative impacts and set out mitigation measures for issues including air quality, noise levels, odour, dust levels, human health, litter and fly tipping, and illumination levels.
- **Policy 23 'Noise'** does not permit proposals that would give rise to unacceptable noise. Setting noise limits, controlling the hours of operation, requiring noise mitigation measures, use of best practice vehicle and plant silencing and maintenance, and limiting the length of time for engineering works will be used to control noise emissions where appropriate.
- **Policy 24 'Air pollution: Air emissions including dust'** does not permit proposals where the impact of dust would have an unacceptable impact on amenity. Surfacing and maintenance of internal haul roads, regular sweeping and spraying of hard surfaced areas, use of a water bowser or similar to damp down areas, use of wheel cleaning facilities, sheeting of waste-carrying vehicles, seeding of screen mounds, and monitoring of air and dust emissions will be used to control dust emissions where appropriate.
- **Policy 25 'Litter'** does not permit proposals where litter would have an unacceptable impact on amenity. Applications should assess the potential for litter generation and propose mitigation measures.
- **Policy 26: 'Air pollution: Odour'** does not permit proposals where odour would have an unacceptable impact on amenity.

14 https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/cheshire_waste_local_plan/cheshire_waste_local_plan.aspx



Neighbourhood plans

2.28 There are 36 completed neighbourhood plans⁽¹⁵⁾ in Cheshire East and some of these contain locally-specific requirements in relation to environmental protection. These form part of the development plan and will be used alongside other Local Plan policies to determine planning applications.

Draft Site Allocations and Development Policies Document

2.29 The draft SADPD⁽¹⁶⁾ also includes a number of policies that, once adopted, will be of relevance to Environmental Protection.

- Draft **Policy ENV 9 'Wind energy'** expects sufficient distance to be maintained between the proposal and sensitive receptors to protect amenity, particularly with respect to noise and visual impacts.
- Draft **Policy ENV 12 'Air quality'** requires an air quality assessment where proposals are likely to have an impact on local air quality. Permission will not be granted where the construction or operational characteristics of the development must not cause harm to air quality (including cumulatively) unless suitable measures are adopted to mitigate the impact.
- Draft **Policy ENV 13 'Aircraft noise'** restricts sensitive developments in the areas subject to the highest levels of aircraft noise; and requires mitigation to achieve satisfactory internal ambient noise levels in other areas subject to aircraft noise. The policy also sets detailed criteria to consider in relation to a range of different development types.
- Draft **Policy ENV 14 'Light pollution'** requires light spillage and glare to be minimised to an acceptable level; and there to be no significant adverse effect individually or cumulatively on residential amenity; pedestrians, cyclists, and other road users; specialist facilities; and individuals and groups.
- Draft **Policy ENV 15 'New development and existing uses'** restricts new development in locations where it could be significantly adversely affected by the operation of an existing business or facility unless such impacts can be avoided through mitigation.
- Draft policies **RUR 1 'New buildings for agriculture and forestry'**, **RUR 2 'Farm diversification'**, **RUR 7 'Equestrian development outside of settlement boundaries'**, **RUR 8 'Visitor accommodation outside of settlement boundaries'**, **RUR 9 'Caravan and camping sites'**, and **RUR 10 'Employment development in the open countryside'** require that proposals do not unacceptably affect the amenity and character of the surrounding area or landscape (including visual impacts, noise, odour, design and appearance), either their own or cumulatively with other developments.
- Draft policies **RUR 6 'Outdoor sport, leisure and recreation outside of settlement boundaries'** and **RUR 7 'Equestrian development outside of settlement boundaries'** allow for artificial lighting only where strictly necessary, and highlight that its design and operation may be limited by condition to minimise light pollution in the open countryside.
- Draft **Policy HOU 10 'Amenity'** does not allow development proposals that would unacceptably harm the amenities of residential properties or sensitive uses due to environmental disturbance or pollution.

¹⁵ <https://www.cheshireeast.gov.uk/planning/neighbourhood-plans/completed-neighbourhood-plans.aspx>

¹⁶ <https://www.cheshireeast.gov.uk/sadpd>



- Draft **Policy RET 5 'Restaurants, cafés, pubs and hot food takeaways'** requires such uses to have no adverse effect, either individually or cumulatively on the amenities of residential occupiers. Conditions will be imposed relating to noise, odour and fumes.
- Draft **Policy RET 9 'Environmental improvements, public realm and design in town centres'** seeks to promote the creative use of lighting to add drama to the night time townscape (such as by illuminating landmark buildings) whilst avoiding excessive light glow.
- Draft **Policy REC 4 'Day nurseries'** requires such uses not to unacceptably harm the amenity of local residents by virtue of noise.

DRAFT



3 Making an application

3.1 This SPD adds further detail to the policies in the development plan and provides guidance on Environmental Protection matters. Whilst it does not form part of the development plan, its guidance will be a material consideration in the determination of planning applications, where relevant.

Pre-application advice

3.2 The council offers a pre-application advice service⁽¹⁷⁾ and encourages potential applicants to discuss their scheme with planning officers prior to submission of an application. This is particularly important for large scale developments that will have a major impact on the surrounding area. This service is designed to assist applicants' understanding of planning issues and requirements to speed up the development process. This can help minimise subsequent planning application costs and avoid abortive applications.

3.3 In addition, the council's Environmental Protection Team⁽¹⁸⁾ will also provide advice regarding the methodology for undertaking relevant Environmental Impact Assessments. However, it should be noted that there will be a charge for reviewing any draft reports prior to submission as part of a planning application.

Environmental Impact Assessments

3.4 In accordance with the Town and Country Planning (Environmental Impact Assessment) Regulations 2017⁽¹⁹⁾ it is a requirement that certain planning applications must include an Environmental Impact Assessment (EIA). An EIA is a procedure which serves to provide information about the likely effects of a proposed project on the environment, so as to inform the decision making process as to whether the development should be allowed and if so, on what terms. Where an EIA is required, it should assess each relevant aspect relating to Environmental Protection in a comprehensive manner, as set out in this SPD.

3.5 All reporting requirements set out in this SPD should be submitted with the planning application, as the council will not be using pre-commencement conditions, in line with national policy.

17 https://www.cheshireeast.gov.uk/planning/view_a_planning_application/pre-application_advice/pre-application_advice.aspx

18 Email environmentalprotection2@cheshireeast.gov.uk

19 <https://www.legislation.gov.uk/uksi/2017/571/contents/made>



4 Air quality

4.1 Air quality is important to public health and wellbeing and, more recently, has been linked to a range of health impacts. This has led to wide ranging research being undertaken in the health impacts of pollutants, resulting in both national and international guidance and advice being issued to protect public health.

4.2 In 1997, the government adopted the first UK Air Quality Strategy (AQS), which set out how the government aimed to deal with local air quality and the impact of this on health and wellbeing. Further revision of the AQS brought about the process of Local Air Quality Management (LAQM), which is a process requiring all local authorities to regularly review and assess air quality within their area against the air quality objectives set out the Air Quality Standards Regulations 2010⁽²⁰⁾. The pollutants of concern and relevant objectives are set out in Table 4.1 'Air quality objectives'.

Local air quality management

4.3 The purpose of reviewing air quality against the air quality objectives is to determine if any areas within the borough are either exceeding or likely to exceed any of the air quality objectives. If any such areas are identified, an Air Quality Management Area (AQMA) must be declared and an action plan drawn up, setting out how the local authority proposes to improve the air quality within that area.

4.4 In Cheshire East, there are currently a number of small areas which have been declared as AQMAs⁽²¹⁾. The primary source of pollution in these areas is due to vehicle emissions, as a result of either standing/slow moving traffic or high volumes of traffic where there are sensitive receptors (such as houses) fronting directly on to the road. The council must make sure that development in and around any of the AQMAs will not have an adverse impact upon the air quality within those areas.

Air quality objectives

4.5 The Air Quality Standards Regulations 2010⁽²⁰⁾ set out the air quality objectives for seven and 11 pollutants. These objectives are based on protecting public health and wellbeing.

4.6 The objectives of concern within Cheshire East are those that relate to nitrogen dioxide and particulate matter. All of the AQMAs declared to date relate to concentrations of nitrogen dioxide.

²⁰ <https://www.legislation.gov.uk/uksi/2010/1001/contents/made>

²¹ https://www.cheshireeast.gov.uk/environment/environmental_health/local_air_quality/aqma_area_maps.aspx

Table 4.1 Air quality objectives

Substance	Air quality objective levels	Date to be achieved before
Nitrogen dioxide (NO ₂)	200µm ⁻³ hourly mean, not to be exceeded more than 18 times per year	2006
	40µm ⁻³ as an annual average	2006
Particulate matter (PM ₁₀)	50µm ⁻³ as a 24-hour mean, not to be exceeded more than 35 times per year	2005
	40µm ⁻³ as an annual mean	2005
Particulate matter (PM _{2.5})	25µm ⁻³ as an annual mean	2020
Benzene	16.25µm ⁻³ as a running annual mean	2004
1,3 - Butadiene	2.25µm ⁻³ as a running annual mean	2004
Carbon monoxide (CO)	11.6µm ⁻³ as a running 8-hour mean	2004
Lead	0.5µm ⁻³ as an annual average	2005
	0.25µm ⁻³ as an annual average	2009
Sulphur dioxide (SO ₂)	266µm ⁻³ as a 15-minute mean, not to be exceeded more than 35 times per year	2006
	350µm ⁻³ as an hourly mean, not to be exceeded more than 24 times per year	2005
	125µm ⁻³ as a 24-hour mean, not to be exceeded more than 3 times per year	2005

Air quality assessments

4.7 An air quality assessment should predict any potential impacts on local air quality from a proposed development. The assessment must focus on the potential impact on any existing AQMAs and those areas that are close to the air quality objective in order to prevent the declaration of further AQMAs. The assessment must take into account all emission sources and compare the current air quality with future levels both with and without the proposed development.

When is an air quality assessment required?

4.8 An air quality assessment will be required where a proposed development has the potential to adversely impact air quality. This is particularly important when the development is either within or adjacent to an existing AQMA, or within an area where the impact on air quality may result in the declaration of a new AQMA. The criteria for determining if there will be an impact on air quality will be based on both the direct impact of the proposed development and the effect this will have on surrounding traffic flows and volumes.





4.9 Where relevant, a dust impact assessment should also be submitted as part of, or in addition to the air quality assessment. In certain instances, the council may also ask for an assessment of bioaerosols where this is a relevant consideration.

The assessment process

4.10 This SPD does not set out a prescribed method or form for undertaking an assessment, which will be required if the proposed development is likely to adversely impact on local air quality. Therefore, it is important that the methodology and data sets are agreed in advance with the council's Air Quality Team. However, there is general guidance regarding estimating emissions and modelling in the Local Air Quality Management: Technical Guidance (TG16)⁽²²⁾.

4.11 The purpose of the assessment is to determine the likely changes to air quality as a result of the proposed development. The aim of the assessment will be to compare the existing situation without the proposed development, and the situation with the proposed development. This can be split in to 3 basic steps:

1. Assess the current air quality within the area (baseline).
2. Predict the future air quality without the proposed development (future baseline).
3. Predict the future air quality with the proposed development in place (future with development).

4.12 The assessment should also take account of potential new sensitive receptors, including those with planning permission or allocated sites.

4.13 Current air quality data within Cheshire East is available on the council's website⁽²³⁾ and the national background maps⁽²⁴⁾ will also be able to assist with this part of the process. However, it is important that prior to undertaking an assessment, an agreement is sought from the council's Air Quality Team⁽²⁵⁾ regarding the scope, data and methodology of the assessment to be undertaken.

Sensitive receptors

4.14 All assessments should consider air quality concentrations. Paragraph 1.51 of TG16 states that exceedances of the objectives should be assessed in relation to "the quality of the air at locations which are situated outside of buildings or other natural or man-made structures, above or below ground, and where members of public are regularly present". Further examples of where the air quality objectives should apply can be found in TG16.

Assessing significance

4.15 The primary requirement of the air quality assessment is to determine the significance in terms of change to the air quality, when the proposed development is completed. Environmental Protection UK provides guidance regarding assessing significance⁽²⁶⁾, and

22 <https://laqm.defra.gov.uk/documents/LAQM-TG16-April-21-v1.pdf>

23 https://www.cheshireeast.gov.uk/environment/environmental_health/local_air_quality/what_is_pollution_like_near_me/air-pollution-monitoring.aspx

24 <https://uk-air.defra.gov.uk/data/laqm-background-home>

25 Email airquality@cheshireeast.gov.uk

26 https://www.environmental-protection.org.uk/wp-content/uploads/2013/07/air-quality-planning-guidance_Jan17.pdf



the framework used for assessing significance has been adopted by the council. A copy of the framework is set out in Table 4.2 'Environment Protection UK impact descriptors for individual receptors'.

Table 4.2 Environment Protection UK impact descriptors for individual receptors

Long term average concentration at receptor in assessment year	% change in concentration relative to Air Quality Assessment Level (AQAL)			
	1	2-5	6-10	>10
75% or less of AQAL	Negligible	Negligible	Slight	Moderate
76-94% of AQAL	Negligible	Slight	Moderate	Moderate
95-102% of AQAL	Slight	Moderate	Moderate	Substantial
103-109% of AQAL	Moderate	Moderate	Substantial	Substantial
110% or more of AQAL	Moderate	Substantial	Substantial	Substantial

Explanation

1. AQAL = Air Quality Assessment Level, which may be an air quality objective, EU limit or target value, or an Environment Agency 'Environment Assessment Level (EAL)'.
2. The Table is intended to be used by rounding the change in percentage pollutant concentration to whole numbers, which then makes it clearer which cell the impact falls within. The use is encouraged to treat the numbers with recognition of their likely accuracy and not assume a false level of precision. Changes of 0%, i.e. less than 0.5%, will be described as Negligible.
3. The Table is only designed to be used with annual mean concentrations.
4. Descriptors for individual receptors only; the overall significance is determined using professional judgement. For example, a 'moderate' adverse impact at one receptor may not mean that the overall impact has a significant effect. Other factors need to be considered.
5. When defining the concentration as a percentage of the AQAL, use the 'without scheme' concentration where there is a decrease in pollutant concentration and the 'with scheme' concentration for an increase.
6. The total concentration categories reflect the degree of potential harm by reference to the AQAL value. At exposure less than 75% of this value, i.e. well below, the degree of harm is likely to be small. As the exposure approaches and exceeds the AQAL, the degree of harm increases. This change naturally becomes more important when the result is an exposure that is approximately equal to, or greater than the AQAL.
7. It is unwise to ascribe too much accuracy to incremental changes or background concentrations, and this is especially important when total concentrations are close to the AQAL. For a given year in the future, it is impossible to define the new total concentration without recognising the inherent uncertainty, which is why there is a category that has a range around the AQAL, rather than being exactly equal to it.



Cumulative impacts

4.16 The cumulative impact of a number of small developments in an area could lead to a gradual deterioration of air quality. This could comprise several impacts that are individually described as slight, but when added together could have a significant impact on air quality. Therefore, all assessments must take into account the cumulative impact of all proposed applications within the local area and propose suitable mitigation to offset the impact.

4.17 An example would be if a number of small developments contribute to a significant increase in traffic levels, in an area that already has an air quality problem. Proposed mitigation could be that each development is required to provide a financial contribution to implement highway improvements or to assist with other actions within the council's Air Quality Action Plan. The study of the cumulative impact of additional development must be agreed as part of the scoping report.

Planning conditions and mitigation

4.18 Based on the results and conclusions of the air quality assessment, mitigation measures may be recommended to offset any predicted impacts of the proposed development. As far as possible, mitigation measures should be embedded into the design of the scheme and the air quality assessment should inform the scheme design, rather than being completed afterwards. Some mitigation measures (such as mechanical ventilation) can be large, noisy and visually imposing, so should be included in the scheme design from the outset so that all impacts can be assessed.

4.19 There are a range of mitigation measures that can be used and whilst the list below provides a number of examples, this is not exhaustive.

- The design of the development can help to mitigate against exposure to existing air quality levels. This could include the location of mechanical ventilation, habitable rooms and openable windows to reduce exposure to vehicle emissions.
- The installation of electric vehicle charging points to encourage the uptake and use of ultra-low emissions vehicles instead of combustion engine models.
- Developers to prepare a travel plan or travel information packs to highlight alternative means of transport, such as public transport, location of electric vehicle charging points and car sharing incentives.
- The provision of cycling and walking facilities.
- Traffic management or contributions to highway infrastructure, both new and amended.
- Green infrastructure; plants and trees may provide an aesthetically pleasing aspect to a scheme and may also be used to provide a barrier from a pollutant source such as a trafficked road.
- Ultra-low NO_x (nitrogen oxides) emission boilers. On developments in built up areas, these boilers help to prevent new "hotspots" of high NO_x emissions.
- Section 106 Agreements (Town and Country Planning Act 1990) to secure mitigation, where appropriate, to make the scheme environmentally acceptable.
- The application of damage costs as set out in Air quality appraisal: damage cost guidance⁽²⁷⁾. Damage costs are the costs to society (mainly health) per tonne of

27 <https://www.gov.uk/government/publications/assess-the-impact-of-air-quality>



pollutant emitted. They provide an easy reckoning of the monetised value of changes in pollution.

- Dust management plans and monitoring regimes.

Air quality during the construction phase

4.20 The impact of the construction phase of any development can have a significant impact on local air quality via dust, access roads, roads works and closures. Developers and contractors should follow the guidance set out by the Institute of Air Quality Management when drafting construction plans and mitigation measures to minimise air pollution. Therefore, as part of the management of all developments, best practicable means must be used at all times and for specific emissions this could include but not be limited to the following.

- During dry weather all access roads and piles of waste material, which are likely to give rise to emissions of dust, shall be damped down and/or covered to prevent wind whipping.
- Any mobile crushing or screening plant used on site shall be subject to a Permit under the Environmental Permitting (England and Wales) Regulations 2016⁽²⁸⁾ and shall operate in accordance with all conditions imposed by the issuing authority. This shall include the requirement for the use of water sprays to be in operation at all times during crushing and screening operations.
- The re-routing of traffic should be done so as not to impact on any AQMAs.
- All diesel or oil fired plant must be located away from any sensitive receptors.
- Burning of material is not an appropriate method of disposal of waste material and any such material should be removed from the site along with other waste.
- Any additional actions required to mitigate dust emissions identified during ongoing development activities.
- For non-road mobile machinery, renewable, mains or battery powered plant items should be used where possible.

4.21 All sites that are at medium or high risk of particulate emissions should carry out monitoring and guidance on the assessment of dust from sites is contained in the Institute of Air Quality Management's Guidance on the Assessment of Dust from Demolition and Construction⁽²⁹⁾.

Heating appliances

Biomass boilers

4.22 Biomass boilers are seen as a method to reduce emissions of greenhouse gas and are regarded as generally more environmentally friendly. However, biomass burning systems still emit a number of pollutants including nitrogen dioxide and particulate matter and whilst the level of emissions maybe less than coal or oil, they do produce more pollutants than gas fired systems. This was confirmed in the governments Clean Air Strategy 2019⁽³⁰⁾, which states that:

'This increase in burning solid fuels in our homes is having an impact on our air quality and now makes up the single largest contributor to our national PM emissions at 38%.'

28 <https://www.legislation.gov.uk/uksi/2016/1154/contents/made>

29 <https://iaqm.co.uk/text/guidance/construction-dust-2014.pdf>

30 https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/770715/clean-air-strategy-2019.pdf



4.23 Therefore, where a proposed development includes either any large biomass heating system or includes domestic wood burners or open fires, the council will require an air quality assessment to determine the impact on air quality when compared to similar gas fired systems. In addition, the council may require that the only systems to be permitted will be those that are proved to be cleaner and have reduced emissions.

4.24 Further information relating to biomass and air quality can be found on the Environmental Protection UK website⁽³¹⁾.

Combined Heat and Power Systems

4.25 Emissions from Combined Heat and Power (CHP) systems must be managed to ensure potential air quality impacts are controlled. Management of CHP systems will include system and fuel standards, abatement equipment, regulatory controls and planning controls to restrict where appliances can be installed and the effect they have on the local environment.

4.26 As is the case with all combustion plant, the air quality assessment of planning applications containing CHP systems should follow a risk based approach based upon factors such as:

- The location of a CHP system, i.e. is it in or close to an area of poor air quality;
- The type of CHP system proposed and the fuel it will use;
- The likely emission standard of the CHP system; and
- Whether the CHP system is substituting for a conventional boiler, and what the difference in emissions between the old boiler and new CHP system is likely to be.

4.27 Further guidance is available for Institute of Air Quality Management's Combined Heat and Power Guidance for Local Authorities⁽³²⁾.

³¹ <https://www.environmental-protection.org.uk/wp-content/uploads/2016/03/Biomass-and-Air-Quality-Information-for-Developers-2017.pdf>
³² http://www.iaqm.co.uk/text/guidance/epuk/chp_guidance.pdf



5 Contaminated land

5.1 All land has the potential to be contaminated. Much of today's land contamination originates from polluting industrial processes from the 19th and 20th centuries. It can also arise from uncontrolled filling or raising of land, as well as more innocuous activities such as agricultural use, disposing of hearth ash in gardens or fuel/oil spillages. Contamination can also be caused by naturally occurring sources such as radon gas from underlying rock or ground gases from peat deposits.

5.2 In the UK, contaminated land is identified and managed by two different regulatory frameworks, these being Part 2A of the Environmental Protection Act 1990⁽³³⁾ and the planning regime. It is widely acknowledged that remediation via the planning regime is the government's preferred option.

5.3 Part 2A of the Environmental Protection Act 1990 was intended to identify land which is so contaminated that in its current condition it poses a significant possibility of significant harm to the health of persons living in or using the land or any other environmental receptors. In this situation the local authority has to ensure that the land condition is addressed to control any unacceptable risk. Cheshire East Council's approach to Part 2A is outlined in the Cheshire East Council Contaminated Land Strategy⁽³⁴⁾.

5.4 The second regulatory regime is the planning system. In this case the developer, as part of the planning and redevelopment process, must address any land condition matters through investigation, risk assessment and remediation where required. In practice, the vast majority of contaminated sites are cleaned up routinely via this route, with the local planning authority ensuring that developers produce safe new development. Cheshire East Council has a Developers' Guide⁽³⁵⁾ to provide advice on this process.

What is Contaminated Land?

5.5 The statutory definition of contaminated land⁽³⁶⁾ is as follows:

*'...any land which appears to the local authority in whose area it is situated to be in such a condition, by reason of substances in, on or under the land, that:
Significant harm is being caused or there is a significant possibility of such harm being caused;
or
Significant pollution of controlled waters is being caused, or there is a significant possibility of such pollution being caused'*

5.6 Where a local authority is satisfied that one or both of the circumstances detailed above is being met then it must act in accordance with guidance issued by the Secretary of State. How Cheshire East Council carries out its statutory contaminated land duties is set out in its Contaminated Land Strategy.

5.7 Part 2A of the Environmental Protection Act 1990 was introduced specifically to address the historical legacy of land contamination, whereas the planning system aims to control development and land use in the future. Therefore, assessing risks in relation to the future

33 <https://www.legislation.gov.uk/ukpga/1990/43/contents>

34 https://www.cheshireeast.gov.uk/environment/environmental_health/contaminated_land/contaminated_land.aspx

35 https://www.cheshireeast.gov.uk/environment/environmental_health/contaminated_land/development_and_contamination.aspx

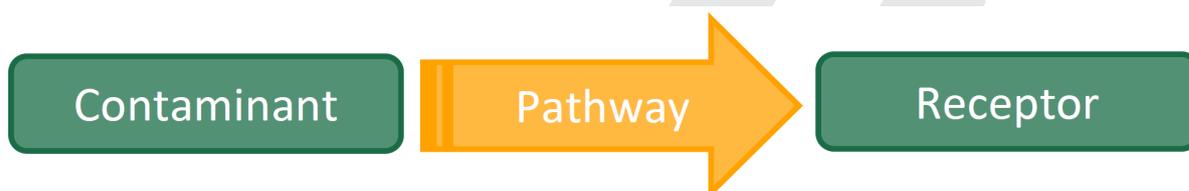
36 Environmental Protection Act 1990, Part 2A, Section 78(2)



use of any land is primarily a task for the planning system. However, applicants/developers should always take into account Part 2A, because a change in use may cause the land to fall within the statutory definition of contaminated land by creating a contaminant linkage.

5.8 Whether being considered under the planning regime or Part 2A of the Environmental Protection Act 1990, the principle of contaminated land risk assessment underpins all assessment. This is based upon the Contaminant (source) - Pathway - Receptor model. All three parts of the chain must be present to create what is known as a contaminant linkage. If a linkage is identified it indicates that there is a potential for a contaminated land risk to be present at the site and this must be assessed.

Figure 5.1 Contaminant linkage



Historical Land Use

5.9 The history of a site or area is often the best guide to whether a site may be at risk of contamination. The borough of Cheshire East is a mix of urban settlements and rural areas, both with historical industrial heritage. As such there is always the potential for contaminated land to be present. The council's Contaminated Land Strategy provides an overview of the industrial history of Cheshire East.

Roles and Responsibilities

5.10 Planning legislation and guidance places the responsibility on developers and/or landowners to secure a safe development with respect to contamination. The council's duty is to ensure that owners and developers carry out the necessary investigations and formulate proposals for dealing with any contamination in a responsible and effective manner. According to the NPPF the standard of remediation to be achieved, as a minimum, should be enough to ensure that the land is not capable of being determined as contaminated land under Part 2A of the Environmental Protection Act 1990. This is the removal of unacceptable risk, making the site suitable for its new use.

5.11 Where a development is proposed, it is the responsibility of the developer to ensure that issues of land contamination are appropriately considered, that remediation takes place (where necessary) and that the land is safe and 'suitable for use' i.e. the site is cleaned up to a level which is appropriate for the proposed end use. Furthermore, it is the developer's responsibility to ensure that the investigation and remediation of land contamination is carried out by a competent person with a recognised relevant qualification and sufficient experience in contaminated land i.e. an environmental consultant.

5.12 The local planning authority has a duty to take account of all material planning considerations, including potential contamination, when considering an application. Within the planning regime, contaminated land is often referred to as "land affected by contamination". When considering development on land affected by contamination, the principal objective of the local planning authority is to ensure that any unacceptable risks to human health, property



and/or the wider environment are identified so that appropriate action can be considered and then taken to address those risks. In achieving this objective, the local planning authority should assist in providing the necessary confidence to owners and occupiers of the land after development, regarding the condition and the ranking of the land in relation to relevant environmental protection regimes, such as Part 2A of the Environmental Protection Act 1990.

5.13 The Environment Agency is a statutory consultee for many planning applications where development is proposed on land affected by contamination. The Environment Agency will consider the impacts on groundwater and surface waters, legally termed controlled waters, and the developer will need to ensure that any concerns of the Environment Agency are satisfied prior to development when these receptors are at risk.

Contaminated land and planning

5.14 It is the role of the local planning authority to plan for land uses that are appropriate in the light of all the relevant circumstances, including known or suspected contamination, and to determine applications, including applying and enforcing any necessary conditions. Such conditions may require that land is remediated in the course of development to an appropriate standard, taking account of its intended use, and that, if necessary, it is properly maintained thereafter.

Pre application discussions

5.15 Where practicable and applicable, proposers of development on land affected by contamination should arrange pre-application discussions with the local planning authority and other regulators, including the council's Environmental Protection and Building Control departments, any other relevant council specialists and the Environment Agency (where pollution of controlled waters and the waste management implications of land contamination are likely to be issues).

5.16 This is particularly pertinent as the local planning authority must seek written agreement from the applicants before imposing pre-commencement conditions on a planning permission. In addition, the local planning authority must notify the applicant in writing of its intention to impose a pre-commencement condition⁽³⁷⁾.

Completing the "Existing Use" section of the planning application form

5.17 In applying for planning permission applicants have to answer questions regarding contaminated land. Typically there is a lack of understanding as to what type of development is vulnerable to contamination, if present. The following can be considered to be vulnerable end uses: all residential developments, allotments, schools, children's nurseries, playing areas and parks. If the development proposed is any of these uses then the answer to the question: "a proposed use that would be particularly vulnerable to the presence of contamination" is always Yes.

37 Town and Country Planning Act 1990 s100ZA



Figure 5.2 Good example of the "existing use" section from a residential planning application

6. Existing Use	
Vacant factory building	
Is the site currently vacant?	<input checked="" type="radio"/> Yes <input type="radio"/> No
If Yes, please describe the last use of the site	
Metal Fabrication	
When did this use end (if known)? DD/MM/YYYY	<input type="text"/>
Does the proposal involve any of the following? If Yes, you will need to submit an appropriate contamination assessment with your application.	
Land which is known to be contaminated	<input checked="" type="radio"/> Yes <input type="radio"/> No
Land where contamination is suspected for all or part of the site	<input checked="" type="radio"/> Yes <input type="radio"/> No
A proposed use that would be particularly vulnerable to the presence of contamination	<input checked="" type="radio"/> Yes <input type="radio"/> No

Determining planning applications including pre-commencement

5.18 If the information submitted with an application is such that the council cannot be satisfied that the necessary works are viable or practicable through a conditional planning permission, then the application may be refused to avoid the applicant being issued with an untenable planning permission. The amount of information we would expect to see submitted in support of any planning application is outlined in more detail within our Developers' Guide⁽³⁵⁾.

5.19 With regards to the agreement of pre-commencement conditions, if there is no agreement to such conditions and insufficient information is provided to support the application, then the application may be refused.

Planning conditions

5.20 The local planning authority will generally use a series of staged conditions that aim to:

- Provide for preliminary risk assessment and conceptual model investigation and characterisation of the site to confirm the nature and extent of contamination and validate the conceptual model to allow more refined risk assessment and appraisal of remedial options (see 'Site investigations and risk assessments').
- Propose and receive approval for a remediation scheme that ensures the removal of unacceptable risks to make the site suitable for use.
- Submit and receive approval for a validation report that demonstrates the effectiveness of the remediation carried out.

5.21 It is important to emphasise that the lack of a condition requiring investigation into contamination does not imply that a site is not contaminated. The Contaminated Land Team will assess the likelihood of risk based upon the known history of a site. It remains the responsibility of a developer or landowner to satisfy themselves over whether a site may or may not have been contaminated in the past. Despite this, applicants are reminded that they

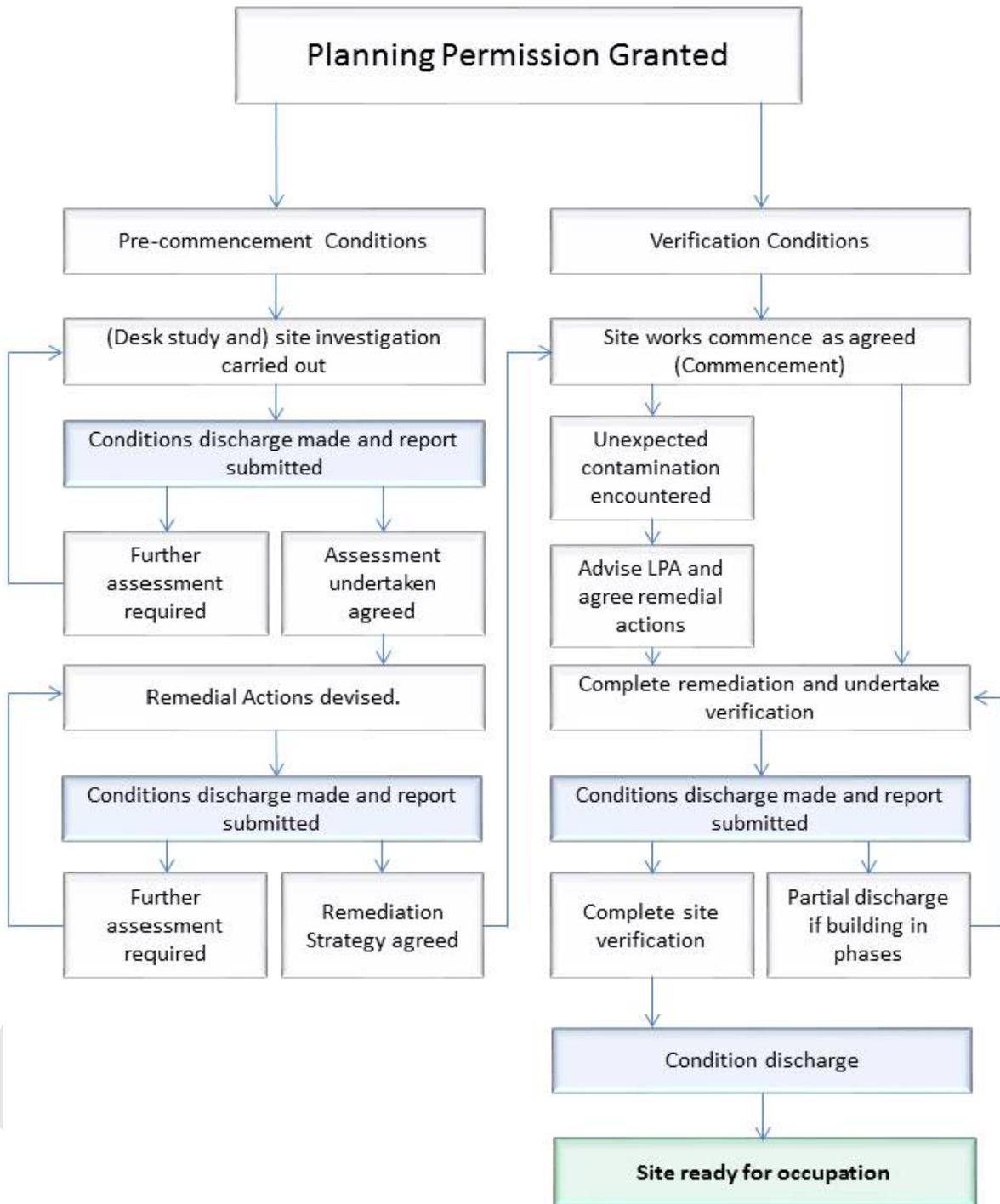


have a duty in accordance Part 2A of the Environmental Protection Act 1990, to immediately inform the local planning authority if any unforeseen contamination is encountered at any point during the development.

Discharge of conditions

5.22 Having secured planning permission, the developer must adhere to the conditions on that permission and a guide to doing this is provided in Figure 5.3 'Process of complying with a contaminated land condition'.

Figure 5.3 Process of complying with a contaminated land condition





5.23 If there are pre-commencement conditions then these must be satisfied before any commencement of work on site. If works have started on site without satisfying the contaminated land assessment aspect (i.e. pre-commencement) and agreeing any necessary remedial works then the development will be breaching planning conditions and it may be very difficult or impossible to investigate or remediate contamination as a result.

5.24 Furthermore, the prior to occupation aspect of the condition, usually the verification of any remedial methods, should be satisfied prior to occupation of the development. Again this would be a breach of planning condition and would potentially leave the site for consideration under Part 2A. Besides the potential risks, including financial, to any purchasers this could be a reputational matter for the developer.

5.25 Guidance on how to apply to discharge planning conditions can be viewed on the council's website⁽³⁸⁾. As contaminated land planning conditions are typically divided into sections, there may be more than one discharge application required to achieve final planning discharge.

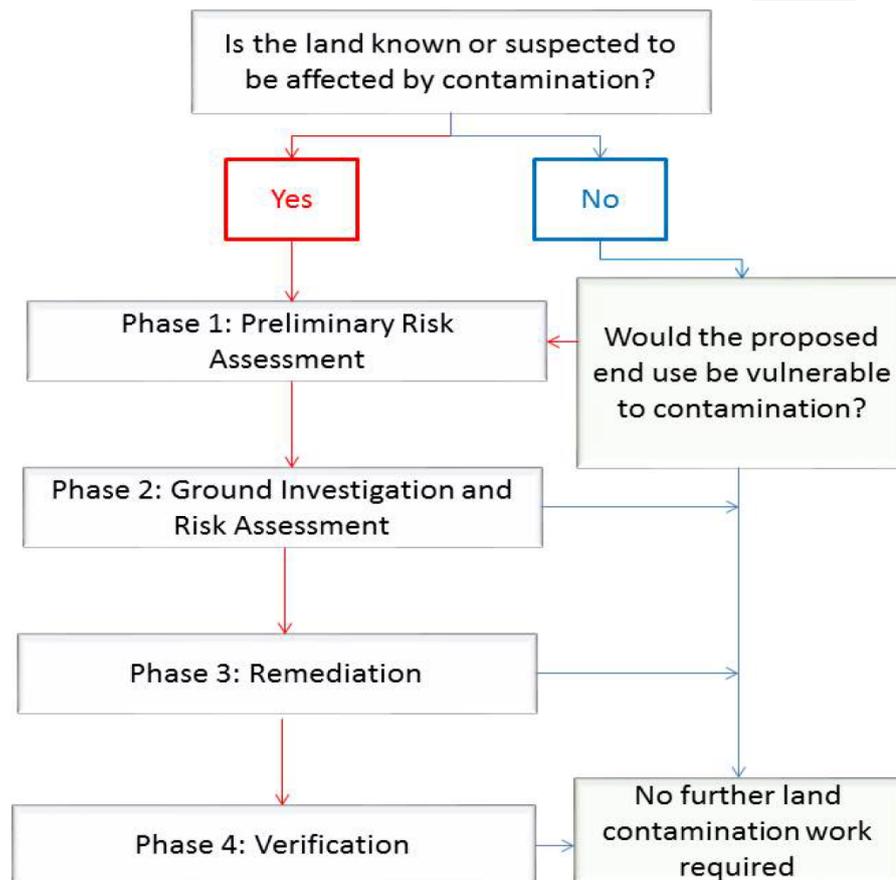
Site investigations and risk assessments

5.26 The council's Developers' Guide⁽³⁵⁾ provides more detail on the requirements of contaminated land information and what to submit to support a planning application. Reference to appropriate technical guidance is also included within the guide.

5.27 Figure 5.4 'Phased approach to assess contaminated land' summarises the phased approach required to assess contaminated land in the planning regime. The following sections provide more detail on each phase.

38 https://www.cheshireeast.gov.uk/planning/view_a_planning_application/making_a_planning_application/conditions_of_planning_consent.aspx

Figure 5.4 Phased approach to assess contaminated land



Phase 1: Preliminary risk assessment

5.28 The Phase 1 preliminary risk assessment (also known as a desk study) is the collection of information, including site history, to support the development of the conceptual model in order that the conceptual model can be established. A conceptual model is a simple representation of the site and considers all potential contaminant sources, pathways and receptors and any potential contaminant linkages. It should also include a walkover survey which means assessing the site and identifying any visual evidence of sources of contamination (such as ash/made ground or fuel tanks).

5.29 The conclusions of the report should contain recommendations as to whether the site is, or can be made suitable for its proposed use, and if further works and thus progression to Phase 2 are required.

5.30 Please note that reports written for conveyancing purposes are not accepted as they do not fulfil the requirements of a phase 1 assessment. For lower risk developments, such as a change of use, the council may accept a questionnaire⁽³⁹⁾, depending on the former use of the site. This may negate the requirement for a phase 1 preliminary risk assessment to be undertaken.

39 https://www.cheshireeast.gov.uk/environment/environmental_health/contaminated_land/development_and_contamination.aspx





Phase 2: Site investigation and risk assessment

5.31 A Phase 2 site investigation is an intrusive on site survey of the actual ground conditions at the site. The aim of this is to prove (or disprove) the presence of possible contaminant linkages identified in the phase 1 report. This is achieved through the sampling of soil and groundwater and ground gas monitoring where necessary, depending on the conceptual site model for the site.

5.32 The results of these investigations should determine whether any contamination is present and if so, whether it poses a potential risk to health, controlled waters or the environment. The investigation should be designed so that it takes into account the former, current and proposed land uses.

5.33 On sites which may be particularly contaminated or have significant risks or management issues it may be prudent to discuss your site investigation proposals with the Contaminated Land team.

5.34 The results of the sampling and monitoring should be considered within a risk assessment. As part of this, contaminants will be assessed against recognised generic assessment criteria for human health, controlled waters and vapours as appropriate. If the site has contaminants present, which do not have generic assessment criteria, then it may be necessary to derive site specific assessment criteria. Furthermore, if the end use is not applicable to current generic assessment criteria then again derivation of site specific assessment criteria may be required. Further information on risk assessment can be found in the council's Developers' Guide⁽³⁵⁾.

5.35 After completing the site investigation works, including all required rounds of gas monitoring (as appropriate), the preliminary conceptual site model developed in Phase 1 should be reviewed and updated on the basis of the findings of the investigation. This updated conceptual model will then identify if further works are required or whether the assessment is complete.

Phase 3: Remediation

5.36 Remedial works, if required should be compiled into a Remediation Strategy. For some lower risk sites, it may be sufficient to include this as a section in the Phase 2 report. The remediation strategy must be agreed with the local planning authority and Environment Agency, if applicable, and the relevant conditions discharged ahead of any remedial works commencing.

5.37 For larger development sites, there is an opportunity to consider a sustainable approach to land contamination risk management. Where appropriate, a sustainability assessment should be carried out as part of the Remediation Options Appraisal in line with industry standards. SuRF-UK sets out a framework for undertaking such an assessment. A Remediation Options Appraisal precedes the Remediation Strategy, considering the possible remedial actions for the site.



Phase 4: Verification

5.38 How verification (also referred to as validation) of remedial works is to be undertaken would have been set out within the agreed remediation strategy. It is important that this process is carefully and appropriately documented to demonstrate that the development is suitable for use.

5.39 Verification information must be provided to the local planning authority as part of a discharge of conditions submission for the Contaminated Land Team to assess in good time ahead of the development, or phase of development, being occupied. Without this, the site would be considered to be breaching its planning conditions and may be considered under Part 2A of the Environmental Protection Act 1990. Final discharge would be achieved at the end of the development.

Using consultants and laboratories

5.40 Depending on the type, level or extent of contamination, it is likely that a specialist consultant or service (e.g. analytical laboratory) will be required during the process of investigating, assessing and remediating land contamination. Care should be taken in appointing an environmental consultant, opting for a well experienced, sufficiently competent and qualified person or company that carries appropriate levels of professional indemnity insurance. It is critical that the consultant undertaking the works has experience of undertaking contaminated land assessments.

5.41 All reports should be prepared by appropriately qualified professionals and comply with current good practice and guidance. Accredited drillers and laboratories should be employed for all investigation and analysis. Copies of the full laboratory results, as received from the laboratory with no subsequent amendments should be appended. Sampling methodologies, chain of custody information, all borehole logs and risk assessment calculations should also be included.



6 Noise

6.1 Noise pollution is defined as unwanted sound, which usually occurs as an intrusive or offensive sound. The difference between the two is:

- Intrusive sound may be louder than or significantly different to background noise and is considered likely to disturb or interfere with an individual's daily life.
- Offensive sound is often dependant on the time of day i.e. night time, characteristics or the duration of the noise.

6.2 Proposed developments involving residential dwellings are often the most noise sensitive and will require protection from noise in the surrounding area, for example noise from transport, commercial, industrial or leisure sources.

6.3 Industrial or commercial developments are generally the least sensitive to noise, but they can become the source of noise disturbance and as such the noise assessment must include the impact the proposed development will have on surrounding noise sensitive receptors.

6.4 Paragraph 185 of the NPPF refers to noise, and the explanatory note to the NPSE sets out the concepts that are applied to noise impacts, including NOEL, LOAEL and SOAEL (see paragraphs 2.10 and 2.11 in the 'National policy' section)

6.5 The agent of change principle was included in the NPPF in 2018 and now places a duty on any potentially noise sensitive development proposed near to existing businesses or community facilities to incorporate suitable mitigation to prevent the noise, from such premises, causing disamenity to future occupants. Therefore, as part of any planning application submitted this must be taken into account and where necessary, a noise impact assessment must have been undertaken and all proposed mitigation measures incorporated into the proposed development. The noise impact assessment should also take account of new developments under construction or with planning permission.

Acceptable noise levels

6.6 The NPSE does not set any numerical values to any of the noise impact levels described, but it does state that the SOAEL is likely to vary depending on factors such as the noise source, time of day and the type/sensitivity of the receptor. However, the National Planning Practice Guidance advises how potential noise impacts can be managed through the planning process and provides further advice and guidance on the following matters:

- When noise is relevant to planning
- Whether noise can override other planning concerns
- How to determine noise impacts
- The observed effect levels
- How to establish whether noise is likely to be a concern
- The factors that influence whether noise could be a concern
- Guidance on noise standards in planning policies
- Relevant factors in identifying areas of tranquillity
- Addressing risk of conflict between new development and existing businesses or facilities



- Addressing the adverse effects of noise sources, including where the 'agent of change' needs to put mitigation in place
- Further considerations on mitigating noise impacts on residential developments
- Addressing the potential impact of aviation activities on new development

6.7 A summary of the effects of noise exposure and the effects on health and quality of life is set out in the National Planning Practice Guidance and replicated in Table 6.1 'Noise exposure hierarchy'.

Table 6.1 Noise exposure hierarchy

Response	Examples of outcomes	Increasing effect level	Action
No Observed Effect Level (NOEL)			
Not present	No effect	No observed effect	No specific measures required
No Observed Adverse Effect Level (NOAEL)			
Present and not intrusive	Noise can be heard, but does not cause any change in behaviour, attitude or other physiological response. Can slightly affect the acoustic character of the area but not such that there is a change in the quality of life	No observed adverse effect	No specific measures required
Lowest Observed Adverse Effect Level (LOAEL)			
Present and intrusive	Noise can be heard and causes small changes in behaviour, attitude or other physiological response, e.g. turning up volume of television; speaking more loudly; where there is no alternative ventilation, having to close windows for some of the time because of the noise. Potential for some reported sleep disturbance. Affects the acoustic character of the area such that there is a small actual or perceived change in the quality of life.	Observed adverse effect	Mitigate and reduce to a minimum
Significant Observed Adverse Effect Level (SOAEL)			
Present and disruptive	The noise causes a material change in behaviour, attitude or other physiological response, e.g. avoiding certain activities during periods of intrusion; where there is no alternative ventilation, having to keep windows closed most of the time because of the noise. Potential for sleep disturbance resulting in difficulty in getting to sleep, premature awakening and difficulty in getting back to sleep. Quality of life diminished due to change in acoustic character of the area.	Significant observed adverse effect	Avoid
Present and very disruptive	Extensive and regular changes in behaviour, attitude or other physiological response and/or an inability to mitigate effect of noise leading to psychological stress, e.g. regular sleep deprivation/awakening; loss of appetite, significant, medically definable harm, e.g. auditory and non auditory	Unacceptable adverse effect	Prevent



6.8 BS 8233:2014 provides guideline internal ambient noise levels for rooms within specific types of buildings. For dwelling houses, flats and rooms in residential use it recommends that the internal noise levels do not exceed the following guideline levels set out in Table 6.2 'Indoor ambient noise levels for dwellings'.

Table 6.2 Indoor ambient noise levels for dwellings

Activity	Location	07:00 to 23:00	23:00 to 07:00
Resting	Living room	35 dB $L_{Aeq,16hour}$	-
Dining	Dining room/area	40 dB $L_{Aeq,16hour}$	-
Sleeping (daytime resting)	Bedroom	35 dB $L_{Aeq,16hour}$	30 dB $L_{Aeq,8hour}$

Noise sensitive developments

6.9 The government has issued planning practice guidance for noise. The document indicates that noise is an important consideration in planning terms. It gives an indication of when noise is an issue and guidance on planning responses for noise levels between the Lowest Observed Adverse Effect Level (LOAEL) and the Significant Observed Adverse Effect Level (SOAEL). The guidance states that local plans can include specific standards to apply to various forms of proposed development and locations in their area.

6.10 In the context of government policy, Cheshire East Council requires that developments aim for:

1. A noise level between the **No Observed Effect Level** (this is the level of noise exposure below which no effect at all on health or quality of life can be detected) and the **Lowest Observed Adverse Effect Level** (this is the level of noise exposure above which adverse effects on health and quality of life can be detected). Conditions may be attached to achieve this level.

If point 1 cannot be achieved then:

2. If the assessment results in a level between the **Lowest Observed Adverse Effect Level** and the **Significant Observed Adverse Effect Level** (this is the level of noise exposure above which significant adverse effects on health and quality of life occur), mitigation will be necessary to reduce the level and thus conditions will be attached to achieve this reduced level.

If points 1 & 2 cannot be achieved then:

3. If the assessment results in a **Significant Observed Adverse Effect Level** after mitigation, the application will be recommended for refusal.

6.11 Cheshire East Council has adopted the following internal noise limits for residential properties, which are established in standards and guidance such as BS8233 and noise guidelines issued by the World Health Organisation.

- Bedrooms (night time; 23:00 - 07:00) 30 dB $L_{Aeq,8hour}$ (individual noise events should not normally exceed 45 dB $L_{Amax,F}$ more than 15 times)



- Living Rooms (daytime; 07:00 - 23:00) 35 dB $L_{Aeq,16hour}$
- Gardens and terraces (daytime, 07:00-23:00) 55 dB $L_{Aeq,16hour}$

Aircraft

6.12 Saved Policy T18 'Restriction on Development within NNI Zones' in the Macclesfield Borough Local Plan provides detailed policy advice regarding noise sensitive developments within areas affected by aircraft noise. Once adopted, this policy will be replaced by Policy ENV 13 'Aircraft noise' in the SADPD.

Noise generative developments

6.13 Potentially noisy development may cover a large range of different activities and planning use classes. Typically, the following use classes would be considered to have the potential for greater impact on noise sensitive land uses at or around the proposed development:

- B2/B8 General industrial and storage/distribution.
- E(b) Sale of food and drink for consumption (mostly) on the premises (e.g. restaurants and cafés).
- E(d) Indoor sport, recreation or fitness.
- E(e) Provision of medical or health services.
- E(f) Creche, day nursery or day centre.
- F1 Learning and non-residential institutions
- F2(c) Areas or places for outdoor sport or recreation
- F2(d) Indoor or outdoor swimming pools or skating rinks
- Sui Generis uses are by their nature often more varied and specific consideration of any proposal within this category is required to ensure that potential noise impacts are minimised. This includes (but is not limited to) developments such as theatres, amusement arcades/funfairs, taxi businesses, hostels, waste disposal installations, nightclubs, casinos, drinking establishments, hot food takeaways, live music venues, cinemas, concert halls, bingo halls and dance halls.

6.14 Prior to submitting a planning application the applicant must review all of the noise sensitive areas that can potentially be affected by the noise from the proposed development. This will form the basis of the required Noise Impact Assessment (NIA) and the 'Noise impact assessments' section below provides more details regarding the assessment. If the applicant is unsure whether a NIA is required they should contact the council's Environmental Protection Team⁽⁴⁰⁾ who will be able to offer more advice.

6.15 If the applicant is proposing any pre-application discussions with the council's Development Management Team, Then further advice can be requested and provided through this process. However, the aim will be for all such development to ensure that the noise levels for sensitive receptors do not exceed those set out in the 'Acceptable noise levels' section above.

40 Email environmentalprotection2@cheshireeast.gov.uk



Noise impact assessments

6.16 Noise control by its very nature is complex, therefore it may be necessary to engage an acoustic consultant to undertake a NIA and, if required, recommend appropriate noise mitigation measures. Advice regarding the methodology for undertaking a NIA can be obtained from the council's Environmental Protection Team⁽⁴¹⁾.

6.17 There are various different standards and guidance available covering a range of situations to help determine the type of noise assessment required. The main standards used are:

- **BS4142:2014+A1:2019** - Methods for rating and assessing industrial and commercial sound
- **BS8233:2014** - Guidance on sound insulation and noise reduction for buildings
- **Department of Transport technical memorandum: Calculation of Road Traffic Noise (1998)** - Describes the procedures for calculating noise from road traffic. These procedures are necessary to assess entitlement under the Noise Insulation Regulations, but they also provide guidance appropriate to the calculation of traffic noise for more general applications.
- **Department of Transport technical memorandum: Calculation of Railway Noise (1995)** - Primarily concerned with the procedures for calculating noise from moving railway vehicles as defined in the Noise Insulation (Railways and Other Guided Transport Systems) Regulations 1995.

6.18 With regards to NIAs for noise sensitive sites, the assessment must include the following:

- The reason for and scope of the report
- The sources of noise in the area
- Location plan of proposed development and likely receptors
- Methodology used including location of noise monitoring, equipment used, weather conditions
- Reasons for deviations from standard methods (if appropriate)
- Full table of results
- Comparison of survey results with noise standards
- Recommendations for noise control measures
- Full calculations of the noise reduction expected to support any suggested noise control measures

6.19 In addition, to the list above all noise generative sites must also include an assessment of potential noise sources including ancillary equipment and noise from deliveries to and from the site.

41 Email environmentalprotection2@cheshireeast.gov.uk



Mitigation measures

6.20 Based on the results and conclusion of a noise impact assessment, mitigation measures may be recommended to either protect sensitive premises or to reduce noise arising from noise generative premises. There are a range of noise mitigation measures which can be used. The examples given below are not an exhaustive list.

- **Building orientation and layout:** The design of buildings should be that noise sensitive rooms such as bedrooms, be orientated away from noise sources such as local roads and commercial developments. In addition, potentially noise generative sites should ensure that plant and equipment and other noisy activities (such as delivery routes) are located as far as possible from noise sensitive properties.
- **Screening:** There is a range of specialist acoustic screening, which can be used to reduce noise from a range of noise sources, but this can also include non-specialist equipment such as suitable close-boarded fencing to protect gardens and habitable rooms.
- **Windows and doors:** The selection of the correct windows and doors can have a significant effect on reducing noise levels within rooms. Therefore, suitable acoustic or double glazing should be included as part of any mitigation.
- **Acoustic ventilation:** There are situations where noise sensitive premises are in noisy environments such as town centres. In these situations there can be dramatic change in the noise experienced when a window is opened for ventilation purposes. Therefore, suitable acoustic ventilation should be considered to help residents maintain a reasonable level of noise.
- **Permanent plant and equipment:** The location and suitable screening of plant or equipment is critical to reducing noise levels and should be addressed during the design phase to ensure that the noise levels are minimised.

6.21 Wherever possible, mitigation measures should be embedded into the scheme design and included in the submitted proposals rather than being secured later as a condition of permission. Acoustic mitigation measures may well be large, noisy or visually intrusive and would need to be properly assessed as part of the proposal.

Noise during the construction phase

6.22 Noise from construction or demolition work can be intrusive and disruptive to local business and noise sensitive land uses. For this reason construction/demolition activity should be restricted to daytime periods and have clearly defined start and finish times. It is usually recommended that all noisy works (audible beyond the site boundary) are restricted to the following:

- **08.00 to 18.00 Monday - Friday**
- **09.00 to 14.00 on Saturday**
- **No work to be undertaken on Sunday or Bank Holidays**

6.23 By using set working hours for noise generating activity on site, as well as deliveries, respite is provided for local residents, businesses and workers close to the development. The council is aware that noise and disruption to local residents is inevitable due to the very nature of the work and hence communication with local residents is critical to overcoming any issues and will allow the development to progress.



6.24 For larger developments or those likely to be taking place over a longer period of time, it may be worth considering joining the national Considerate Contractors Scheme⁽⁴²⁾. These types of schemes suggest guidelines, which minimise disruption to local residents/businesses and provide a code of conduct for employees on site so that their work does not unduly upset local residents/businesses. These types of schemes include noise and usually other elements that may cause disruption such as dust, deliveries, working hours, behaviour on site, delivery routes and non-construction noise such as radios.

42 <https://www.ccscheme.org.uk/>



7 Light

7.1 Artificial light provides valuable benefits to society, including through extending opportunities for sport and recreation and can be essential to new development. However, artificial light is not always required and hence has the potential to become what is termed 'light pollution' or 'obtrusive light', especially when it is not in a suitable location and affects surrounding residents and causes annoyance to people. For maximum benefit, the best use of artificial light is about getting the right light, in the right place and providing light at the right time.

What is Light Pollution?

7.2 Light pollution is described as unwanted light from any artificial source and can occur as:

- Sky Glow: the orange glow visible around urban areas resulting from the scattering of artificial light by dust particles and water droplets in the sky;
- Glare: the uncomfortable brightness of a light source when viewed against a dark sky;
- Light trespass: light spillage beyond the boundary of the property on which a light is located.

Light and planning

7.3 Artificial light alone is not classed as development, but the structures and installation may be classed as such and require planning permission. Planning permission is normally required for the following types of installations:

- Lights mounted on poles or other similar structures.
- External lighting proposed as part of an industrial or commercial scheme.
- New lighting structures or works, which are integral to other development requiring planning permission.
- Illuminated advertisements, although there are some exceptions such as those indicating medical services and some commercial advertisements on the frontage of business premises.
- Large scale installations such as that required for sports facilities.

7.4 Further advice regarding whether planning permission is required for a lighting scheme can be obtained from the council's Permitted Development Enquiries Service⁽⁴³⁾. Developers are required to submit, as part of a planning application, details of lighting schemes, which should include light scatter/contour diagrams. The aim will be to minimise light pollution encroaching on to neighbouring properties caused by light spillage.

Sources of light pollution

7.5 Light pollution can arise from many different sources:

- All night (and sometimes daytime) floodlighting of buildings; illuminated shop windows and advertising signs which remain switched on overnight.

⁴³ https://www.cheshireeast.gov.uk/planning/view_a_planning_application/do_i_need_planning_permission/permitted_development_enquiry/permitted_development_enquiry.aspx



- Domestic security lighting which is inappropriately positioned and intrudes on neighbouring properties.
- Temporary lighting associated with construction and engineering projects.
- Flood lighting of sports facilities, such as golf driving ranges, football pitches etc.

Lighting assessments

7.6 A lighting assessment will be required if there is the potential for any proposed lighting to have an impact on the surrounding area. The assessment must provide full details of the lighting scheme, together with the appropriate light scatter/contour diagrams to demonstrate that the scheme will not affect the amenity of the surrounding area.

7.7 Any proposal for artificial lighting should be accompanied by that information normally required for any other planning proposal and additionally the information set out below:

- A statement setting out why a lighting scheme is required, the proposed users and the frequency and length of use in terms of hours of illumination.
- A site survey showing the area to be lit relative to the surrounding area, the existing landscape features together with proposed landscaping features to mitigate the impacts of the proposed lighting.
- A technical report prepared by a suitably qualified Lighting Engineer setting out the type of lights, performance, height and spacing of lighting columns. The light levels to be achieved over the intended area, the site boundaries and the range/intensity of lighting beyond the site boundary.

Mitigation measures

7.8 Effective lighting should be well directed and almost invisible from a distance. The lighting scheme should not exceed the minimum required for the use and the design of any scheme should include the following:

7.9 Proper design and planning: Lighting shall only be used where and when necessary; using appropriate strength of light; and by adjusting light fittings to direct the light to where it is required. Luminance should be appropriate to the surroundings and character of the area as a whole. 'Over lighting' should be avoided and shields, reflectors or baffles used to prevent overspill of light to sensitive areas.

7.10 Direction of light: Light should be directed downwards wherever possible to illuminate its target and not upwards. Consideration should be given to providing lighting that does not glare on approach and which places light onto the ground and not into the sky where it is wasted.

7.11 Sensor switches: All security lighting schemes should use one of the following options:

- The use of Passive Infrared (PIR) sensors; or
- All-night lighting at a level of low brightness.

7.12 If correctly aligned and installed, a PIR sensor that switches on lighting when an intruder is detected, often acts as a greater deterrent than permanently floodlit areas, which allow the potential intruder to look for weaknesses in security.



Planning conditions

7.13 Where an assessment has been reviewed and approved, conditions may be attached to any planning approval to control the lighting scheme. These may include the following, which is not an exhaustive list:

- Limiting the time the lighting is used.
- Limiting the use of lighting schemes to identified uses.
- Specifying lamps, luminaires and columns.
- The design, height, position and angle of the lighting.
- The use of planting and bunding to contain lighting effects.
- Maintenance of the lighting scheme and post installation checks in accordance with the approved scheme.

7.14 These conditions will be applied as necessary by the council to help reduce obtrusive light from glare and spillage to protect residential amenity.

Light during the construction phase

7.15 Light from construction or demolition work can be extremely intrusive to neighbouring properties. As part of the Construction Management Plan details of the lighting scheme for the site should be submitted, in order to demonstrate that the proposed scheme is appropriate in terms of its purpose and setting.



8 Odour

8.1 The planning system should ensure that all new developments are appropriate for the location and whilst ideally odour generating and odour sensitive uses should be separated, this is not always possible. In the situations when it is not possible to separate the different types of premises it may be necessary to employ odour abatement and mitigation measures.

8.2 New proposals for odour generating developments will require an odour impact risk assessment to be submitted with the planning application, either as a stand-alone assessment or as part of an Environmental Impact Assessment for the development.

8.3 Typical examples of potentially odorous activities are:

- hot food premises
- food production and manufacturing sector
- landfill, waste disposal and recycling sites
- intensive livestock and animal rearing / farming
- sewage / wastewater and sludge treatment works
- processing / rendering of animals / animal by-products
- solid waste management, handling and treatment plants (for example compost windrows turning)
- biofuels and anaerobic digestion facilities
- pet food processing
- foundry emissions

Requirements for hot food premises

8.4 A scheme detailing the kitchen extraction system must be submitted with the planning application. This must also detail the nature of the food to be cooked, type and location of any relevant filters, location of external duct work including the discharge point/termination height and any cowl etc. together with any mitigation required. Mitigation measures may include, but not restricted to, filtration, odour abatement and regular maintenance of the system to control the discharge of odours and fumes arising from food handling; preparation and cooking.

Odour impact assessments

8.5 An assessment of the impact of an odour source, process, activity or use on surrounding users of the land should usually seek to identify and contain the following key elements:

- A description of existing baseline odour conditions (including complaints history) where relevant.
- A description of the location of receptors (either existing or proposed) and their relative sensitivities to odour effects.
- Details of potential odour sources
- A description of control/mitigation and design measures
- Where odour modelling has been used the report should contain full details of the input data and modelling options used to allow a third party to reproduce the results.



Appendix A Glossary

Air Quality Assessment Level (AQAL)	When carrying out an air quality assessment, an AQAL may be an air quality objective (set out in the Air Quality Standards (England) Regulations 2007), EU limit or target value, or an Environment Agency 'Environment Assessment Level'.
Air Quality Management Area (AQMA)	If any areas are either exceeding or likely to exceed any of the air quality objectives (set out in the Air Quality Standards (England) Regulations 2007), an AQMA must be declared and an action plan drawn up, setting out how the local authority proposes to improve the air quality within that area.
Air Quality Strategy (AQS)	The UK AQS sets out how the government aims to deal with local air quality and the impact of this on health and wellbeing.
Combined Heat and Power (CHP)	Combined Heat and Power (CHP) is the co-production of electricity and heat for a building (or an industrial process). CHP is generally a more energy efficient technology than the on-site boilers and electricity from the National Grid that is used to heat and power most buildings. This is due to the low efficiency of large scale electricity generation and supply.
Environmental Impact Assessment (EIA)	An EIA is a procedure which serves to provide information about the likely effects of a proposed project on the environment, so as to inform the decision making process as to whether the development should be allowed to proceed, and if so, on what terms. It is required under the Town and Country Planning (Environmental Impact Assessment) Regulations for certain planning applications.
Local Air Quality Management (LAQM)	LAQM is a process requiring all local authorities to regularly review and assess air quality within their area against the air quality objectives set out the Air Quality Standards (England) Regulations 2007.
Local Air Quality Management: Technical Guidance (TG16)	TG16 is designed to support local authorities in carrying out their duties in relation to Local Air Quality Management (LAQM)
Local Plan Strategy (LPS)	The LPS is part of the development plan and sets out the vision and overall planning strategy for the borough over the period to 2030. It includes strategic planning policies and allocates strategic sites for development.
Lowest Observed Adverse Effect Level (LOAEL)	The level of noise exposure above which adverse effects on health and quality of life can be detected.
National Planning Policy Framework (NPPF)	The NPPF for sets out the government's planning policies for England and how these should be applied.



Noise Impact Assessment (NIA)	An assessment of noise issues using measurements of existing noise and prediction, calculation and modelling of proposed noise sources; and consideration of the impact on noise-sensitive sites.
No Observed Adverse Effect Level (NOAEL)	The level of noise exposure at which noise can be heard but does not cause any change on behaviour, attitude or other physiological response.
No Observed Effect Level (NOEL)	The level of noise exposure below which no effect at all on health or quality of life can be detected.
Passive Infrared (PIR) sensor	A PIR sensor switches lighting on when a person is detected.
Significant Observed Adverse Effect Level (SOAEL)	The level of noise exposure above which significant adverse effects on health and quality of life occur.
Site Allocations and Development Policies Document (SADPD)	The SADPD is currently a draft document but once adopted, it will be part of the development plan. It will support the policies and proposals of the LPS by providing additional policy detail through non-strategic and detailed planning policies and site allocations.
Strategic Environmental Assessment (SEA)	SEA is a requirement of European Directive 2001/42/EC for plans and programmes that have significant environmental effects. The objective is to provide for a high level of protection of the environment with a view to promoting the achievement of sustainable development.
Supplementary Planning Document (SPD)	SPDs add further detail to the policies in the development plan and are used to provide guidance for development on specific sites, or on particular issues. SPDs may be a material planning consideration in planning decisions but are not part of the development plan.



Appendix B Resources and contacts

Resources

- Air pollution monitoring data for Cheshire East:
https://www.cheshireeast.gov.uk/environment/environmental_health/local_air_quality/what_is_pollution_like_near_me/air-pollution-monitoring.aspx
- Air quality appraisal damage cost guidance:
<https://www.gov.uk/government/publications/assess-the-impact-of-air-quality>
- Air quality background mapping data:
<https://uk-air.defra.gov.uk/data/laqm-background-home>
- Air Quality Management Area maps for Cheshire East:
https://www.cheshireeast.gov.uk/environment/environmental_health/local_air_quality/aqma_area_maps.aspx
- Air Quality Standards (England) Regulations 2007:
<https://www.legislation.gov.uk/uksi/2007/64/regulation/23/made>
- Biomass and Air Quality Information:
<https://www.environmental-protection.org.uk/wp-content/uploads/2016/03/Biomass-and-Air-Quality-Information-for-Developers-2017.pdf>
- Change of Use Contaminated Land Questionnaire:
https://www.cheshireeast.gov.uk/environment/environmental_health/contaminated_land/development_and_contamination.aspx
- Cheshire East Contaminated Land Strategy:
https://www.cheshireeast.gov.uk/environment/environmental_health/contaminated_land/contaminated_land.aspx
- Cheshire Minerals Local Plan 1999:
https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/cheshire_minerals_local_plan/cheshire_minerals_local_plan.aspx
- Cheshire Waste Local Plan 2007:
https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/cheshire_waste_local_plan/cheshire_waste_local_plan.aspx
- Clean Air Strategy 2019:
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/770715/clean-air-strategy-2019.pdf
- Combined Heat and Power Air Quality Guidance for Local Authorities:
http://www.iaqm.co.uk/text/guidance/epuk/chp_guidance.pdf
- Congleton Borough Local Plan 2005:



https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/congleton_local_plan/congleton_local_plan.aspx

- Crewe and Nantwich Borough Local Plan 2005:
https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/crewe_and_nantwich_local_plan/crewe_and_nantwich_local_plan.aspx
- Developing Land Within Cheshire East Council, a guide to submitting planning applications - land contamination:
https://www.cheshireeast.gov.uk/environment/environmental_health/contaminated_land/development_and_contamination.aspx
- Environmental Permitting (England and Wales) Regulations 2016:
<https://www.legislation.gov.uk/uksi/2016/1154/contents/made>
- Environmental Protection Act 1990:
<https://www.legislation.gov.uk/ukpga/1990/43/contents>
- Guidance on applying for the discharge of planning conditions:
https://www.cheshireeast.gov.uk/planning/view_a_planning_application/making_a_planning_application/conditions_of_planning_consent.aspx
- Guidance on the assessment of dust from demolition and construction:
<https://iaqm.co.uk/text/guidance/construction-dust-2014.pdf>
- Land-Use Planning & Development Control: Planning For Air Quality:
https://www.environmental-protection.org.uk/wp-content/uploads/2013/07/air-quality-planning-guidance_Jan17.pdf
- Local Air Quality Management Technical Guidance (TG16):
<https://laqm.defra.gov.uk/documents/LAQM-TG16-April-21-v1.pdf>
- Local Plan Strategy (LPS):
<https://www.cheshireeast.gov.uk/localplanstrategy>
- Macclesfield Borough Local Plan 2004:
https://www.cheshireeast.gov.uk/planning/spatial-planning/saved_and_other_policies/macclesfield_local_plan/macclesfield_local_plan.aspx
- National Planning Policy for Waste (NPPW):
<https://www.gov.uk/government/publications/national-planning-policy-for-waste>
- National Planning Policy Framework (NPPF):
<https://www.gov.uk/guidance/national-planning-policy-framework>
- National Planning Practice Guidance (NPPG):
<https://www.gov.uk/government/collections/planning-practice-guidance>
- Neighbourhood Plans:
<https://www.cheshireeast.gov.uk/planning/neighbourhood-plans/completed-neighbourhood-plans.aspx>



- Noise Policy Statement for England (NPSE):
<https://www.gov.uk/government/publications/noise-policy-statement-for-england>
- Pre-application advice service:
https://www.cheshireeast.gov.uk/planning/view_a_planning_application/pre-application_advice/pre-application_advice.aspx
- Site Allocations and Development Policies Document:
<https://www.cheshireeast.gov.uk/sadpd>
- Town and Country Planning (Environmental Impact Assessment) Regulations 2017:
<https://www.legislation.gov.uk/uksi/2017/571/contents/made>

Contacts

- Cheshire East Council Air Quality Team:
Email airquality@cheshireeast.gov.uk
- Cheshire East Council Environmental Protection Team (regarding Environmental Impact Assessments):
Email environmentalprotection2@cheshireeast.gov.uk



Appendix C Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report

C.1 Cheshire East Council has produced a draft Environmental Protection SPD. The purpose of the SPD is to provide guidance on the council's approach to Environmental Protection issues when considering planning applications. It adds further detail to policies contained within the Development Plan and sets out relevant technical advice aimed at preventing or reducing the impact of proposed developments and protecting public health, wellbeing and amenity.

C.2 The Development Plan for Cheshire East consists of:

- The Cheshire East Local Plan Strategy adopted July 2017;
- Saved policies from the Borough of Crewe and Nantwich Local Plan 2005; Cheshire Replacement Minerals Local Plan 1999; Cheshire Replacement Waste Local Plan 2007; Congleton Borough Local Plan 2005; and and Macclesfield Borough Local Plan 2004; and
- Completed neighbourhood plans.

C.3 The policy framework for the SPD is contained mostly in the LPS, with a particular focus on Policy SE 12 'Pollution, land contamination and land instability'. LPS policies SD 1 'Sustainable development in Cheshire East', SD 2 'Sustainable development principles' and SC 3 'Health and well-being' also contribute to the policy framework for the SPD.

C.4 The council is also in the process of preparing the second part of its Local Plan, called the Site Allocations and Development Policies Document. The draft SADPD was submitted to the Secretary of State on 29 April 2021 under Regulation 22 of the Town and Country Planning (Local Planning) (England) Regulations 2012. It will now be subject to examination by an independent planning inspector.

C.5 The emerging SADPD policies are non-strategic in nature and have been drafted to be in accordance with the strategic policies of the LPS. The draft Environmental Protection SPD has been prepared in conformity with the policies contained in the adopted LPS and emerging SADPD.

C.6 This screening report is designed to determine whether or not the contents of the draft Environmental Protection SPD require a Strategic Environmental Assessment (SEA) in accordance with the European Directive 2001/42/EC and associated Environmental Assessment of Plans and Programmes Regulations 2004. The report also addresses whether the draft Environmental Protection SPD has a significant adverse effect upon any internationally designated site(s) of nature conservation importance and thereby subject to the requirements of the Habitats Regulations. The report contains separate sections that set out the findings of the screening assessment for these two issues.

C.7 This appendix will be the subject of consultation alongside the draft Environmental Protection SPD, in accordance with the relevant regulations and the council's Statement of Community Involvement between [START DATE] and [END DATE]. This will include consultation with the relevant statutory bodies (Natural England, Environment Agency and Historic England). Comments received during the consultation on the draft Environmental Protection SPD and this appendix will be reflected in future updates to the document.



Strategic Environmental Assessment screening

C.8 The objective of SEA is to provide for a high level of protection of the environment with a view to promoting the achievement of sustainable development. It is a requirement of European Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (also known as the SEA Directive). The Directive was transposed in UK law by the Environmental Assessment of Plans and Programmes Regulations 2004, often known as the SEA Regulations.

C.9 Article 3(3) and 3(4) of the Regulations make clear that SEA is only required for plans and programmes when they have significant environmental effects. The 2008 Planning Act removed the requirement to undertake a full Sustainability Appraisal for a SPD although consideration remains as to whether the SPD requires SEA, in exceptional circumstances, when likely to have a significant environmental effect(s) that has not already been assessed during the preparation of a Local Plan.

Overview of the draft Environmental Protection SPD

C.10 The purpose of the draft Environmental Protection SPD is to provide further guidance on the implementation of LPS policies SE 12 'Pollution, land contamination and land instability', SD 1 'Sustainable development in Cheshire East', SD 2 'Sustainable development principles' and SC 3 'Health and well-being'.

C.11 It is important to note that policies in the LPS were the subject of Sustainability Appraisal, which incorporated the requirements of the SEA regulations (as part of an Integrated Sustainability Appraisal). The likely significant environmental effects have already been identified and addressed – the SPD merely provides guidance on existing policies. The LPS Integrated Sustainability Appraisal has informed this SPD screening assessment.

C.12 SEA has been undertaken for policies SE 12 'Pollution, land contamination and land instability', SD 1 'Sustainable development in Cheshire East', SD 2 'Sustainable development principles' and SC 3 'Health and well-being' as part of the Integrated Sustainability Appraisal that supported the LPS. For the purposes of compliance with the UK SEA Regulations and the EU SEA directive, the following reports comprised the SA “Environmental Report”:

- SD 003 – LPS Submission Sustainability (Integrated) Appraisal (May 2014);
- PS E042 – LPS Sustainability (Integrated) Appraisal of Planning for Growth Suggested Revisions (August 2015);
- RE B006 – LPS Sustainability (Integrated) Appraisal Suggested Revisions to LPS Chapters 9-14 (September 2015);
- RE F004 – Sustainability (Integrated) Appraisal – Proposed Changes (March 2016);
- PC B029 – Sustainability (Integrated) Appraisal - Proposed Changes to Strategic and Development Management Policies (July 2016);
- PC B030 – Sustainability (Integrated) Appraisal - Proposed Changes to Sites and Strategic Locations (July 2016);
- MM 002 - Sustainability (Integrated) Appraisal - Main Modifications Further Addendum Report.

C.13 In addition, an SA adoption statement was prepared in July 2017 to support the adoption of the LPS. It should also be noted that the emerging SADPD and the policies contained in it have also been supported by a Sustainability Appraisal (incorporating the requirements for the SEA directive).

SEA Screening Process

C.14 The council is required to undertake a SEA screening to assess whether the draft Environmental Protection SPD is likely to have significant environmental effects. If the draft Environmental Protection SPD is considered unlikely to have significant environmental effects through the screening process, then the conclusion will be that SEA is not necessary.

C.15 Table C.1 'Assessment of likely significant effects on the environment' assesses whether the draft SPD will have any significant environmental effects using the criteria set out in Annex II of SEA Directive 2001/42/EC⁽⁴⁴⁾ and Schedule 1 of the Environmental Assessment of Plans and Programmes Regulations 2004⁽⁴⁵⁾.

Table C.1 Assessment of likely significant effects on the environment

SEA Directive Criteria Schedule 1 of Environmental Assessment of Plans and Programmes Regulations 2004	Summary of significant effects, scope and influence of the document	Is the plan likely to have a significant environmental effect (yes/no)
1. Characteristics of the SPD having particular regard to:		
(a) The degree to which the SPD sets out a framework for projects and other activities, either with regard to the location, nature, size or operating conditions or by allocating resources.	<p>Guidance is supplementary to policies contained in the LPS and emerging SADPD, both of which have been the subject of SA / SEA. The policies provide an overarching framework for development in Cheshire East.</p> <p>The draft Environmental Protection SPD provides further clarity and certainty to form the basis for the submission and determination of planning applications, consistent with policies in the LPS.</p> <p>Final decisions will be determined through the development management process. No resources are allocated.</p>	No
(b) The degree to which the SPD influences other plans and programmes including those in a hierarchy.	The draft SPD is in general conformity with the LPS, which has been subject to a full Sustainability Appraisal (incorporating SEA). It is adding more detail to the adopted LPS and other policies in the Development Plan including the emerging SADPD, which has itself been the	No

44 <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32001L0042&from=EN>

45 https://www.legislation.gov.uk/uksi/2004/1633/pdfs/ukxi_20041633_en.pdf



SEA Directive Criteria Schedule 1 of Environmental Assessment of Plans and Programmes Regulations 2004	Summary of significant effects, scope and influence of the document	Is the plan likely to have a significant environmental effect (yes/no)
	subject of Sustainability Appraisal. Therefore, it is not considered to have an influence on any other plans and programmes.	
(c) The relevance of the SPD for the integration of environmental considerations in particular with a view to promoting sustainable development.	The draft SPD promotes sustainable development, in accordance with the NPPF (2021) and LPS policies. The LPS has been the subject of a full Sustainability Appraisal (incorporating SEA). The draft SPD has relevance for the integration of environmental considerations and promotes sustainable development by providing guidance to make sure that proposed developments meet policy requirements and is designed to minimise the impacts on public health, wellbeing and amenity.	No
(d) Environmental problems relevant to the SPD.	The SPD provides guidance to make sure that developments comply with existing policies related to environmental problems including air pollution and contaminated land remediation.	No
(e) The relevance of the SPD for the implementation of Community legislation on the environment (for example plans and programmes related to waste management or water protection).	The draft SPD will not impact on the implementation of community legislation on the environment.	No
2. Characteristics of the effects and area likely to be affected having particular regard to:		
(a) The probability, duration, frequency and reversibility of the effects.	The draft SPD adds detail to adopted LPS policy; itself the subject of SA.	No
(b) The cumulative nature of the effects of the SPD.	The draft SPD adds detail to adopted LPS policy, itself the subject of SA. The SA associated with the LPS and emerging SADPD have considered relevant plans and programmes. No other plans or programmes have emerged that alter this position.	No
(c) The trans-boundary nature of the effects of the SPD.	Trans-boundary effects will not be significant. The draft SPD will not lead to any transboundary effects as it just providing additional detail regarding the implementation of LPS policies SE 12, SD 1, SD 2 & SC 3 and does not, in itself, influence the location of development.	No





SEA Directive Criteria Schedule 1 of Environmental Assessment of Plans and Programmes Regulations 2004	Summary of significant effects, scope and influence of the document	Is the plan likely to have a significant environmental effect (yes/no)
(d) The risks to human health or the environment (e.g. due to accident).	The draft SPD will not cause risks to human health or the environment as it is adding detail to environmental policies in the Local Plan.	No
(e) The magnitude and spatial extent of the effects (geographic area and size of the population likely to be affected) by the SPD.	The draft SPD covers the Cheshire East administrative area (excluding the part falling within the Peak District National Park). The draft SPD will assist those making planning applications in the borough.	No
(f) The value and vulnerability of the area likely to be affected by the SPD due to: <ul style="list-style-type: none"> Special natural characteristics or cultural heritage Exceeded environmental quality standards or limit values Intensive land use. 	The draft SPD will not lead to significant effects on the value or vulnerability of the area. It is adding detail regarding the implementation of LPS policies SE 12, SD 1, SD 2 & SC 3 and does not, in itself, influence the location of development.	No
(g) The effects of the SPD on areas or landscapes which have recognised national Community or international protected status.	The SPD does not influence the location of development, so will not cause effects on protected landscape sites.	No

Conclusion and SEA screening outcome

C.16 The SPD does not set new policy, but supplements and provides further guidance on existing LPS policy. It is not considered to have a significant effect on the environment and therefore SEA is not required on the draft Environmental Protection SPD. This conclusion will be revisited following consideration of the views of the three statutory consultees (the Environment Agency, Historic England and Natural England) and if there are significant changes to the SPD following public consultation.

Habitats Regulations Assessment statement

C.17 The council has considered whether its planning documents would have a significant adverse effect upon the integrity of internationally designated sites of nature conservation importance. European Directive 92/43/EEC on the Conservation of Natural Habitats and Wild Flora and Fauna (Habitats Directive) provides legal protection to habitats and species of



European importance. The principal aim of this directive is to maintain at, and where necessary restore to, favourable conservation status of flora, fauna and habitats found at these designated sites.

C.18 The Directive is transposed into English legislation through the Conservation of Habitats and Species Regulations 2017 (a consolidation of the amended Conservation of Habitats and Species Regulations, 2010) published in November 2017.

C.19 European sites provide important habitats for rare, endangered or vulnerable natural habitats and species of exceptional importance in the European Union. These sites consist of Special Areas of Conservation (SACs, designated under the EU Directive 92/43/EEC on the conservation of natural habitats and of fauna and flora (Habitats Directive)), and Special Protection Areas (SPAs, designated under EU Directive 2009/147/EC on the conservation of wild birds (the Birds Directive)). Government policy requires that Ramsar sites (designated under the International Wetlands Convention, UNESCO, 1971) are treated as if they are fully designated European sites for the purposes of considering development proposals that may affect them.

C.20 Spatial planning documents may be required to undergo Habitats Regulations Screening if they are not directly connected with or necessary to the management of a European site. As the draft Environmental Protection SPD is not connected with, or necessary to, the management of European sites, the HRA implications of the SPD have been considered.

C.21 A judgment, published on 13 April 2018 (People Over Wind and Sweetman v Coillte Teoranta (C-323/17)) clarified that measures intended to avoid or reduce the harmful effects of a proposed project on a European site may no longer be taken into account by competent authorities at the Habitat Regulations Assessment “screening stage” when judging whether a proposed plan or project is likely to have a significant effect on the integrity of a European designated site.

C.22 Both the LPS and emerging SADPD have been subject to HRA.

C.23 The draft Environmental Protection SPD does not introduce new policy; it provides further detail to those policies contained within the LPS. The HRA concluded that policies SE 12 'Pollution, land contamination and land instability', SD 1 'Sustainable development in Cheshire East', SD 2 'Sustainable development principles' and SC 3 'Health and well-being' could not have a likely significant effect on a European Site. The same applies to the draft Environmental Protection SPD.

C.24 The draft Environmental Protection SPD in itself, does not allocate sites and is a material consideration in decision making, once adopted.

C.25 The draft Environmental Protection SPD either alone or in combination with other plans and programmes, is not likely to have a significant effect on any European site. Therefore, a full Appropriate Assessment under the requirements of the Habitats Regulations is not required.



Conclusion and HRA screening outcome

C.26 Subject to views of the three statutory consultees (the Environment Agency, Historic England and Natural England), this screening report indicates that an Appropriate Assessment under the Habitats Regulations is not required



EQUALITY IMPACT ASSESSMENT

TITLE: Draft Environmental Protection Supplementary Planning Document (“SPD”)

VERSION CONTROL

Date	Version	Author	Description of Changes
19.08.2021	1	Stewart House / Tom Evans	Initial Draft
-	-	Sarah Walker	EDI sign off

EQUALITY IMPACT ASSESSMENT

CHESHIRE EAST COUNCIL - EQUALITY IMPACT ASSESSMENT

Stage 1 Description: Fact finding (about your policy / service /

Department	Strategic Planning		Lead officer responsible for assessment		Tom Evans, Neighbourhood Plan Manager	
Service	Environmental and Neighbourhood Services		Other members of team undertaking assessment		Tom Evans, Neighbourhood Plan Manager	
Date	24/05/2021		Version 1			
Type of document (mark as appropriate)	Strategy YES	Plan	Function	Policy	Procedure	Service
Is this a new/ existing/ revision of an existing document (please mark as appropriate)	New YES		Existing		Revision	
Title and subject of the impact assessment (include a brief description of the aims, outcomes , operational issues as appropriate and how it fits in with the wider aims of the organisation) Please attach a copy of the strategy/ plan/ function/ policy/ procedure/ service	<p>Draft Recovery of Forward Funded Infrastructure Costs Supplementary Planning Document (“SPD”)</p> <p><u>Background</u></p> <p>Supplementary Planning Documents (“SPDs”) provide further detail to the policies contained in the development plan. They can be used to provide guidance for development on specific sites, or on particular issues, such as design. SPDs are capable of being a material consideration in planning decisions but are not part of the development plan. They must be consistent with national planning policy, must undergo consultation and must be in conformity with policies contained within the Local Plan.</p> <p>The council has prepared a draft Environmental Protection SPD for consultation. The draft SPD provides additional guidance primarily on the implementation of policy SE12 (‘Pollution, Land Contamination and Land Instability’), in the council’s Local Plan Strategy, adopted in July 2017. The SPD also provides guidance on environmental policies emerging via the councils Site Allocations and Development Policies Document (SADPD). The SPD once adopted, should assist applicants when making planning applications, and the council in determining them. The SPD provides further guidance on existing policies, rather than setting a new policy approach in relation to biodiversity and habitats.</p>					

EQUALITY IMPACT ASSESSMENT

	<p>The SPD has been prepared in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012, the National Planning Policy Framework and National Planning Practice Guidance.</p> <p>The SPD has been prepared in accordance with the Town and Country Planning (Local Planning) (England) Regulations 2012 (as amended by the Local Planning, Development Management Procedure, Listed Buildings etc (England) (Coronavirus) (Amendment) Regulations 2020), the National Planning Policy Framework and National Planning Practice Guidance.</p> <p>An Equalities Impact Assessment was prepared alongside the integrated Sustainability Appraisal work which supported the Local Plan Strategy. An Equalities Impact Assessment has also been prepared to support the emerging Site Allocations and Development Policies Document. The assessment found that the LPS policies (including policies particularly relevant to the SPD) and emerging SADPD are unlikely to have negative effects on protected characteristics or persons identified under the Equality Act 2010.</p>
<p>Who are the main stakeholders and have they been engaged with? (e.g. general public, employees, Councillors, partners, specific audiences, residents)</p>	<p>Public consultation will take place on the draft SPD for at least four weeks in accordance with the Town and Country Planning ((Local Planning) (England) Regulations 2012) and the council's adopted Statement of Community Involvement. This will include the general public, town and parish councils, statutory consultees, elected members, and consultees who have registered on the strategic planning database.</p>
<p>What consultation method(s) did you use?</p>	<p>The council prepares a Statement of Community Involvement which provides detail on how it will consult on Local Plan documents and SPDs. This includes the availability of documents, how residents and stakeholders will be notified etc. The council's Local Plan consultation database, which will be notified of the consultation, also includes a number of organisations who work alongside groups with protected characteristics in the borough.</p> <p>Once consultation has taken place on the draft SPD, all comments received will be reviewed before consideration is given to any amendments required. A report of consultation will be prepared alongside the final version of the SPD and this will also be subject to further consultation. This EIA will be kept updated as the draft SPD progresses.</p>

Stage 2 Initial Screening

<p>Who is affected and what evidence have you considered to arrive at this analysis?</p>	<p>Ward councillors. Those living and working in the borough, property owners, landowners and developers, clinical commissioning group, special interest groups.</p>
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EQUALITY IMPACT ASSESSMENT

(This may or may not include the stakeholders listed above)								
Who is intended to benefit and how?	Local communities including landowners and developers. The SPD will provide additional guidance on the implementation of existing planning policies related to the assessment of planning applications on matters relating environmental protection providing guidance on how such matters as air quality, pollution, noise and odour should be dealt with by applicants and how the policies of the development plan will be applied to these matters. a gain in volume and quality of such assets should be achieved.							
Could there be a different impact or outcome for some groups?	No, the SPD builds upon existing planning policy guidance and provides further information about how the council will consider planning applications. The provision of an Environmental Protection SPD will assist in supporting the health and wellbeing of all communities where development takes place. The SPD, in applying additional guidance to assist in the interpretation of planning policies should be beneficial to all groups.							
Does it include making decisions based on individual characteristics, needs or circumstances?	No, the introduction of the SPD is not based on individual characteristics, needs or circumstances. The SPD includes information on the matters related to pollution in various forms. The content of the SPD does not relate directly to the characteristics of human populations.							
Are relations between different groups or communities likely to be affected? (eg will it favour one particular group or deny opportunities for others?)	No, the SPD is not intended to affect different groups or communities in this way.							
Is there any specific targeted action to promote equality? Is there a history of unequal outcomes (do you have enough evidence to prove otherwise)?	No, the SPD is not intended to target any group and will be consulted upon in line with the council's Statement of Community Involvement.							
Is there an actual or potential negative impact on these specific characteristics? (Please tick)								
Age	Y	N	Marriage & civil partnership	Y	N	Religion & belief	Y	N
Disability	Y	N	Pregnancy & maternity	Y	N	Sex	Y	N
Gender reassignment	Y	N	Race	Y	N	Sexual orientation	Y	N
What evidence do you have to support your findings? (quantitative and qualitative) Please provide additional information that you wish to include as appendices to this document, i.e., graphs, tables, charts							Consultation/ involvement carried out	

EQUALITY IMPACT ASSESSMENT

		Yes	No
Age	The SPD may have an impact those living and working in the borough.		X (to be carried out)
Disability	The draft Environmental Protection SPD provides further guidance on the implementation of LPS policy SE12 'Pollution, Land Contamination and Land Instability', and emerging policies et out in the SADPD. The SPD also provides guidance on policy requirements and methods that applicants can use to satisfy these requirements related to their sites.		
Gender reassignment			
Marriage & civil partnership			
Pregnancy & maternity	The guidance in the SPD may be beneficial as it will assist in supporting the health and wellbeing of communities and ensure that the environmental impacts of development are appropriately mitigated for, minimising such impacts, improving the general amenity, and in some instances the health, of human populations		
Race	The SPD provides further guidance on the policy approach set out in the Local Plan Strategy and SADPD.		
Religion & belief			
Sex	No negative impacts are identified at this stage in relation to any of the specific characteristics however public consultation will be undertaken and this may raise issues officers are not currently aware of. The EIA will be reviewed (and updated) once the initial consultation has taken place.		
Sexual orientation			
Proceed to full impact assessment? (Please tick)	Yes	No	Date: 19/08/2021
Lead officer sign off		Date	
Head of service sign off		Date	

EQUALITY IMPACT ASSESSMENT

If yes, please proceed to Stage 3. If no, please publish the initial screening as part of the suite of documents relating to this issue

DRAFT

EQUALITY IMPACT ASSESSMENT

Stage 3 Identifying impacts and evidence

This section identifies if there are impacts on equality, diversity and cohesion, what evidence there is to support the conclusion and what further action is needed

Protected characteristics	<p>Is the policy (function etc....) likely to have an adverse impact on any of the groups?</p> <p>Please include evidence (qualitative & quantitative) and consultations</p> <p><i>List what negative impacts were recorded in Stage 1 (Initial Assessment).</i></p>	<p>Are there any positive impacts of the policy (function etc....) on any of the groups?</p> <p>Please include evidence (qualitative & quantitative) and consultations</p> <p><i>List what positive impacts were recorded in Stage 1 (Initial Assessment).</i></p>	<p>Please rate the impact taking into account any measures already in place to reduce the impacts identified</p> <p>High: Significant potential impact; history of complaints; no mitigating measures in place; need for consultation</p> <p>Medium: Some potential impact; some mitigating measures in place, lack of evidence to show effectiveness of measures</p> <p>Low: Little/no identified impacts; heavily legislation-led; limited public facing aspect</p>	<p>Further action (only an outline needs to be included here. A full action plan can be included at Section 4)</p> <p><i>Once you have assessed the impact of a policy/service, it is important to identify options and alternatives to reduce or eliminate any negative impact. Options considered could be adapting the policy or service, changing the way in which it is implemented or introducing balancing measures to reduce any negative impact. When considering each option you should think about how it will reduce any negative impact, how it might impact on other groups and how it might impact on relationships between groups and overall issues around community cohesion. You should clearly demonstrate how you have considered various options and the impact of these. You must have a detailed rationale behind decisions and a justification for those alternatives that have not been accepted.</i></p>
Age				
Disability				
Gender reassignment				
Marriage & civil partnership				

EQUALITY IMPACT ASSESSMENT

Pregnancy and maternity				
Race				
Religion & belief				
Sex				
Sexual orientation				
<p>Is this change due to be carried out wholly or partly by other providers? If yes, please indicate how you have ensured that the partner organisation complies with equality legislation (e.g. tendering, awards process, contract, monitoring and performance measures)</p>				

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Stage 4 Review and Conclusion

ASSESSMENT

Summary: provide a brief overview including impact, changes, improvement, any gaps in evidence and additional data that is needed			
Specific actions to be taken to reduce, justify or remove any adverse impacts	How will this be monitored?	Officer responsible	Target date
Please provide details and link to full action plan for actions			
When will this assessment be reviewed?			
Are there any additional assessments that need to be undertaken in relation to this assessment?			
Lead officer sign off	 Tom Evans	Date: 23/03/21	
Head of service sign off		Date:	

Please publish this completed EIA form on the relevant section of the Cheshire East website

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Working for a brighter future together

Environment and Communities Committee

Date of Meeting:	09 September 2021
Report Title:	Cheshire East Council Taxi Licensing Policy
Report of:	Paul Bayley, Director of Environment and Neighbourhood Services
Report Reference No:	ECC/22/21-22
Ward(s) Affected:	All Wards

1. Executive Summary

- 1.1. This report advises Members of the publication of the Department for Transport (DfT) 'Statutory Taxi and Private Hire Vehicle Standards' (the Standards) and subsequent changes that are required to the existing Cheshire East Council Taxi Licensing policies and procedures to implement the recommendations within the standards.
- 1.2. The report recommends a public consultation with regards to implementing those recommendations within the Standards that are not already implemented by the Council in existing policy.
- 1.3. It also recommends that the consultation includes other proposed changes to policy/procedures such as environmental standards, vehicle age limits, signage, and vehicle testing standards.

2. Recommendations

- 2.1. To consider the recommendations within the Standards summarised at paragraph 6.3 and set out in appendix 2;
- 2.2. To approve a public consultation on the Draft Taxi Licensing Policy (as attached at Appendix 1).
- 2.3. To note that following the consultation, the policy will be presented to the Environment & Communities Committee for final approval.

3. Reasons for Recommendations

3.1. To seek the views of interested parties on the recommendations within the DfT Statutory Taxi and Private Hire Vehicle Standards and on additional proposed changes to existing policy.

4. Other Options Considered

4.1. Licensing Authorities are obliged, under section 177 of the Police and Crime Act 2017, to have regard to the Statutory Standards, and are expected to adopt them unless there are compelling local reasons not to.

5. Background

5.1. The Taxi and Private Hire Vehicle Standards were published by the DfT in July 2020. As these standards form statutory guidance, Licensing Authorities must have regard to the recommendations when exercising relevant functions or justify why they have departed from them and the reason for that departure. However, this is not to say that all recommendations in the Standards should or must be adopted and any recommendations that are not appropriate can be left unadopted providing there is clear justification.

5.2. The DfT has published the Standards as Hackney Carriages and Private Hire Vehicles are considered a 'high risk environment'. For example, links between the licensed trade and child sexual abuse and exploitation have been established in many areas of the country, most notably in the reports following the investigations in Rotherham and Rochdale Councils.

5.3. The Police and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising hackney carriage and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from the harm when using these services.

5.4. The main focus of the Standards is on protecting children and vulnerable adults. However, all passengers will likely benefit from the Standards to some extent. The Standards ultimately extend the requirements placed on licenced holders across the country and will bring a measure of parity in areas where some Councils may previously have lower policy considerations.

5.5. A copy of the standards can be found at Appendix 2, they cover the following points:

- Administering the Licensing Regime
- Gathering and Sharing Information
- Decision Making
- Driver Licensing
- Vehicle Licensing
- Private Hire Vehicle Operator Licensing
- Enforcing the Licensing Regime

5.6. The Council has already applied the majority of the recommendations within the Standards in existing licensing policies and procedures and licence conditions. A summary of the recommendations are set out below:

Statutory Guidance recommendation	Cheshire East's Position
<p>Licensing policy 3.6 Authorities should produce a 'cohesive policy document' that brings all procedures together (including a convictions policy). When formulating policies, the overriding objective must be to protect the public. Policies should be reviewed every five years.</p>	<p>Partially Implemented</p> <p>Existing Cheshire East policies are in separate documents and so this is an opportunity to undertake a comprehensive review of the documents and consolidate them into one document.</p>
<p>Duration of Licences 3.7 The Local Government (Miscellaneous Provisions) Act 1976 sets a maximum length of three years for hackney carriage and private hire drivers and five years for private hire vehicle operators. Any shorter duration should only be issued when the licensing authority considers it is appropriate in the specific circumstances of any case.</p>	<p>Implemented</p> <p>Cheshire East already issue hackney carriage and private hire driver licences for a period of three years and private hire vehicle operators for five years. This means that this will not need amending.</p>
<p>Whistleblowing 3.8 It is recommended that authorities have effective internal procedures for staff to raise concerns and procedures in place for any concerns to be dealt with openly and fairly.</p>	<p>Implemented</p> <p>A whistleblowing policy is already in place and contained within the Council's Constitution.</p>
<p>Consultation at local level 3.12 Licensing authorities should consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation should include not only the taxi and private hire vehicle trades but also groups likely to be the trades' customers</p>	<p>Implemented</p> <p>The Licensing Team has already undertaken pre-engagement consultation with the trade on the recommendations set out in the statutory guidance and other proposed changes that fall outside of the guidance. It is proposed that a wider consultation period will not only be with the trade directly but also with those groups likely to be affected by any outcomes.</p>
<p>Gathering and sharing information 4.21 Licensing authorities must consider a full range of information available to them when making a decision whether to grant a licence and to meet their ongoing obligation to ensure licensees remain suitable to hold a licence</p>	<p>Partially Implemented</p> <p>The Licensing Team makes use of all available resources to meet the obligations, for example Police, HM Immigration and neighbouring authorities. This includes requests under the Data</p>

Statutory Guidance recommendation	Cheshire East's Position
	Protection Act 2018 and under existing data sharing agreements. The Council is seeking to make use of the National Register (NR3) which is a register that allows councils to record details of where taxi and private hire licences have been refused or revoked.
Disclosure and Barring Service 4.2 The Disclosure and Barring Service (DBS) provides access to criminal record information through the disclosure service for England and Wales.	Implemented Cheshire East currently use the DBS. The Licensing Team undertakes enhanced checks which also check the children and vulnerable adults barring lists.
Disclosure and Barring Service Update Service 4.5 Subscription to the DBS Update Service allows those with standard and enhanced certificates to keep these up to date online and, with the individual's consent, allows nominees to check the status of a certificate online at any time.	Partially Implemented Cheshire East are looking to implement this as part of the policy change.
Common Law Police Disclosure 4.9 Common Law Police Disclosure replaced the Notifiable Occupations Scheme (NOS) in March 2015 and focuses on providing timely and relevant information which might indicate a public protection risk. Licensing authorities should maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.	Implemented The Licensing Team has a data sharing agreement with Cheshire Constabulary where information is regularly shared. However, this data sharing agreement does not extend to other forces across the country. There can be a general lack of awareness within the Police on the need to update licensing authorities.
Licensee self-reporting 4.12 Licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence.	Implemented Cheshire East already has a requirement for self-reporting. However, this is dependent on compliance from the licence holder and an appropriate response from the General Licensing Sub-Committee where this is not complied with. For example, the Sub-Committee has the power to suspend or revoke a taxi driver licence.
Referrals to the Disclosure and Barring Service and the Police 4.14 A decision to refuse or revoke a licence as the individual is thought to present a	Not currently implemented Cheshire East's position is that we would following the guidance. The power for the Licensing Authority to make a referral in

Statutory Guidance recommendation	Cheshire East's Position
risk of harm to a child or vulnerable adult, should be referred to the DBS.	this context arises from the undertaking of a safeguarding role.
<p>Working with the Police 4.17 As part of building an effective working relationship between the licensing authority and the police, action taken by the licensing authority as a result of information received should be feedback to the police.</p>	<p>Partially Implemented</p> <p>Cheshire East's position is that we do not, as a matter of procedure, inform the police of any driver or vehicle revocations or suspensions. This will mean a change to our procedures. Where we receive any information from the police which causes us to take any action we do inform them of the outcome.</p>
<p>Sharing licensing information with other licensing authorities 4.20 Applicants and licensees should be required to disclose if they hold or have previously held a licence with another authority. An applicant should also be required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority. Licensing authorities should explicitly advise on their application forms that making a false statement or omitting to provide the information requested may be a criminal offence.</p>	<p>Partially Implemented</p> <p>All of these measures are in place and application forms contain all the required information. Data is regularly shared between the Licensing Authorities in Cheshire and Merseyside. Other matters mentioned within 4.22 and 4.25 of the guidance concerning liaison with other authorities, the use of the NR3 (National register of refusals and revocations) mentioned above, would assist Cheshire East's Licensing Team with meeting this recommendation.</p>
<p>Multi-Agency Safeguarding Hub (MASH) 4.26-4.28 All licensing authorities should operate or establish a means to facilitate the objectives of a MASH (i.e. sharing of necessary and relevant information between stakeholders). The Children's commissioners 2013 enquiry into Child Sexual Exploitation in Gangs and Groups found that both police and local authorities still identified the inability to share information as a key barrier to safeguarding children from sexual abuse and exploitation.</p>	<p>Implemented</p> <p>The Council has established such a group. This group is normally attended by the Head of Regulatory Services and/or the Licensing Team Leader when there are relevant matters on the agenda.</p>
<p>Complaints against licensees 4.29 All authorities should have robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees. Licensees with a high number of complaints made against them should</p>	<p>Implemented</p> <p>Cheshire East already meet these requirements. All complaints are recorded on the Licensing Team's databases. Drivers are contacted and often spoken to personally regarding any</p>

Statutory Guidance recommendation	Cheshire East's Position
<p>be contacted by the licensing authority and concerns raised with the driver and operator (if appropriate). To ensure that passengers know who to complain to, licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that should be available on their website. Ways to make complaint to the authority should be displayed in all licensed vehicles. Licensing authorities must ensure that drivers are aware of a requirement to display information on how to complain.</p>	<p>complaint. The website contains details on how to make a complaint and this also includes an online complaint form. A notice of how to make a complaint is contained on the interior licence plate and it is a condition of the licence to display this at all times.</p>
<p>Oversees convictions 4.34 – 4.35 DBS cannot access criminal records held overseas, only foreign convictions that are held on the police national computer may, subject to the disclosure rules, be disclosed. Licensing authorities should seek or require applicants to provide where possible criminal records information or a certificate of good character from overseas in this circumstance to properly assess risk and support the decision-making process.</p>	<p>Implemented</p> <p>All of these measures are already met.</p>
<p>Administration 5.1 – 5.2 Licensing authorities should ensure that all individuals that determine whether a licence is issued or refused are adequately resourced to allow them to discharge the function effectively and correctly. This function may be delegated to a committee, a sub-committee or an officer which should be set out within a clear scheme of delegation.</p>	<p>Implemented</p> <p>Cheshire East Council Constitution sets out the relevant delegated powers. All Members of the Licensing Committee receive training on their duties and powers.</p>
<p>Training decision makers 5.3 – 5.5 All individuals that determine whether a licence is issued should be required to undertake sufficient training. As a minimum, training for members of a licensing committee should include licensing procedures, natural justice, understanding the risk of CSAE, disability and equality and the making of difficult and potentially controversial decisions. Training should not simply relate to procedures, but should include the use of</p>	<p>Implemented</p> <p>Cheshire East has, in the past, carried out training via a number of different methods, including; online training, face to face training, and recognised legal advisors undertaking training presentations. Member training is provided by Licensing Officers, Legal Officers, and Democratic Services Officers. Training records for Members</p>

Statutory Guidance recommendation	Cheshire East's Position
case study material to provide context and real scenarios. All training should be formally recorded by the licensing authority and require a signature from the person that has received the training.	are maintained by the Democratic Services Team.
Fit and Proper Test 5.12 – 5.14 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper person' to be licensed.	Implemented Cheshire East's draft policy sets out a guide to an individual's fit and proper' status which officers believe meets the guidance. This test has been used within Cheshire East for a number of years.
Criminal Convictions and rehabilitation 5.15 – 5.17 In considering an individual's criminal record, licensing authorities must consider each case on its merits. In order to achieve consistency and to mitigate the risk of successful legal challenge, licensing authorities should have a clear policy for the consideration of criminal records.	Implemented Cheshire East have in place a criminal convictions policy which is to be reviewed as part of this process.
Criminality checks for drivers 6.1 – 6.4 Licensing authorities are entitled to request an enhanced criminal record certificate with check of the barred lists from the DBS for all drivers licence holders or applicants. In the interest of public safety, licensing authorities should as part of their policies issue a licence to any individual that appears on either barred list. All licensed drivers should also be required to provide continuous registration with the DBS Update Service to enable the licensing authority to routinely check for new information every six months.	Partially implemented Cheshire East Council do not currently require applicants/licence holders to sign up to the DBS Update Service and this is being considered as part of this review. Enhanced checks and barring list checks are currently undertaken and have been for a significant period.
Safeguarding Awareness 6.5 – 6.7 All licensing authorities should provide safeguarding advice and guidance to the trade and should require taxi and private hire vehicle drivers to undertake safeguarding training.	Not currently implemented Cheshire East is exploring the possibility of delivering a safeguarding awareness course, in consultation with the Cheshire East Safeguarding Team. It is proposed that this will be mandatory for all existing licence holders and operators and a condition will be added to any licence. There will also be a requirement for new applicants to provide evidence of

Statutory Guidance recommendation	Cheshire East's Position
	attendance at the training prior to being issued a licence.
<p>County Lines Exploitation 6.8 – 6.13 Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation.</p>	<p>Not currently implemented</p> <p>Cheshire East are exploring the possibility of including this within the safeguarding training (as above). Safeguarding training for Licensing Committee Members was provided by Cheshire Constabulary. However, there has been a change in Membership of the Committee since this was provided.</p>
<p>Language proficiency 6.14 – 6.15 A licensing authority's test of a driver's proficiency should cover both oral and written English language skills to achieve the objectives stated above.</p>	<p>Partially Implemented</p> <p>Cheshire East does not have a specific language test in place, however applicants are required to hold an NVQ or BTEC. Students are usually assessed on their English language skill priors to acceptance on these types of courses. Notwithstanding, a local knowledge test is a licensing requirement. Without a basic understanding of the English language, applicants would be unable to complete the test successfully.</p>
<p>Criminality checks for vehicle proprietors 7.2-7.6 Licensing authorities should require a basic disclosure form the DBS and that a check is undertaken annually.</p>	<p>Not currently implemented</p> <p>Cheshire East does not currently require a DBS from persons who are sole vehicle proprietors. As the majority of the vehicles are driven by the vehicle proprietor, they would have undertaken an enhanced DBS as part of the driver licence process. This has been included in the consultation.</p>
<p>In-vehicle visual and audio recording – CCTV 7.7 All licensing authorities should consult to identify if there are local circumstance which indicate that the installation of CCTV in vehicles would have either a positive or an adverse effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.</p>	<p>Partially Implemented</p> <p>Cheshire East does not currently mandate CCTV in vehicle. It is left to individual vehicle proprietors to make a decision on whether to install CCTV within their vehicle. This means that the vehicle proprietor is the data controller and are required to register with the Information Commissioners Office as the data controller. If the Council were to mandate the requirement for CCTV, this means that the Council becomes the data</p>

Statutory Guidance recommendation	Cheshire East's Position
	controller and would have to have the facilities and resources to administer such role. Cheshire East have included this within the consultation process.
<p>Stretch Limousines 7.14-7.15 Licensing authorities are sometimes asked to licence small (those constructed or adapted to carry fewer than nine passengers) limousines as private hire vehicles, these vehicles may be used to transport 'school proms' as well as for adult bookings. It is suggested that licensing authorities should approach such requests on the basis that these vehicle – where they have fewer than nine passenger seats – have a legitimate role to play in the private hire trade.</p>	<p>Implemented Cheshire East currently has the ability to licence limousines and therefore this recommendation is met.</p>
<p>Criminality checks for private hire vehicle operators 8.2 – 8.6 Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. Licensing authorities should request a basis disclosure from the DBS and that a check is undertaken annually.</p>	<p>Not currently implemented Cheshire East does not currently require a basic criminal disclosure. Therefore, this has been included within the draft policy document.</p>
<p>Booking and dispatch staff 8.7-8.12 Licensing authorities should be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/oversee the dispatching of vehicles do not pose a risk to the public. Licensing authorities should, as a condition of granting the operator licence, require a register of all staff that will take bookings or dispatch vehicles is kept.</p>	<p>Not currently implemented Cheshire East do not currently require this and has included this within the draft licensing policy.</p>
<p>Record keeping 8.13-8.15 Licensing authorities should as a minimum require private hire operators to record specific information for each booking.</p>	<p>Partially Implemented Specification for the recording of journey is currently mandated in the Council's conditions. Changes to these requirements have been included within the draft licensing policy.</p>
<p>Use of passenger carrying vehicles (PVC) licensed drivers 8.16 – 8.17 The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such as a minibus to</p>	<p>Not currently implemented This is not currently within the Cheshire East policy, therefore this will need to be</p>

Statutory Guidance recommendation	Cheshire East's Position
undertake a private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.	considered as part of the consultation process.
Joint authorisation of enforcement officers 9.2 Licensing authorities should, where the need arises, jointly authorises officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area.	Partially Implemented Cheshire East officers currently undertake joint enforcement operations. However, Officers will use their own powers and are not authorised by multiple Licensing Authorities. This is something that Cheshire East may need to explore further, in consultation with neighbouring authorities. It is only within our gift to authorise officers under our powers. As a Council we cannot authorise our officers in other areas, that is within the gift of that Council.
Setting expectations and monitoring 9.3 – 9.4 Licensing authorities should ensure that drivers are aware of the policies that they must adhere and are properly informed of what is expected of them and the repercussions from failing to do so.	Implemented Upon the grant of the licence, Cheshire East Council provides a copy of the conditions to all licence holders. All information is provided on the Licensing Team's web pages.
Suspension and revocation of licences 9.5 – 9.10 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 provides a licensing authority with the ability to suspend or revoke a driver's licence.	Implemented Cheshire East enforcement policy sets out our approach to this. It is also detailed within the draft policy.

5.7. Members have previously resolved that letters lobbying for national standards be sent to the Department for Transport, the Local Government Association, the Institute of Licensing, and the local Members of Parliament. While the DFT standards go some way to bring parity across the country, there are still concerns that they do not go far enough from a public safety and safeguarding point of view. Other Council's will still have the potential to set lower standards than Cheshire East, particularly as the guidance calls for a relevance of convictions policy but is silent on any specific criteria. Members may wish to consider if it is appropriate to continue to lobby for such changes as:

- 5.7.1. A set of national minimum standards for licensed vehicles and powers of suspension given to all authorised officers where these standards are not met.
- 5.7.2. A set of national minimum standards for licensed drivers, to include the requirement to under a take a professional qualification & Safeguarding/CSE awareness training (to include refresher training) and a national policy in relation to the relevance of convictions.
- 5.7.3. To reintroduce the power to suspend drivers suspected of serious offences while under investigation where it is in the interest of public safety. This was general practice until the judgement in R (app Singh) v Cardiff City Council (2012) where the High Court ruled that suspension could not be an interim sanction.
- 5.7.4. That relevant Ministers consider how to best to regulate and control cross-border hiring.

6. Consultation and Engagement

- 6.1. The DfT formally consulted on the Standards from 12 February to 22 April 2019. The consultation document was entitled 'Taxi and Private Hire Vehicle Licensing: Protecting Users – Consultation on Statutory Guidance for Licensing Authorities.
- 6.2. This report is seeking approval to consult on proposed changes to the existing taxi and private hire vehicle, driver and operator policy and procedures with a view to potentially incorporating the recommendations of the Standards. All holders of driver, vehicle and operator licences will be consulted. Additionally, other relevant stakeholders and members the public will have the opportunity to comment.
- 6.3. It is proposed that the following recommendations within the standards form part of the consultation:
 - DBS Update Service
 - Licensee self-reporting (arrest and release, charge or conviction)
 - National register of taxi and private hire vehicle driver licence refusals and revocations – NR3*
 - Basic disclosure checks on vehicle proprietors
 - CCTV
 - Use of passenger carrying vehicles (PCV) licensed drivers
- 6.4. As part of the review of the policies, there is also an opportunity to review all our taxi licensing policies and consider updates outside the scope of the DfT Standards document. Therefore, this consultation will also be used to consider the following additional changes:
 - Register of Wheelchair Accessible Vehicles;
 - Safeguarding Awareness Training for all Drivers
 - Age limits for vehicles on initial licence**

- Emission Limits***
- 6 month vehicle inspections for vehicle of 5 years and older
- How to deal with accident replacement vehicles (streamline the process)
- Safeguarding training for Private Hire Operators and their staff
- Operator booking records to be kept for 2 years
- Records of complaints to Operator to be kept for 2 years

*NR3 is a national register that allows councils to record details of where taxi and private hire licences have been refused or revoked and allows local authorities to check new applicants against the register. It is designed to ensure that those who may have been deemed unsuitable for licensing in one area are brought to the attention of other Councils if they apply elsewhere. Cheshire East Council already shares this information with Councils across the Cheshire and Merseyside region and with regular shares information with Cheshire Police.

**Cheshire East Council is consulting on the introduction of a lower age limit for vehicles upon initial licence with consideration given to granting grandfather rights for existing vehicle licence holders. Many Councils do this to ensure a younger and more environmentally friendly fleet of vehicles.

***Cheshire East Council is committed to lowering its vehicle emissions and therefore will consult on proposals to amend the current Euro requirements for vehicles (or UK equivalent) with consideration given to granting grandfather rights for existing vehicle licence holders.

6.5. The Licensing Service has already undertaken a pre-engagement survey with existing licence holders, seeking their views on the Standards and changes to the policy/conditions that fall outside the scope of the Standards as given above. As a result, the licensing service received a number of comments. A summary of the pre-consultation survey will be included within any wider consultation process and an appraisal will be given within a further report to this Committee.

6.6. The consultation strategy is set out below. As well as publishing the consultation on the Council’s website, the Council will consult directly with stakeholders (existing licence holders, trade representatives and also businesses that may be affected by the amendments). Consultation will also take place widely with the general public and partners including neighbouring authorities, police and other agencies (i.e. safeguarding agencies).

WHO	HOW
Statutory Consultees	Direct mail/email
Cheshire East Council Members	
Organisations/Partnerships affected by the amendments i.e. Parish and Town Councils, Community Safety Partnership, Faith Groups, Council for Voluntary Services, TSS, Cheshire East Approved MOT Garages, Disability Groups, Local Residents	Letter/email/Council website

Other businesses	Information regarding draft policy via business newsletter directing to Cheshire East Council's website
Licensing Committee	Draft Policy document and consultation responses (with Officer comments) to be presented to the Committee

6.7. The results of the consultation exercise will be reported back to the Licensing Committee for them to consider any appropriate and proportionate changes. The Licensing Committee will subsequently make a recommendation to the Environment & Communities Committee to adopt the final policy.

7. Implications

7.1. Legal

7.1.1 The granting of licences is a legal function of the Council and the introduction of the national standards by the Department for Transport must be applied to the Council's policies and procedures unless there is good reason not to do so. The final policy will need to be adopted by the Environment & Communities Committee.

7.2. Finance

7.2.1. The cost of the consultation and officer time will be met by existing Licensing Budgets.

7.2.2. Implementing the DfT Standards will require a significant amount of officer time and may result in changes to policies and practices that incur additional costs to the licensing regime e.g. additional training for officers and Members, additional DBS checks. Any additional costs arising from the implementation of the standards could potentially lead to an increase in fees levied to the trade.

7.2.3. There is the potential for challenges by the trade to any change in policy that are brought in, such challenges may incur legal costs to defend. Additional budgetary resources may need to be identified if this is the case. It is not possible at this time to say whether or not a legal challenge will be made or indeed how much the costs of withstanding any challenge will be.

7.2.4. The financial implications of any changes in policy will be continually reviewed and any further financial implications identified will be reported in subsequent reports.

7.3. Policy

7.3.1. The DfT Standards are not legislation, however the DfT expects these recommendations to be implemented unless there are compelling local reasons not to. The document makes it clear that the Standards have been developed as a result of past failings of licensing regimes

and makes reference to both the Jay and Casey reports (i.e. Rotherham and Rochdale Councils) and lists several local authorities where taxi licensing policy and practices had failed to offer the necessary protection of children.

- 7.3.2.** The Council has, on a number of occasions, written to the Department for Transport, Local Government Association, and local Members of Parliament to express our concerns in the different standards applied across the Country. This had the potential to allow applicants deemed unsuitable by one Council to be licensed by a different Council who applied their own policy. This could include those with criminal convictions. As a result of cross-border hiring the applicant could work anywhere in the country. Even in areas where they may have been refused a licence. The DFT Standards will go some way to ensuring that scenario is less likely.
- 7.3.3.** The duty is to 'have regard', this means that the Council must take the Standards into consideration and must give clear reasons for departing from policy.
- 7.3.4.** The Council's Corporate Plan 2021-25 sets out our vision for a more open, fairer, greener Cheshire East. The plan also sets out priorities under the three broad aims including "welcoming, safe and clean neighbourhoods". This policy review will support the priority to protect residents and improve our environment and in particular the action to have a robust licensing regime for alcohol, gambling, and hackney carriage and private hire vehicles.

7.4. Equality

- 7.4.1.** There are no equalities implications arising from this report at this stage. However, an Equality Impact Assessment will be undertaken before the final policy is recommended to the committee for approval.

7.5. Human Resources

- 7.5.1.** There are no Human Resources implications arising from this report. However, the proposed changes may have an impact on resources to deliver some of these changes, such as the additional DBS checks proposed, implementation of the NAFN NR3 register.

7.6. Risk Management

- 7.6.1.** There are no known risks other than those already highlighted within the report.

7.7. Rural Communities

- 7.7.1.** There are no known implications to rural communities arising in this report.

7.8. Children and Young People/Cared for Children

7.8.1. The main focus of the standards is on protecting children and vulnerable adults, however all passengers will benefit from the standards.

7.9. Public Health

7.9.1. There are no known public health implications arising from this report.

7.10. Climate Change

7.10.1. The policy will seek to implement measures to reduce the effects of climate change and will be in accordance with the Council's Carbon Reduction Plan. The draft policy specifically mentions the possible licensing of electric and zero emission vehicles.

Access to Information	
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Appendices:	Appendix 1 – Draft CEC Taxi Policy 2021 – 2025 Appendix 2 – DFT Standards Appendix 3 – Report following pre-consultation with licence holders
Background Papers:	Statutory Taxi & Private Hire Vehicle Standards – Department for Transport July 2020

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Cheshire East Borough Council

Taxi Licensing Policy

2021 – ????

Prepared by	
Title	Taxi Licensing Policy
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Author	
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Version	Date	By	Summary of Change
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1.1			Comments from
2.0			Amendments following trade pre-consultation
3.0			Amendments following discussion by Senior Management Team (SMT)
4.0			Amendments following discussion by Corporate Leadership Team (CLT)
5.0			Amendments following decision by Environment and Communities Committee

Approval Signature			
E.g. Council		Date	
		Date	
		Date	

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PART 1
ABOUT THIS POLICY

1.1 Introduction

The Borough of Cheshire East (the “Council”) is the Licensing Authority for the hackney carriage and private hire regime in the Borough of Cheshire East.

In carrying out its licensing function, the Council seeks to promote the following objectives:

- Safety and Protection of the Public;
- High standards of vehicle safety, comfort and access;
- Prevention of crime and disorder and the protection of consumers;
- Ensure that the decision-making processes are transparent and result in decisions that are appropriate, proportionate and consistent;
- Equality and accessibility in service provision.

The Council expects all applicants, drivers, proprietors, and operators to demonstrate commitment to promoting these objectives.

In addition, this Policy attempts to encompass the Council’s key corporate priorities of:

- An open and enabling organisation
- A council which empowers and cares about people
- A thriving and sustainable place

And our general vision for a more open, fairer, greener Cheshire East.

The policy seeks to ensure that transport for those with a disability will be provided.

The Policy adheres to statutory guidance issued in July 2020 by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 to protect children and vulnerable adults from harm when using hackney carriage and private hire services.

The main types of licences are:

1. **Dual Hackney Carriage and Private Hire Driver’s Licence** – All drivers of Hackney Carriage and Private Hire Vehicles (“Drivers”) must hold a Dual Hackney Carriage and Private Hire Drivers’ Licence issued by the Borough of Cheshire East;
2. **Private Hire Vehicle Licence** – Private Hire Vehicles must be licensed by the Council, as must the Driver and the Private Hire Operator who is responsible for taking the bookings. All three licences must be issued by the same Council;

3. **Private Hire Operator Licence** – Private Hire Operators must be licensed by the Council, as must the drivers and vehicles they operate;
4. **Hackney Carriage Vehicle Licence** – Hackney Carriages must be licensed with the Council as must the driver. Both licences must be with the same Council.

The rules on hackney carriage and private hire licensing is complex. This document intends to make clear how the Council operates its licensing service.

Each time this policy is reviewed a new version will be produced. This edition was approved by the [insert Committee] on [insert date].

1.2 Mission Statement

Scope

1.2.1 The Taxi Licensing Policy ('the Policy') is applicable to the licensing of hackney carriage and private hire drivers and vehicles and to the licensing of private hire operators. This policy supersedes all previous Council policies relating to Hackney Carriage Vehicles, Private Hire Vehicles, Operators and Drivers.

Purpose

1.2.2 The fundamental purpose of the policy is to protect the safety and welfare of the public who live, work and visit the Borough of Cheshire East. The importance of a thriving hackney carriage and private hire trade to the growth and prosperity of the Borough's local economy is recognised; however the safety and welfare of the public is the over-riding principle that will be considered when matters are dealt with under the Policy.

1.2.3 Hackney Carriage and Private Hire vehicles have an important role to play in any integrated public transport system. They are able to provide services in situations where other forms of public transport are either restricted, not available or are outside normal hours of operation, and to assist those with mobility problems.

1.2.4 The main concerns for the Council are to ensure:

- The safeguarding of children, young persons and adults at risk of abuse and neglect;
- To promote the welfare of children and to protect them from harm, prospective and licensed drivers and operators who have dealings with children and families will have a duty to report matters of concern that could relate to the safety and/or welfare of children and vulnerable persons to the relevant authorities (refer to Cheshire East Council's Safeguarding Policy);

- That any person who applies to be a licence holder, is a fit and proper person and does not pose a risk (in any form) to the public. The words 'safe and suitable' aid the interpretation of 'fit and proper' and what is meant by it. The test the Council will use to determine whether an individual is considered fit and proper to hold a licence are as follows:
 - For drivers: "Would you allow your child, spouse or partner, parent, grandchild or any other person for who you care, to get into a vehicle with this person alone at any time of the day or night?"
 - For private hire operators: "Would I be comfortable providing sensitive information such as holiday plans, movements of my family or other information to this person, and feel safe in the knowledge that such information will not be used or passed on for criminal or unacceptable purposes?"
 - For vehicle proprietors: "Would I be comfortable allowing this person to have control of a licensed vehicle that can travel anywhere, at any time of the day or night without arousing suspicion, and be satisfied that they would not allow it to be used for criminal or other unacceptable purposes, and be confident that they would maintain it to an acceptable standard throughout the period of the licence?"
- That the public are safeguarded from dishonest persons;
- That vehicles used to convey passengers are safe and fit for the purpose for which they are licensed; and
- That the impact of licensed vehicles on the environment is reduced

1.2.5 The Policy provides guidance to any person with an interest in hackney carriage and private hire licensing; in particular, but not restricted to:

- Persons who wish to apply for new licences; persons who hold existing licences, including those that are the subject of review;
- The Council, in its capacity as the Licensing Authority, including licensing officers, members of the [Committee];
- Service users who have concerns relating to an operator, vehicle or driver;
- Licensing consultants, solicitors and barristers advising and/or representing applicants/licence holders; and
- Magistrates and Judges hearing appeals against the Council decisions.

1.2.6 The Policy is also designed to put the Council's licensing requirements into context.

1.3 Consultation and Communication

- 1.3.1 In determining the Policy, the Council has consulted widely, page ? sets out how that consultation has been conducted. The views of relevant stakeholders have been taken into consideration.
- 1.3.2 In order to deliver a transparent, accountable and efficient licensing service the Council is committed to ongoing communication and consultation with all stakeholders. In particular the Council welcomes the opportunity to communicate and consult with representatives of the hackney carriage and private hire trade to enable and encourage the exchange of views and information. The method of communication and consultation will be determined having regard to what is most appropriate in the circumstances.

1.4 Review of the Policy

- 1.4.1 The Policy will be formally reviewed after 5 years. However, it will be the subject of continuous evaluation and, if necessary, formally reviewed at any time. At the time of each review relevant stakeholders will be consulted.
- 1.4.2 Minor changes would be made without consultation where:
- They are to correct an administrative error
 - They are a change needed because something is no longer possible or lawful
 - There is no foreseeable detrimental effect to licensee's interest
 - To reflect a change in legislation that is beyond the Council's control

1.5 Legislative Framework

- 1.5.1 The operation of the Council's licensing service is undertaken in accordance with relevant legislation, applicable licence conditions and the Secretary of State for Transport's Statutory Taxi and Private Hire Vehicle Standards July 2020, and such other guidance that may be issued from time to time by the Department for Transport (DfT) and other Government departments, such as the DfT's Best Practice Guidance for Taxis and Private Hire Vehicle Licensing and the DfT's guidance note on "Private Hire Vehicle Licensing"
- 1.5.2 The primary legislation relating to hackney carriage and private hire licensing, at the time this policy comes into force, is contained in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976 and may be subject to change with any new and/or amended legislation. This policy reflects the changes to hackney carriage and private hire licensing introduced by the Deregulation Act 2015 and Immigration Act 2016, and the provisions contained within the Equality Act 2010. It also encompasses provisions from other pieces of legislation such as (but not exclusively) the:

- Road Safety Act 2006;
- Road Traffic Acts (various);
- Criminal Justice & Public Order Act 1994;
- Transport Act 1985

1.5.3 In addition, the service is provided in accordance with all relevant Council policies, but in particular the following which mirror the framework of policies which under section 177(4) of the Policing and Crime Act 2017 the Council must have regard to when exercising its licensing functions:

- Safeguarding Policy
- Equality & Diversity Policy
- Data Protection Policy
- Enforcement Policy

1.5.4 The Data Protection Act 2018 (“DPA18”) and The General Data Protection Regulations (“GDPR”) control the collection, storage, processing and distribution of personal data. They also give certain rights to individuals about whom information is recorded. The Council aims to fulfil its obligation under the legislation by only processing personal data for the purposes of legitimate interests pursued by the Council or legal requirements imposed on the Council. The DPA18 requires local authorities to comply with data protection principles. The principles state that the information shall be:

- Used fairly, lawfully and transparently
- Used for specified, explicit purposes
- Used in a way that is adequate, relevant and limited to only what is necessary
- Accurate and, where necessary, kept up to date
- Kept for no longer than is necessary
- Handled in a way that ensures appropriate security, including protection against unlawful or unauthorised processing, access loss, destruction or damage

Further information about DPA18 and GDPR can be found on the Information Commissioner’s website (www.ico.gov.uk). Enquiries regarding the Council’s use of personal data should be addressed to the Council’s Data Protection Officer at dp@cheshireeast.gov.uk. The Licensing Authority has published a Privacy Notice explaining how data will be used.

1.5.5 The Policy and associated conditions do not address health and safety at work requirements. Drivers and operators are required to ensure compliance with all relevant health and safety at work provisions. This is likely to impact on the health and safety requirements associated with transporting passengers with disabilities e.g. those who need to carry oxygen for medical purposes or those

with assistance dogs. This may have implications on the extent of the discretion that drivers may have to refuse to carry passengers with certain disabilities.

1.6 Conditions

- 1.6.1 The Council will adopt any reasonable conditions that are deemed necessary and appropriate to ensure that proprietors, operators, drivers and vehicles comply with relevant legislation and the fundamental purpose of this Policy i.e. to protect the safety and welfare of the public, and in particular children and vulnerable adults.

1.7 The Service provided by the Council

- 1.7.1 There are, at present, approximately ?? drivers, ?? Operators, ?? private hire vehicles and ?? hackney carriages. (NB. Numbers fluctuate as licences are granted, lapse or are surrendered based on market forces). The Council does not set a cap on the maximum number of licences it will issue.

What can I expect from the Licensing Service?

- 1.7.2 You can expect a professional and efficient service. The service aims to be focused on the public and the trade. If you have any concerns about the service you receive please contact a member of the licensing team in the first instance.

Ultimately, if you are unhappy with the service provide you can escalate this via the Council's complaints procedure which can be found at https://www.cheshireeast.gov.uk/council_and_democracy/customer-services/complaints_and_feedback/complaints_and_feedback.aspx

The Council's performance should be open to scrutiny and you should know when you can expect to receive an answer. We will therefore aim to respond to enquiries within 10 working days from the date the application is valid and supporting information verified.

Matters that need to be referred to a Committee or a higher decision maker may take longer. If your application needs to be determined this way, you will be notified within 10 working days. This will fluctuate at times of high service demand and any extension of these timescales will be updated on our website and in automated responses to emails.

Our approach

- 1.7.3 The Council aims to balance protection of the public against requirements which are too onerous. Requirements which are too onerous may ultimately

reduce the availability and increase the cost of licensed vehicles. We aim to be pragmatic and work with the trade to improve the service provided to the public and the quality of vehicles available.

The Council is committed to being as open as possible in our dealings with the public and the trade. We will seek to put as much information as possible on the website in an accessible and user-friendly format.

Public Register

- 1.7.4 The Council will hold and maintain a register of all the licences we issue. The information held on the register will be restricted to the name of the licence holder; a unique licence number, the start date and the date of the expiry of the licence. The register will be available for inspection by prior arrangement with the Council's Licensing Team and where possible will be published on the Council's website.

PART 2
LICENSING PRINCIPLES, DELEGATIONS &
DECISIONS

2.1 Licensing Principles

- 2.1.1 The Council has adopted Part II of the Local Government (Miscellaneous Provisions) Act 1976 and, together with the provisions contained in the Town Police Clauses Act 1847, the Council carries out the licensing of hackney carriage drivers and vehicles and private hire drivers, vehicles and operators.
- 2.1.2 This part of the Policy focusses on the principles the Council will follow when administering licence applications, reviewing conditions, setting fees and setting the table of fares. It explains the roles and duties of the Licensing Committee, the Environment and Communities Committee, and Officers of the Council.
- 2.1.3 The Council aims to provide a clear, consistent and responsible service to prospective and current licence holders, members of the public and other stakeholders. This includes the provision of advice to prospective applicants, including advice on the effect that convictions, etc may have on any application, and to existing licence holders. The Council will be mindful of the needs of the applicant but this will be balanced against the duty that the Council has to protect the safety and welfare of the public.
- 2.1.4 All licence applications will be considered and determined on their own merits but with regard to the statutory guidance regarding the protection of children and vulnerable adults who use taxi and private hire services. Any decisions taken will also be informed by this policy document.

2.2 Licensing Process and Delegation of Functions

- 2.2.1 The Council is the Licensing Authority. The Council's constitution delegates all functions relating to the licensing of private hire/taxis to the Licensing Committee, Sub-Committees and authorised officers of the Council. However, the adoption of any policy is reserved to the Environment and Communities Committee, who will act on the recommendation(s) of the Licensing Committee.
- 2.2.2 Whilst officers and the relevant committees will, in the majority of cases, follow Policy and statutory guidance, there may be specific circumstances that require a departure from these. In such circumstances, the reasons for departing from Policy or Guidance will be made clear. The aim of this policy is not to bind the decision-making process but to inform to decision-making process and provide a general guidelines.

2.3 Committees

2.3.1 Licensing Committee

This Committee is currently made up of fifteen elected members of the Council. It deals with overarching matters such as fee setting, amendments to the tables of fares, and providing recommendations to other Committees on the adoption of policies. Further details can be found on the Council's website <https://www.cheshireeast.gov.uk>

2.3.2 General Licensing Sub-Committee

This Sub-committee is made up of five members from the Licensing Committee. The Sub-committee will deal with new applications, renewals and reviews of licences that are referred to it by officers. The quorum of the Sub-Committee is set at three members in accordance with the Council's Constitution. Unlike other committees of the Council, this Sub-committee's membership is not based on political proportionality. Members, when determining applications for a licence, renewals or reviews of a licence, will have regard to:

- Hackney carriage and private hire legislation
- The information contained within this policy
- The Council's Safeguarding Policy
- Department for Transport and any other Government Guidance as applicable
- Road Traffic Act 1988 and other relevant road traffic legislation including MOT provisions
- Human Rights Act 1998
- Equality Act 2010
- Deregulation Act 2015
- Immigration Act 2016
- Any other relevant legislation drawn to its attention
- Any relevant legal case law; and

2.4 Decisions

2.4.1 The Licensing Authority has the power to refuse to grant or renew licences and also to suspend or revoke existing licences in accordance with relevant legislative provisions. In addition, the Council may choose to issue written warnings or issue cautions where applicable, or to prosecute those who have committed offences.

2.4.2 Any decision to refuse to grant or renew a licence or to suspend or revoke an existing licence, including the decision to suspend or revoke with immediate effect or to issue a written warning, will be made in accordance with the Council's scheme of delegation and other relevant policies, statutory guidance and procedures.

2.4.3 Where applications are to be determined, the officer or General Licensing Sub-Committee, will take into consideration:

- The facts of the application;
- Any information and/or evidence provided by other interested parties. This may include; Officers from the Council with responsibility for safeguarding, those responsible for the testing of vehicles, Licensing Enforcement Officers and Officers from Cheshire Police; and
- In order to provide applicants with the opportunity to consider and respond by way of written and/or verbal representations, as appropriate, the Council will provide the relevant details which have given rise to the need for an officer decision and/or Sub-committee Hearing.

2.4.4 Following the determination of an application by the Council the applicant will receive a copy of the decision in writing. This written decision will be delivered as soon as is practicable after the decision has been made. This will include information on any right of appeal.

2.4.5 Licensing decisions are made in accordance with the powers and responsibilities delegated by the Council's constitution:

- Decisions on drivers applications are taken by an authorised officer or the General Licensing Sub-Committee.
- Decisions on vehicles are taken by an authorised officer or the General Licensing Sub-Committee.
- Decisions on existing and prospective private hire operators are taken by an authorised officer or the General Licensing Sub-Committee.

2.5 Application/Renewal Decisions

2.5.1 Where the Council is minded to not approve the licence/renewal in the form applied for, it will give the applicant/licence holder a chance to make oral representations or representations in writing (by letter or email) before a decision is taken.

2.5.2 Where an application is incomplete or does not meet the application criteria, the Council will reject the application. This will be confirmed in writing.

Decision to suspend/revoke a licence

2.5.3 Suspension, Immediate Suspension, Revocation and Immediate Revocation of a drivers licence can be carried out by the Licensing Committee, Sub-Committee, or an authorised Officer of the Council.

Where the Council is minded to suspend or revoke a licence it will give the applicant/licence holder a chance to make representations in person, face to face, or in writing by letter or email before the decision is taken.

- 2.5.4 Suspension or revocation of a vehicle licence can be carried out by an authorised officer, Licensing Committee or the Sub-Committee.

2.6 Appeals

- 2.6.1 If the applicant/licence holder is aggrieved by the decision of the Council they may appeal to the relevant Court (in most cases the Magistrates' Court). The appeal must be made within 21 days of being notified in writing of the Council's decision and must be lodged with the Court in accordance with the relevant statutory provisions. The Council strongly advises parties to seek appropriate independent legal advice without delay if they are considering appealing a decision.

2.7 Working in Partnership

- 2.7.1 The Council aims to work in partnership with other relevant agencies/bodies when dealing with hackney carriage and private hire licensing issues. Such partnerships will include, but are not restricted to, relevant hackney carriage and private hire trade associations, where appropriate, neighbouring local authorities, Cheshire Police, Driver and Vehicle Standards Agency (DVSA), Revenues and Benefits Teams, Safeguarding Partnerships and consumer groups.
- 2.7.2 Cheshire East Borough Council regularly meets and shares information with other enforcement agencies including Cheshire Police, Cheshire East Trading Standards Team and Multi-agency Child Sexual Exploitation Operational Groups and Children's Safeguarding Groups.
- 2.7.3 The Council, as primary regulator, will ensure that all relevant provisions relating to the effective administration of licensing functions are robustly enforced in order to ensure the protection of the public.
- 2.7.4 Where licensing staff do not consider that this policy is being correctly applied they are able to raise this for investigation, and remedial action if required, through the Council's internal whistleblowing procedure.

PART 3
TYPES OF LICENCE & APPLICATIONS

3.1 General Information

This part of the Policy concerns the types of licence and the necessary steps required to obtain and hold such a licence. These steps include the standards that applicants must attain and maintain and the conditions that will apply to any licences granted. Where appropriate, any reference to 'applicant' is deemed to include existing licence holders.

3.1.1 The following are applicable to all licence types:

- a) Where an applicant has failed to declare relevant information or provided false information, the application is likely to be refused since these acts are seen as behaviour that brings into question the applicants honesty and suitability to hold a licence; where this relates to an existing licence, the licence is likely to be considered for revocation on the same grounds. Applicants are reminded that it is an offence to knowingly or recklessly make a false declaration or omit any material particularly when giving information required for the application for a licence;
- b) All licence fees are payable at the time of application. Fees are staggered to reflect the processing of the application. Where a licence is refused the applicant is not entitled to a refund of the fee paid. ~Because the fees are staggered, any outstanding fees will need to be paid after all check are completed before a licence is issued. Where an applicant decides to withdraw their application a portion of the fees **may** be returned to the applicant, but this will be based on what administrative functions have been carried out.
- c) In the event that an application for a licence is paid by cheque, the application will not be valid until such time as the cheque has been cleared. In the event that the cheque does not clear and the licence has been issued, the Council will suspend the licence until such time as full payment has been received.
- d) The application process must be completed within 6 months, unless prevented from doing so by matters that are outside the applicant's control e.g. external delays in the DBS process, otherwise the application process will cease to progress further until such time as the applicant provides all the required information. Applications not completed within 6 months without a justified reason for the delay will be considered abandoned and will be returned to the applicant. A new application and payment of fees will be required if the applicant wished to continue with the process.
- e) Where a licence has lapsed, been surrendered or revoked, a new application may be submitted in accordance with the relevant new licence procedures before the Council will consider the application.

- f) When a licence expires, the Council will not permit any 'periods of grace' for the submission of a renewal application unless there is satisfactory evidence of exceptional circumstances that are accepted by the Council.

Appointments

The Council operates an appointment system through Cheshire East Council's Customer Contact Centres for the undertaking of **Disclosure and Barring Service (DBS) checks and Right to Work (RTW) Checks only.**

The submission of new and renewal applications for Drivers, Vehicles and Operators Licences can be made by post.

Postal Applications:

Completed applications should be submitted together with all of the relevant supporting documents (as set out in the application form) and the application fee to:

The Licensing Service, Cheshire East Council, Municipal Buildings, Crewe CW1 2BJ.

Payment by Cheque - the cheque must be made payable to Cheshire East Council.

Payment by Card - If you wish to make payment by card, you will need to submit the application either by way of post or email. Once the application form has been received and checked by the Licensing Service, you will be asked to contact the Customer Contact Centre to make payment by card over the phone. You will need to provide a valid email address/telephone number so that instructions can be communicated to you.

Email Applications

Completed applications and supporting documents can be sent to: The Licensing Service – licensing_CE@cheshireeast.gov.uk

Once the application has been received by the Licensing Service and checked, the team will send an email providing further instructions in relation to making payment of the application fee. The application will only be considered a valid application once the fee has been paid. Failure to make payment of the fee will result in the application being delayed.

Important

It is the licence holder's responsibility and the onus is on them to ensure that a renewal application is made in good time. Under no circumstances will a licence be issued without satisfactory completion of all required checks.

Disclosure & Barring Service (DBS) data and other relevant information

3.1.3 The Council follows the Disclosure and Barring Service (DBS) Code of Practice for Registered Persons and Other Recipients of Disclosure Information (November 2015) and **will not retain a copy of the certificate**, in line with the Council's data retention policy and data protection legislation. Applicants will need to retain a copy of the original DBS Certificate for future licensing applications. DBS certificates must be in the correct workforce (i.e. 'Other Workforce') and for the correct job role (i.e. Taxi Driver or Taxi Licensing). Further information about the DBS can be found at <https://www.gov.uk/government/organisations/disclosure-and-barring-service>

The Council will accept an Enhanced DBS disclosure report issued as part of an application made through a separate organisation provided:-

- It is for 'other workforce'
- It includes both of the Barring checks
- It is for the same job role (taxi driver or taxi licensing)
- It is presented to the Council for verification within 28 days of issued date of the certificate
- The applicant has subscribed to the DBS Update Service; and
- The applicant has authorised the Council to access the relevant online record.

Further information can be found at <https://www.gov.uk/dbs-update-service>

The Council will make regular use of the Multiple Status Check Facility provided by the DBS Service and where this shows changes to a licensee's record, a new DBS disclosure will be required. The licensee is required to pay the appropriate fee before the new DBS disclosure application is submitted.

3.1.4 Where an applicant has spent an extended period of time overseas and hence their DBS record is incomplete the Licensing Authority will require an applicant for a licence to provide data on their criminal record or a Certificate of Good Character issued by the relevant Embassy or High Commission. The certificate must be authenticated, translated and sealed by the Embassy or High Commission. Further information on this can be found at <https://www.gov.uk/government/publications/criminal-records-checks-for-overseas-applicants>

3.1.5 Drivers who undertake work for Transport Service Solutions (TSS) e.g. school contracts, are advised to contact TSS in order to ascertain the level of criminal record disclosure required and any other requirements in this respect. Information will be shared between TSS and the Licensing Team about individuals and businesses that apply and/or tender to deliver passenger transport contracts. Further information about TSS can be found at <http://www.transportservicesolutions.co.uk/home.aspx>

- 3.1.6 In addition to the information via the DBS service the Council maintains close links with the local police licensing unit ensuring that information held by either party, relevant to hackney carriage and private hire licensing, is efficiently and effectively shared under existing protocols.
- 3.1.7 Where the Council obtains or holds relevant information not known to the DBS service or the local police they will refer this to either or both organisations in order that the information they hold is up to date and complete. This will include information regarding licences which the authority has refused, revoked or suspended them, on the basis that they believe the individual presents a risk of harm to a child or vulnerable adult.
- 3.1.8 The Council will also share information with other local licensing authorities regarding licences they refuse, suspend or revoke and with the National Register maintained by the National Anti-Fraud Network (NAFN) known as the 'NR3' register.

Counter-Terrorism and Security Act 2015

- 3.1.9 The Council has a duty under the Counter Terrorism and Security Act 2015 ("CTSA") to have due regard to the requirement to prevent people from being drawn into terrorism.

The applicant/licence holder shall facilitate the Council's compliance with its duty pursuant to the CTSA and the applicant/licence holder shall have regard to the statutory guidance issued under Section 29 of the CTSA and in particular to ensure that they:

- Understand what radicalisation means and why people may be vulnerable to being drawn into terrorism;
- Are aware of extremism and the relationship between extremism and terrorism;
- Know what measures are available to prevent people from becoming drawn into terrorism and how to challenge the extreme ideology that can be associated with it; and
- Obtain support for people who may be exploited by radicalising influences.

Where the applicant/licence holder identifies or suspects that someone may be engaged in illegal terrorist related activity, the applicant/licence holder must refer such person or activity to the police. For more information please see <https://www.gov.uk/government/publications/counter-terrorism-support-for-businesses-and-communities>

Immigration Act 2016

3.1.10 From the 1st December 2016 the Council is required to ensure that all drivers and operators have the right to work within the UK prior to issuing them a licence. All applicants will be treated in line with the government guidance that can be found at:

<https://www.gov.uk/government/publications/licensing-authority-guide-to-right-to-work-checks>

As part of the new/renewal application process the individual will have to provide the Council with one of the documents listed in Annex A of the Government Guidance. Where an applicant cannot provide a current proof of their right to work in the UK then a licence will not be issued to them. Where an applicant has a time limited right to work in the UK, then the Council will only issue a licence up until the expiry date of that document.

3.2 Dual Hackney Carriage and Private Hire Drivers Licences

3.2.1 It is the responsibility of the Council to protect the public and to ensure that before anyone is granted a licence the Council is satisfied that they are a 'fit and proper' person to hold such a licence.

There is no agreed definition for 'fit and proper' – in the absence of such a definition, the council will use the widely accepted interpretation of:

“Would you allow your child, spouse or partner, parent, grandchild or any other person for whom you care to get into a vehicle with this person alone at any time of the day or night?”

If on the balance of probabilities, the answer to the question is 'no', the individual will not be granted a licence.

3.2.2 Cheshire East Council issues joint driver's licences. This means that once you hold a driver licence, you can drive any Cheshire East licensed Hackney Carriage or Private Hire Vehicle. A dual drivers' licence is referred to as a "taxi driver's licence" and drivers are referred to as "taxi drivers" within the Council and for the remainder of this document.

3.2.3 An application for a taxi driver's licence must be made on the approved form and submitted at the Licensing Service. If any information given by you on the application form is false, or relevant information is not revealed as required, the licence can be revoked or a renewal refused and you could be prosecuted under Section 57(3) of the Local Government (Miscellaneous Provisions) Act 1976.

3.2.4 As it issues dual driver licences, the Council has a Code of Conduct for taxi drivers which applied to both hackney carriage and private hire activity. This Code is not a condition: it is a standard of behaviour which it expects drivers to maintain. Any failure to comply with the Code will lead to the Council questioning whether you remain a fit and proper person to drive a hackney carriage or private hire vehicle. The Code of Conduct can be seen at Appendix ??

3.2.5 The Council's byelaws only apply when you are using your licence to drive a Hackney Carriage.

Period of Licence

3.2.6 New and renewal driver licences will be valid for three years (36 months) from the date of issue and will then last for that period unless action is taken against it before its expiry or a medical practitioner, as part of the medical examination, has indicated that a shorter period licence is appropriate. Additionally, a

licence with a shorter period will be granted where there is a time limited right to work in the UK. In these circumstances, the licence will be valid for the right to work period.

Pre- Application Requirements

3.2.7 The application form(s) must be fully completed and include all relevant information, supporting documentation and payment of the appropriate fee. If any part of the application form is incomplete or relevant information or supporting documentation is not provided, the applicant will be requested to provide the missing information/documentation and will be informed that the application will not be accepted/valid until such time as all required information/documentation is submitted.

3.2.8 Before the licence expires, an application for renewal must be made if the driver wishes to continue working. Any application for renewal must be made at least six weeks before the licence expires. If applicants do not apply to renew the licence in time there may be a period when you will be unable to drive a hackney carriage or private hire vehicle. If a situation arises where the application was made at least six weeks before expiry, but for reasons beyond the applicant's control (e.g. delay in the processing of, but not the application for, a DBS check), the licence application cannot be processed before the current licence expires, the Council will consider issuing a short term licence. This will be specifically without prejudice to any decision on the renewal application the Council may make. Any such decision will be wholly at the Council's discretion.

3.2.9 If a renewal application is not received before the expiry of the current licence, it will be treated as a new application, rather than a renewal, and there will be a requirement to provide all the information that is required for a new application (e.g. a new DBS check, up-to-date medical, passing a local knowledge test, relevant qualification etc.)

3.2.10 Once a licence is issued it cannot be transferred. The renewal of the licence will be at the Council's discretion.

3.2.11 In addition to submitting the application form and fee an applicant must:

- Be over 21 years of age;
- Provide a full UK driving licence (or European equivalent) that has been held for at least 12 months. If the driving licence was not issued in the UK or EU then the applicant must comply with the requirements set out by the government for exchanging/applying for a DVLA licence;
- Provide an enhanced DBS certificate including checks against the barring lists, issued within the previous 28 days or be Registered with the DBS update service with a relevant up to date certificate;

- Authorise the Council to access the relevant online record via the DBS Update Service;
- Provide one (1) passport sized photograph;
- Provide evidence of their right to work in the UK, in accordance with Home Office requirements;
- Complete a Statutory Declaration detailing the complete history of any criminal and motoring convictions, cautions reprimands, speed awareness courses and fixed penalty notices;
- Provide the BTEC Level 2 certificate in the 'Introduction to the Role of the Professional Taxi and Private Hire Driver' qualification, or equivalent as determined by the Council;
- Pass the Council's local knowledge test;
- Pass Disability Equality Training approved by the Council (**the licensing service are liaising with other local authorities to establish what is currently being done elsewhere**);
- Provide a Safeguarding and Child Sexual Exploitation Awareness Training Certificate issued by the Council within the previous 3 months;
- Undergo a Group 2 medical examination and provide the medical certificate issued by their registered General Practitioner or a Medical Practitioner who confirms they have had access to the full medical records when determining the applicant's fitness to drive issued within the previous 3 months. Medical examinations are required at the initial application and thereafter every other application (alternate) until the age of 60. All applicants aged 60 years and over must undertake a Group 2 medical examination on initial application and at every application thereafter. Applicants must produce the medical report to the Council at their earliest convenience;
- Provide a DVLA online check code;
- Satisfy the Council that they have a satisfactory level of conversational and written English in order to carry out the role of a hackney carriage/private hire driver;

3.2.12 On renewal of an existing licence, applicants must:

- Submit a completed application form;
- Pay the appropriate licence fee;
- Provide a full UK driving licence (or the European equivalent) that has been held for at least 12 months;
- Provide an enhanced DBS certificate including checks against the barring lists, issued within the previous 3 months or be Registered with the DBS Update Service with a relevant up to date certificate;
- Authorise the Council to access the relevant online record via the DBS Update Service;
- Complete a Statutory Declaration detailing the complete history of any criminal and motoring convictions, cautions, reprimands, speed awareness courses and fixed penalty notices;

- Provide one (1) passport sized photograph;
- Provide evidence of their right to work in the UK in accordance with the Home Office requirements;
- Provide a Safeguarding and Child Exploitation Awareness Training certificate issued by the Council within the previous 3 months;
- Pass Disability Equality training approved by the Council (first renewal after policy implementation only);
- Undergo a Group 2 medical examination and provide the medical certificate issued by their registered GP or a Medical Practitioner who confirms they have had access to the full medical records when determining the applicant's fitness to drive issued within the previous 3 months. Medical certificates are required on initial application and thereafter every other application (alternate) until the age of 60. All licensed drivers aged 60 years and over must undertake a Group 2 medical examination at every application and produce the report to the Council;
- Provide a DVLA online check code;

Qualifications

3.2.13 Applicants will need to hold either the BTEC Level 2 Certificate in the introduction of the role of the Professional Taxi and Private Hire Driver or the NVQ Level 2 Certificate in Road Passenger Vehicle driving (Taxi and Private Hire Driver) or an equivalent qualification, or be enrolled on such a course before they make an application.

3.2.14 The determination as to whether another qualification is equivalent will lie with the Council. No licence will be issued until the Qualification has been passed and the Certificate has been verified. Obtaining such a qualification is not a guarantee that a licence will be granted.

3.2.15 Applicants will be required to pass a theory test that consists of a knowledge test of the Cheshire East area, questions in relation to the Taxi Legislation and the Highway Code. Applicants will be expected to show a suitable knowledge of the Borough before a licence will be issued.

3.2.16 The Council reserves the right to require any applicant or existing driver to take and pass an additional driving test at the applicant or licence holder's expense. In the case of a new application this would be before application for a driver licence can be made, and in the case of an existing driver, at any time during the duration of the licence. In both cases it will be at the discretion of the Council but will usually (but not exclusively) be based on concerns or complaints in relation to the standard of driving. The cost of undertaking such a test or assessment will be the responsibility of the applicant or licensed driver.

3.2.17 Applicants that have not held a drivers licence issued by Cheshire East Council within a year of the date of application will be required to repeat all the above

(the qualification (BTEC or NVQ), the theory test and the driving test) before they can be considered for a new driver's licence.

Safeguarding Training

3.2.18 All applicants must have attended and completed a Council approved course relating to Child and Adult Sexual Exploitation prior to being licensed. Any existing licence holder must complete this course within the currency of their existing licence in order to have it renewed. Failure to do so will lead to delay in renewal of the licence until such time as the course has been satisfactorily completed.

Previous Convictions

3.2.19 Most applicants will not have any criminal convictions, however it is acknowledged that some applicants will have made mistakes in the past which will have led to them being convicted of crimes. The Council's approach to previous convictions are detailed in the Previous Convictions Policy. This lays down the minimum acceptable standard for those with criminal convictions to be granted a taxi drivers licence. Failure to meet these standards means that the licence cannot be granted by officers under delegated powers, and the matter will be referred to the Licensing Committee/General Licensing Sub-Committee for determination. It must be emphasised that the grant of a licence in these circumstances will be unusual.

3.2.20 Any existing driver who falls below these standards will also be in serious danger of having their licence revoked or suspended

Sanctions against breaches of the Code of Conduct and for Acquiring Driving Licence Points

3.2.21 Where a driver acquires 6 or more penalty points on their DVLA licence, or who breaches any legislation, byelaws or requirements of the code of conduct may be referred to the General Licensing Sub-Committee or the Licensing Committee.

3.2.22 The Council also has its own Penalty Point Scheme as a method of enforcing the requirements for taxi drivers (See appendix ??).

3.2.23 The Licensing Committee or Sub-Committee has the discretion, where appropriate, to order a driver to attend a Driver Correction Course (at the drivers own expense) before they may resume duties as a taxi driver.

3.2.24 The Licensing Committee or Sub-Committee may also suspend or revoke the driver's licence or impose penalty points. Suspension or revocation of your licence can be with immediate effect where the Council is of the opinion that in

the interest of public safety such action is required. Section 61(2A) of the Local Government (Miscellaneous Provisions) Act 1976 provides a local authority with such powers.

3.2.25 It must be understood that a decision to grant a licence would have been made on the basis that an applicant was a fit and proper person to drive a hackney carriage and private hire vehicle at the time the application was determined. That decision would have been made on the particular facts of the case on the day of the decision. That status can be lost at any time in the future and the licence holder must ensure that their behaviour remains of the highest standard to protect their licence and therefore their livelihood.

3.2.26 Providing the above are satisfied, the Council will renew the licence. It is the responsibility of the applicant to provide the Council with the DBS certificate once received. A licence will not be issued without a current DBS certificate, or any of the other specified documents that make up a complete application.

3.2.27 To allow continuous driving, applicants for licence renewals should allow at least eight weeks for the DBS check. Valid renewal applications (including a current DBS certificate) must be received by the Council at least 10 working days prior to the expiry date of the original licence to allow the Council sufficient time to process the renewal application.

Where applicants fail to submit a valid renewal application within this timescale, their licence may expire before the renewal is issued. Once a licence expires, is revoked (subject to statutory appeal process) or is surrendered, it ceases to exist and applicants will not be permitted to drive a Hackney Carriage or Private Hire Vehicle in these circumstances.

It is the driver's responsibility to notify the Council of any cautions, convictions, pending court cases and current or pending endorsements to their DVLA Driving licence received during the course of a licence period, in line with the driver conditions. Failure to notify the Council at the time of any caution, conviction, pending court case or current/pending endorsement to a DVLA driving licence may lead to a licence being referred to the General Licensing Sub-Committee to be determined. In these types of situation, the Council will not issue a licence for any interim period between the expiry of the current licence and the next available General Licensing Sub-Committee hearing.

3.2.28 Once a licence ceases to exist, a renewal application will not be accepted by the Council and the applicant must submit a new driver licence application which will be processed in accordance with the Council's new application procedures.

Production of documents

3.2.29 The driver must, on request, produce for inspection their hackney carriage/private hire driver's licence immediately or within 7 days to either the Council office or a police station.

Driver badges and licences

3.2.30 The badge must be worn by the driver at all times when driving the licensed vehicle and the badge must be plainly and distinctly visible.

3.2.31 All drivers of vehicles licensed for hackney carriage purposes of which they are not the proprietor, must deposit their driver's licence (paper counterpart) with the proprietor **before** commencing driving the vehicle. The vehicle proprietor must retain the licence until such time as the driver ceases to be permitted or employed to drive the vehicle or any other vehicle of his.

3.2.32 On ceasing to be a licensed driver through suspension, revocation, refusal to renew or expiry of the licence, the licence holder must return the badges and licence to the Council within 7 days (or earlier if the Council so demands) of the suspension, revocation, refusal to renew or expiry becoming effective.

Journeys

3.2.33 Drivers must not unnecessarily prolong a journey, in distance or in time.

Vehicles

3.2.34 Only vehicles licensed by the Council are permitted to be used for hackney carriage and private hire purposes.

Driving Licensed Vehicles

3.2.35 Only drivers who are licensed by the Council that licensed the vehicle are permitted to drive a licensed vehicle. The only exceptions to this are when the vehicle is undergoing an MOT test and needs to be driven by the MOT examiner or it is being driven by a qualified mechanic for the purposes of a vehicle service, recovery or maintenance or otherwise permitted by legislation.

Smoking in vehicles

3.2.36 Drivers must not, at any time, smoke or permit passengers to smoke in their vehicle as required by the Health Act 2006 and the Smoke-Free (Exemptions and Vehicles) Regulations 2007. This includes the use of electronic cigarette and/or vapourisers etc. If drivers are witnessed smoking/vaping, or allow a passenger to smoke/vape, in a licensed vehicle, then they may be served with a fixed penalty notice, issued with a warning and/or referred to the General

Licensing Sub-Committee. Drivers smoking/vaping when their vehicle is parked/not hired must get out and step away from their vehicle.

Transporting children

3.2.37 Drivers must inform parents/carers that the decision to permit children to travel in the vehicle without the correctly sized seat restraints (as permitted by relevant legislation) and with the obvious risks associated with such an action, remains with the parent/carer responsible for the children. Failure to use a child car seat or similar designed apparatus where available, will enable the driver to refuse the carriage of that child/young person. However once in the vehicle it is the driver's responsibility to ensure that passengers under 14 years old are correctly restrained.

Legal Requirements

Touting

3.2.38 A proprietor or driver of a hackney carriage, when standing or plying for hire, must not call out or otherwise importune any person to hire such vehicle and must not make use of the services of any other person for this purpose. This is an offence under the Criminal Justice and Public Order Act 1994, section 167.

Plying for Hire

3.2.39 Drivers of private hire vehicles must NOT 'ply for hire'. The Council's interpretation of 'plying for hire' is set out at appendix ? and is based on relevant legislation and case law.

Refusing to convey passengers

3.2.40 A driver of a hackney carriage who is waiting at a rank/stand must not refuse to carry a passenger without a reasonable excuse. E.g. if the person/s are severely intoxicated or being abusive to the driver.

Overcharging

3.2.41 Drivers of hackney carriages must not charge more than is permitted under the current table of fares. Drivers undertaking journeys ending outside the Council's area and in respect of which no fare and no rate of fare was agreed before the journey commences must not charge more than that indicated on the taximeter or more than the current table of fares allows.

Persons riding without consent

3.2.42 Drivers of hackney carriages must not permit persons to be carried in the vehicle unless they have the consent of the person who is actually hiring the vehicle.

Unlicensed drivers

3.2.43 Licensed drivers of hackney carriages must not allow persons to drive a hackney carriage unless they are authorised to do so by the proprietor and hold an appropriate licence to do so.

Obstruction

3.2.44 Hackney carriage drivers must not obstruct other hackney carriage drivers/vehicles from undertaking their normal hiring and driving activities, on a rank or other designated collection point.

3.3 Hackney Carriage Vehicle Licences

Summary

- 3.3.1 Hackney carriages are licensed in accordance with the provisions contained in the Town Police Clauses Act 1847 and the Local Government (Miscellaneous Provisions) Act 1976.
- 3.3.2 Hackney carriages are licensed to stand for hire at a taxi rank or can be hailed in the street when within the administrative area of the Council with which it is licensed. Hackney carriages may also undertake pre-booked journeys anywhere in the country.
- 3.3.3 All hackney carriages, whilst plying for hire, shall be immediately capable of providing for at least one wheelchair, if designated as a Wheelchair Accessible Vehicle by the Council. Under section 167 of the Equality Act 2010 the Council may create a list of all licensed wheelchair accessible vehicles, placing the below duties on the driver:
- (a) To carry the passenger while in the wheelchair;
 - (b) Not to make any additional charge for doing so;
 - (c) If the passenger chooses to sit in a passenger seat, to carry the wheelchair;
 - (d) To take such steps as are necessary to ensure that the passenger is carried in safety and reasonable comfort;
 - (e) To give the passenger such mobility assistance as is reasonably required.
- 3.3.4 The Council will not licence a vehicle which is licensed by another local authority or allow or permit a hackney carriage identification plate issued by another authority to be displayed on the vehicle.
- 3.3.5 The Council does not limit the number of hackney carriage vehicle licences that it will issue.
- 3.3.6 The Council has absolute discretion over granting a hackney carriage vehicle licence. That means that it can refuse to grant a licence unless the vehicle meets or exceeds its requirements. It also means that the character of the vehicle owner can be taken into consideration, and again, the licence can be refused unless the vehicle owner also meets or exceeds the Council's requirements.

Period of Licence

- 3.3.7 Vehicle licences will be issued for 12 months.
- 3.3.8 The applicant for a vehicle licence must be the legal keeper of the vehicle concerned and entitled to be registered as the keeper of the vehicle under the

provisions of Regulation 10 of the Road Vehicles (Registration and Licensing) Regulations 2002 in their own name. Prior to licensing and thereafter, as required, satisfactory evidence must be produced to demonstrate compliance with this requirement, for example the V5C/logbook.

Vehicles

3.3.9 The Council requires all hackney carriage vehicles to comply with specifications and requirements set out in Appendix ? and advises all applicants and current licence holders to familiarise themselves with this section.

3.3.10 Proprietors are encouraged to have provision for the legal transportation of a minimum of one wheelchair at all times. (When a vehicle licence is granted and the plates are issued, the maximum number of passenger seats that can be used at any one time e.g. if the vehicle has X number of fixed seats and the fixings to carry 1 customer in a wheelchair then the licence will be to carry X + 1 passenger. If any of the fixed passenger seats become obstructed when a wheelchair is fitted then the driver must not permit that seat/those seats to be used during that journey.

Vehicle Type and Age

3.3.11 In order that a reliable hackney carriage service of an acceptable standard is provided within the Borough a person to be considered for a hackney carriage vehicle licence on first or subsequent occasions shall comply with the following suitability criteria:

Wheelchair Accessible Vehicle

1.3.12 From [DATE] any vehicle presented for initial licensing as a hackney carriage must be a purpose built vehicle capable of carrying a wheelchair bound passenger (a 'wheelchair accessible vehicle') which complies with the current Greater London Authority Transport for London Conditions of Fitness' or it is an E7 2007 Model year only (currently such vehicles are FX4, TX1, TX2 or TX4, Metrocab, Mercedes Vito Taxi or E7 from 2007 model year only, but other vehicles that meet or exceed these specifications will be considered on a case by case basis). Such vehicles are referred to as WAV's ('wheelchair accessible vehicles').

3.3.13 If the vehicle does not comply with the London 'Conditions of Fitness' or is any other type of vehicle, the following additional specifications will apply:

- i. Any vehicle, before it can be considered to be licensed as a Wheelchair Accessible Vehicle must have European Whole Vehicle Approval (M1) or Low Volume Type Approval Standards or Single Vehicle Type

Approval, including an inspection certificate issued by D.V.S.A as a minimum standard. In all such cases, it will be at the discretion of the Council to grant or refuse the grant of a hackney carriage vehicle licence.

- ii. The interior of the vehicle must be able to accommodate a wheelchair and its user riding seated within the wheelchair.
- iii. Have a minimum unobstructed available width of 0.74 metres (including at the point of entry).
- iv. Have a minimum unobstructed available length of 1.2 metres for a wheelchair user.
- v. Have a minimum unobstructed height for a wheelchair and user of 1.3 metres at the point of entry and 1.4 metres when in the travelling position.
- vi. The vehicle must be fitted with suitable wheelchair anchorages, either chassis or floor linked.
- vii. The vehicle must be fitted with a suitable 3 point belt or harness, either chassis or floor linked, for a wheelchair and its user. The belt/harness must be independent of the wheelchair anchorages.
- viii. The vehicle must have a suitable ramp(s) for a wheelchair user. The vehicle must have a secure and safe place for the ramps to be stored when they are not being used. Alternatively, the vehicle may be fitted with a tail lift or some other mechanical means of access, approved by the Council.
- ix. Where the vehicle is a rear loading wheelchair accessible vehicle a suitable ramp will be carried in the vehicle to be used at the commencement and end of a journey to ensure that the passenger is delivered safely onto the pavement.
- x. At least one door entrance must be designed and constructed to help elderly and disabled passengers enter and egress the vehicle. The door entrance and any steps must be conspicuously marked to help visually impaired passengers.
- xi. All passenger door entrances must have grab handles or rails suitable located to help elderly and disabled passengers. All handles/rails must be conspicuously marked to help visually impaired passengers.

- xii. To assist elderly and disabled passengers, at least one passenger seat must be of a 'swivel' or other design and construction, approved by the Council.
- xiii. In addition, the vehicle must meet the general requirements details below (paragraph 6) so far as they are not incompatible with the above.

Non Wheelchair Accessible Vehicles ('Saloon vehicles')

3.3.14 A 'saloon vehicle' refers to any vehicle which is not wheelchair accessible. Any saloon vehicle that is currently licensed as a hackney carriage can remain as a saloon vehicle for the duration of the licence up to the maximum age of the vehicle which is 12 years, provided that the vehicle is continuously renewed. If the vehicle is transferred, the licence will not be renewed for a saloon vehicle, and on renewal a wheelchair accessible vehicle must be provided. If at any time an application for renewal of the licence (complete in every way) is not received before the expiry of the current vehicle licence, the vehicle licence will lapse and the right to use a saloon vehicle will end. A new licence application would then be required for a wheelchair accessible vehicle in accordance with the above paragraphs.

3.3.15 If the vehicle is to be licensed as a saloon (licensed pre-operative date) and is not a purpose built vehicle, it must be approved by the Council and comply with the following specification:

- i. Have a minimum of four doors that can be opened from both inside and outside the vehicle. Each door must be capable of being opened by passengers from both inside and outside the vehicle. Each door must be adjacent to and allow direct access to and from the seats.
- ii. Have a minimum seating capacity for at least four adult passengers based on a seat width of not less than 400mm per person across the rear seat.
- iii. Must be so constructed as to provide adequate space within its structure for the safe carriage of each passenger's luggage or any equipment. If that is not possible or practical then d, e and f (as applicable) below will apply.
- iv. The minimum wheelbase of the vehicle must be 2.44 metres.
- v. The minimum unobstructed distance between the uncompressed seat cushion and the roof must be 0.9 metres (measured 0.25 metres from and parallel with the seat back) in relation to the front passenger and drivers seats, and 0.84 metres in relation to any other passenger seats.

- vi. The minimum unobstructed distance between the seat back and the footwell bulkhead/facing seat back must be 0.95 metres in relation to the front passenger and driver seats, and 0.6 metres in relation to any other passenger seats.
- vii. The minimum unobstructed interior width of the vehicle must be 1.3 metres (excluding armrest).

Additional requirements for minibus and MPV type vehicles

3.3.16 In order to be licensed, minibus and MPV type vehicles must be fitted, in addition to the front driver and passenger doors, with at least:

- One other side loading door plus a rear door/doors or tailgate that can be opened from inside the vehicle; or
- Two side loading doors that can be opened from the inside.

Hackney Carriage Licences issued prior to [date of policy] – Grandfather Rights

3.3.17 Vehicles which are licensed at the time this policy is implemented may continue to be licensed until they fail the Council's mechanical vehicle test. These vehicles will be subject to a mechanical vehicle test every 6 months (from the age of ??) The cost of the test will be met by the vehicle owner. At each renewal test, and subsequent 6 month test the vehicle will be permitted one retest only. Once a vehicle fails a retest it will cease to be suitable for licensing.

3.3.18 Current holders of hackney carriage licences for non-wheelchair accessible vehicles i.e. saloons, hatchbacks and estates, will continue to benefit from existing grandfather rights allowing them to replace their current vehicle with, another non-wheelchair accessible vehicle either during the licence period or at the expiry of the licence. However, those rights will cease if the vehicle is transferred to another proprietor.

Electric and Zero Emission capable Vehicles

3.3.19 The Council encourages and promotes the purchase of zero emission capable or hybrid vehicles to be licensed as hackney carriages. Where possible the Council will seek to implement a number of 'charge points' around the Borough which will be available for vehicle proprietors to use, and also to actively target funding opportunities for such charge points. Hybrid vehicles will not be permitted as hackney carriages unless they also fulfil the wheelchair accessible vehicle requirements or are vehicles operating under Grandfather Rights.

Application and Supporting Documentation

The application process to licence a hackney carriage vehicle is the same for a new or renewal application.

3.3.20 The application form must be fully completed and include all relevant information, supporting documentation and appropriate fee. If any part of the application form is incomplete or the relevant information, documentation or fee is not provided, the applicant will be requested to provide the missing information/documentation/fee and informed that the application will not be accepted/valid until such time as all the information/documentation/fee is provided. The full fee for the licence is payable at the time application is submitted.

3.3.21 Any person wishing to licence a hackney carriage vehicle must submit:

- a) A completed application form;
- b) A Basic, Standard or Enhanced Disclosure Certificate issued within the last 12 months or a DBS certificate registered on the update service (unless also licensed as a driver and have provided an enhanced DBS and update service registration as part of that process);
- c) A statutory declaration detailing the complete history of any criminal and motoring convictions, caution, reprimands, speed awareness courses and fixed penalty notices including any pending charges and 'spent convictions';
- d) The appropriate licence fee (in full at the time of the application);
- e) A valid Certificate of Compliance (in accordance with the requirements set out at paragraph 3.2.26 below);
- f) A current vehicle fitness/garage test pass certificate (from the Council's Garage);
- g) A valid certificate of insurance for public hire. **This must remain valid for the period of the licence and must be produced on demand to an authorised officer of Cheshire East Council or police and in any case within 24 hours;**
- h) The V5C registration certificate (or alternative interim measure outlined in paragraph 3.3.21 below);
- i) A valid certificate/report to confirm the vehicle is fitted with a taximeter in accordance with the requirements set out in Appendix?

3.3.22 Where a vehicle has been modified, you will be required to submit a Voluntary IVA Certificate before you submit the application to licence the vehicle. It is the responsibility of the applicant to ensure they are providing the council with the correct information. To obtain the certificate, applicants will need to contact the DVSA or visit the www.gov.uk website. The council requires that the normal level of check is undertaken.

3.3.23 Where the vehicle is fitted with a mechanically operated ramp/lift, a valid certificate/report confirming the ramp/lift complies with the requirements of the Lifting Operations and Lifting Regulations 1998 shall be provided. (NB the vehicle proprietor is responsible for ensuring that a competent person carries

out the necessary checks every 6 months in accordance with these Regulations).

3.3.24 Where non-mechanical ramps are used, confirmation is required from the proprietor of the vehicle that the ramps comply with the relevant provisions of the Provision and Use of Work Equipment Regulations 1998. (NB The Council's Approved Testing Station garage will check that the provision of non-mechanical ramps is being maintained by the vehicle proprietor).

3.3.25 Where fittings are used to secure wheelchairs to the floor of the vehicle, a valid certificate/report confirming that all the fittings meet the required specifications should be provided.

Vehicle Testing Requirements

Certificate of Compliance

3.3.26 Vehicles must be tested at a relevant test centre which will be either:

- Environmental Hub (ANSA), Cledford Lane, Middlewich CW10 0JR; or
- Macclesfield MOT Testing Station, Unit 6 Pool Street, Macclesfield SK11 7NX.

3.3.27 Rules are in operation at the testing stations for the safety of applicants and the safety of the testers. Licence holders are expected to comply with the rules at all times

The vehicle test will be tested against a set of Hackney Carriage Vehicle Test Guidelines set down by the Licensing Team. See Appendix ?

3.3.28 Vehicles licensed by Cheshire East Council fall under the MoT exemption requirement, therefore applicants will need to be aware that when their vehicle is no longer licensed, it will need to be presented for an MoT.

3.3.29 When the vehicle has met the test criteria, the licence will be granted which will exempt the vehicle from requiring a standard MoT.

3.3.30 Applicants will be able to tax the vehicle at the Post Office by completing a V112 Declaration of Exemption Form, this must be done in person.

3.3.31 Licence holders are required to carry the vehicle licence in the vehicle that it relates to as proof of MoT.

Vehicle Fitness/Inspection

3.3.32 The Council requires all vehicles to be tested at least once a year, to ensure that they are suitable and 'fit' to be licensed. Vehicles can be tested prior to an

application for an initial Hackney Carriage vehicle licence being submitted. Similar tests will be required following an application for renewal of a vehicle licence. In both cases, the vehicle must pass the test before the licence will be granted.

- 3.3.33 The frequency of testing is once per year until the vehicle reaches its 5th anniversary when the vehicle will be required to be tested 6 months after the licence has been granted. If the vehicle fails that test the licence will be suspended using the powers contained in section 68 of the Local Government (Miscellaneous Provisions) Act 1976 until such time as the faults are rectified.
- 3.3.34 Where a vehicle licence is suspended, under section 68 of the Local Government (Miscellaneous Provisions) Act 1976, as a result of an accident, a garage test will be required to confirm that its roadworthy, once any repairs have been completed. The driver is responsible for the cost of any additional garage tests. A vehicle fitness certificate will be required before the suspension can be lifted.
- 3.3.35 Where a vehicle fails the garage test the proprietor will be given 28 days to rectify the failure items and submit the vehicle for re-inspection. If the garage deems the vehicle to be non-repairable, it fails the re-inspection or it not resubmitted within 28 days then the vehicle will not be eligible for a retests and any licence in place will be suspended or will not be granted.
- 3.3.36 It is the responsibility of the applicant/licence holder to ensure that the vehicle is presented for test at the time indicated. Any vehicle that is presented after this time will not be inspected. In this situation the applicant/licence holder will need to re-book a test and pay an additional test fee.
- 3.3.37 The licence holder/applicant may cancel a test appointment only if they provide at least two working days notice (excluding Saturday, Sunday and Bank Holidays) to the Council's Contact Centre.
- 3.3.38 If you fail to present a vehicle for a scheduled test, you will have to pay a test fee before a further test appointment will be allocated.
- 3.3.39 On an inspection for renewal of a vehicle licence, if an authorised officer is not satisfied that a vehicle is fit for use as a Hackney Carriage, the officer may immediately suspend the vehicle licence under section 68 of the Local Government (Miscellaneous Provisions) Act 1976, which means the vehicle cannot be used as a hackney carriage. The proprietor will be asked to surrender the licence plate and additional signage. The return of the plate and additional signage, and issue of a licence, will be conditional on the vehicle passing a further full test (which will be at the expense of the licence holder) in accordance with instructions from the vehicle examiner. When the vehicle passes the further test, the suspension will be lifted. If the licence plate and

additional signage are not surrendered voluntarily, the plate will be removed after 7 days, by an authorised officer. If the proprietor refuses to surrender the vehicle plate, a tamperproof 'Vehicle Licence Suspended' stickers will be affixed to the vehicle plate. In this instance, a replacement vehicle plate will be available for purchase from the Council if and when the suspension is lifted.

Vehicles not fit for the conveyance of passengers

3.3.40 Where a proprietor has notified the Council that damage has occurred to a vehicle, or an inspection of the vehicle by an officer of the Council has determined that a vehicle is not fit for the purpose of conveying passengers, an authorised officer of the Council will decide if the condition is such that the vehicle may continue in service or not, using the DVSA's "Categorisation of Vehicle Defects" document as a guide on how to deal proportionately with defects*. If not, an authorised officer of the Council may, at the time, suspend the vehicle and require the proprietor of the vehicle to return the vehicle's plate to them within 7 days. The suspension will be lifted and the plate returned at such time when the condition of the vehicle is demonstrated, to the satisfaction of the Council to be fit for conveying passengers. A vehicle fitness/garage test certificate will be required to determine whether the suspension can be lifted. *How vehicle defects are categorised in roadside checks and vehicle tests can be found on the Gov.uk website.

Plates and Identification of vehicle

3.3.41 All hackney carriage vehicles must display the licence plates and additional signage provided by the Council, on the vehicle at all times in the positions specified in the vehicle conditions (see appendix ?). As the vehicle is a licensed hackney carriage, the plate and any identification signage must be displayed at all times and must never be removed or covered during the term of the licence.

3.3.42 In addition to the above, wheelchair accessible hackney carriages will be required to display wheelchair stickers at all times. Non-Wheelchair accessible hackney carriages will be required to display "No wheelchair" stickers at all times.

3.3.43 The identification stickers shall be displayed on:

- a) The inside of the lower near-side of the windscreen, so that the sticker is visible to passengers within the vehicle;
- ii) The top near-side rear window, facing outwards; and
- iii) The top off-side rear window, facing outwards.

3.3.44 One licence plate shall be securely affixed to the front of the vehicle and one licence plate shall be securely affixed to the rear of the vehicle. The plates

should, at all times, be fitted to the vehicle using the fastenings and fittings issued by the Council. The fastening of plates with temporary removable or magnetic fixings will not be acceptable.

3.3.45 The plates (and any backing brackets) and stiller shall at all times remain the property of the Council and the vehicle proprietor shall not cause or permit the information displayed upon the plates to be altered, removed or obscured in any way.

3.3.46 If the vehicle plates or additional signage are lost or damaged, duplicates must be purchased from the Council within 7 days.

Advertising

3.3.47 Advertisements may be displaying in or from the vehicle provided any advertising complies with legislation, the British Code of Advertising Practice and the approval of the Council has been obtained. All requests for permission to advertise on a vehicle must be made to the Licensing Team Leader **before** the advert is put on the vehicle.

3.3.48 Generally only **one** advert will be allowed to be applied to any vehicle. Any requests for further adverts must be made in writing and will be at the discretion of the Licensing Team Leader.

Ranks

3.3.49 The Highways section of Cheshire East Council is primarily responsible for the creation of ranks and will work with the hackney carriage trade, Council and Cheshire Police to determine where ranks/stands ought to be situated.

3.3.50 Where a driver is plying for hire and is illegally parked or creating an obstruction or if, in the opinion of an officer of the Council or police officer, the driver is plying for hire in a dangerous location (this does not include a legitimate period of time where a hackney carriage has stopped to drop off or pick up a fare), the drivers licence may be reviewed and such conduct may be deemed a reasonable cause to revoke or suspend the licence or to take any other appropriate action.

Hackney Carriage Fares/Taximeters

3.3.50 All hackney carriage vehicles must be fitted with a calendar controlled and sealed meter that is approved by the Council, constructed, attached and maintained in compliance with the byelaws and must have been satisfactorily tested by an Authorised Officer of the Council or at any approved testing station before it is used.

3.3.51 The meter must be calibrated to the Council's current Hackney Carriage Table of Fares.

3.3.52 The meter must be accurate, be capable of showing that the vehicle is or is not hired, it must be fitted with a key or other device that, when turned, will operate the meter and display the word 'HIRED'. This key or device must be capable of locking the meter so it does not work and no fare is recorded on it.

3.3.53 When the meter is working, the fare must be clearly legible.

3.3.54 The word 'FARE' must be clearly printed on the meter so it clearly indicates the fare displayed.

3.3.55 The meter must be placed in a safe and practical position in the vehicle where all letters and figures displayed on the meter are clearly visible to any passenger. The letters and figures must therefore be illuminated when in use.

3.3.56 Alternatives to conventional meter displays (e.g. rear view mirror displays) separate displays etc must be approved by the Council and placed where they can be seen clearly by all passengers.

3.3.57 A notice showing the current Table of Fares must be displayed inside the vehicle in a position where any passenger can easily read it.

Signage

3.3.58 The vehicle must be fitted with a sign with the word '**TAXI**' (minimum size 35cm wide and 10cm high) on its roof. The sign must be capable of being illuminated.

3.3.59 The vehicle must be fitted with a '**FOR HIRE**' sign in a conspicuous position on the vehicle. This sign must be illuminated when it is dark when the vehicle is available for hire.

3.3.60 The proprietor must ensure that the '**TAXI**' and '**FOR HIRE**' signs switch off automatically when the meter is operating.

Changes/Transfers etc

Vehicle substitution

3.3.61 If the proprietor wishes to change the vehicle that is licensed the following procedures must be followed:

- The proprietor must complete an application form for the 'new' vehicle;
- The proprietor must pay the stated fee for a 12 month period;

- The proprietor must surrender the original licence. No refund for the remaining term of the licence will be given;
- The new vehicle must be presented for test and subsequently pass;
- Written proof of consent to the change of vehicle must be provided from all interested parties;
- The proprietor must maintain and produce evidence of a continuous policy or insurance, which clearly states that the vehicle is to be used for hire or reward.

Change of proprietor and/or driver

3.3.62 The proprietor must give notice to the Council of any transfer in their interest in the hackney carriage vehicle to a person other than the proprietor whose name is specified in the licence. Such notice must be given in writing, within 14 days specifying the name and address of the person to whom the vehicle has been transferred and accompanied by the relevant documentation for the proprietor.

3.3.63 The proprietor must give notice to the Council when any changes are made as to the driver of the vehicle.

Change of address

3.3.64 The proprietor of a hackney carriage must notify the Council in writing, within 7 days, of any change of their address.

Letting/Leasing of vehicle

3.3.65 If the proprietor enters into a leasing arrangement, the proprietor will remain on the vehicle licence as a person with a beneficial interest in the vehicle and will still be jointly responsible for the vehicle.

General requirements for all vehicles being presented for licensing as a Hackney Carriage

3.3.66 Passengers must be able to communicate with the driver via a sliding screen, mesh or hole in any fitted division between the drivers and passenger compartments.

3.3.67 The vehicle must be wind and water-tight.

3.3.68 The vehicle must have a floor properly covered with fitted carpet, rubber type floor covering or other suitable non-slip covering.

3.3.69 The vehicle must have an adequate fully functioning internal light to facilitate the safety of a passengers entry/egress of the vehicle.

3.3.70 The vehicle's bodywork and paintwork must be in good condition and free from dents or other damage and rust (refer to test guidelines for more information).

- 3.3.71 The vehicle must be provided with a spare wheel and tyre of the correct size to fit the vehicle, and the wheel must be securely stored. The tyre of the spare wheel must be inflated to the same pressure as the highest specified pressure on any of the road-wheels. There must also be provided, equipment to change the wheel including a spare wheel and tyre, jack and wheel brace, unless the manufacturers specification when new did not include a spare wheel, in which case the manufacturers alternative (e.g. spray can) will be acceptable.
- 3.3.72 The vehicle must be fitted with nearside and offside exterior rear view mirrors which must be maintained in a serviceable condition.
- 3.3.73 The vehicle must have at least one window on each side of the passenger compartment which is capable of being opened and closed.
- 3.3.74 All seats must be permanently fixed to the vehicle and must be factory fitted with a 3-point seat belt. All retrospectively fitted seat belts must be approved by the Council. The use of folding seats in non-purpose built hackney carriages is not permitted.
- 3.3.75 The vehicle must be fitted with glass which is in accordance with current Vehicle Construction and Use Regulations prescribed in respect of the normal zone of vision, as follows:

Front windows (windscreen and front side windows)

- To transmit 75% light through the front windscreen,
- To transmit 70% light through the front driver/passenger side windows.
- Any subsequent replacement windows shall conform to the above requirements.
- No tinted films or other adhesive material will be acceptable on any part of the windows of the vehicle.

Other windows (rear passenger windows/quarter light windows/rear windscreen)

- To transmit 70% light through.
- Any subsequent replacement windows shall conform to the above requirements.
- No tinted film or other adhesive materials will be acceptable on any part of the windows of the vehicle.

- 3.3.76 Any vehicle which is a convertible must meet all other requirements and have a waterproof roof and side windows which must be raised at the request of any passenger.
- 3.3.77 The vehicle must be equipped with a 1kg dry powder extinguisher or a 2 litre AFFF extinguisher approved to BS EN3: 1996, with the hackney carriage licence number painted on it. The fire extinguisher must have been properly

maintained in accordance with BS 5306; Part 3 and be secured in such a position in the vehicle as to be fit for immediate use in an emergency

3.3.78 The vehicle must be equipped with a first aid kit in a suitable container, with the licence number painted on it.

3.3.79 The vehicle must not be fitted with any additional lights other than those originally fitted by the manufacturer unless they have been approved by the Council

3.3.80 Roof racks will be permitted. Any vehicle using a roof rack must be fitted with a second roof sign, with one sign in front of the roof rack, and one behind, allowing the signs to be seen in the same way as a vehicle without a roof rack. Any luggage carried on the roof rack must be protected from the elements by a waterproof cover and properly secured. A properly fitted roof box is an acceptable alternative.

Hackney Carriage Vehicle Emissions Policy

3.3.81 With effect from [INSERT OPERATIVE DATE] no hackney carriage vehicle licence will be issued or renewed unless the vehicle has been manufactured to Euro 5 or a higher specification. The use of Bio-diesel, bio-fuel or LPG conversions will not be accepted after this date.

3.3.82 By [+ 24 months from operative date] no hackney carriage vehicle licence will be issued or renewed unless the vehicle has been manufactured to Euro 6 or a higher specification or UK equivalent.

3.3.83 The Council may approve conversions or adaptation systems for vehicles to comply with the requirements of the Council emissions standards. The Council must be provided with satisfactory evidence that the conversion or adaptation system achieves the required emission standard and that test data complies with the European test standards for vehicle emissions. Such approval may be engine/vehicle specific. The cost of obtaining approval of new conversion of adaptation systems will not be met by the Council.

3.3.84 It is for the vehicle proprietor to provide satisfactory evidence to the Council or the approved testing station that any vehicle presented for licence or inspection complies with the requirements of this policy.

3.3.85 Any vehicle that has previously be 'written off' as a Category C or D may be licensed provided that the vehicle meets all other requirements policy requirements and passes the Council's vehicle test. The application must also be accompanied by a DVSA voluntary individual vehicle assessment.

Engine/Chassis Numbers

3.3.86 The chassis/vehicle identification number plate and engine numbers must match the numbers recorded with the DVLA. In the event of a vehicle being presented with numbers that do not correspond to the paperwork the Council will inform the Police who may undertake checks.

Seating Arrangements

3.3.87 Any alteration to the seating arrangement during the term of the licence (other than the manufacturers original specification or as approved by the Council) shall be a cause for the suspension of the licence.

Timescale for issuing a licence

3.3.88 Once a fully completed application has been made the application will be processed and all information provided will be verified and the vehicle tested. The vehicle licence and plates will then be available within 10 working days of the Council determining that a licence can be granted.

Licence Conditions

3.3.89 The applicable conditions relevant to a hackney carriage vehicle licence are set out at Appendix ?; these conditions must be complied with. These conditions are in addition to any matters set out within the main body of this policy. The Licensing Committee or its Sub-committee can attach any conditions to individual licences as they see fit.

3.4 Private Hire Vehicle Licence

Summary

3.4.1 Private hire vehicles are licensed in accordance with the provisions of the Local Government (Miscellaneous Provisions) Act 1976. Private hire vehicles must not have the appearance of a hackney carriage vehicle.

3.4.2 When considering whether a vehicle is a private hire vehicle by the nature of the work it does, the Council will have regard to the document – Private Hire Vehicle Licensing – A note for guidance from the Department for Transport (August 2011) and any other subsequent Government issued guidance.

3.4.3 The Council cannot limit the number of private hire vehicle licences it will issue.

3.4.4 The Council will not licence a vehicle for private hire which is licensed by another local authority or allow or permit a private hire vehicle identification plate issued by another authority to be displayed on the vehicle.

Period of Licence

3.4.6 Vehicle licences will be issued for 12 months.

3.4.7 The applicant for a vehicle licence must be the legal keeper of the vehicle concerned and entitled to be registered as the keeper of the vehicle under the provisions of regulation 10 of the Road Vehicles (Registration and Licensing) Regulations 2002 in their own name. Prior to licensing and thereafter, as required, satisfactory evidence must be produced to demonstrate compliance with this requirement, for example the V5C/Logbook.

Vehicles

3.4.8 The Local Government (Miscellaneous Provisions) Act 1976 section 48(1)(a)(ii) prevents a vehicle that resembles a hackney carriage from being licensed as a private hire vehicle. Accordingly, any vehicles that would meet Transport for London's Taxi & Private Hire Conditions of Fitness for Hackney Carriage Vehicles will not be licensed as a private hire vehicle in Cheshire East.

3.4.9 The Council requires all private hire vehicles to comply with specifications and requirements set out in Appendix?? and advises all applicants and current licence holders to familiarise themselves with this section.

Proprietors are encouraged to have provisions for the legal transportation of a minimum of one wheelchair at all times (when a vehicle licence is granted and the plates are issued, the maximum number of passenger seats that can be used at any one time e.g. if the vehicle has x number of fixed seats and the fixings to carry 1 customer in a wheelchair then the licence will be to carry x + 1 passengers. If any of the fixed passenger seats become obstructed when a wheelchair is fitted then the driver must not permit that seat/those seats to be used during that journey.

Vehicle Type and Age

3.4.10 **Wheelchair Accessible Vehicles** – if the vehicle is constructed or adapted to carry passenger(s) seated in wheelchair, the following specifications apply:

- i. Any vehicle, before it can be considered to be licensed as a Wheelchair Accessible Vehicle must have, European Whole Body Type (M1) Approval, Low Volume Vehicle Producers Type Approval or Single Vehicle Type Approval including an inspection certificate by DVSA as a minimum standard.
- ii. The interior of the vehicle must be able to accommodate a wheelchair and its user riding seated within the wheelchair itself.

- iii. Have a minimum unobstructed available width of 0.74 metres (including at the point of entry)
- iv. Have a minimum unobstructed available length of 1.2 metres for a wheelchair and user
- v. Have a minimum unobstructed available height for a wheelchair and user of 1.3 metres at the point of entry and 1.4 metres when in the travelling position.
- vi. The vehicle must be fitted with suitable wheelchair anchorages, either chassis or floor linked.
- vii. The vehicle must be fitted with a suitable 3-point belt or harness, either chassis or floor linked, for a wheelchair and its user. The belt/harness must be independent of the wheelchair anchorages.
- viii. The vehicle must have suitable ramps for a wheelchair user. The vehicle must have a secure and safe place for the ramps to be stored when they are not being used. Alternatively, the vehicle may be fitted with a tail lift or some other mechanical means of access, approved by the Council.
- ix. Where the vehicle is a rear loading wheelchair accessible vehicle a suitable ramp will be carried in the vehicle to be used at the commencement and end of a journey to ensure that the passenger is delivered safely onto the pavement
- x. At least one door entrance must be designed and constructed to help elderly and disabled passengers get in and out of the vehicle. The door entrance and any steps must be conspicuously marked where appropriate, to help visually impaired passengers.
- xi. All passenger door entrances must have grab handles or rails suitably located to help elderly and disabled passengers. All handles/rails must be conspicuously marked to help visually impaired passengers.
- xii. To assist elderly and disabled passengers, one passenger seat may be of a "swivel" or other design and construction, approved by the Council.
- xiii. In addition, the vehicle must meet the general requirements detailed above (paragraph??) (so far as they are not incompatible with the above).

3.4.11 Non Wheelchair Accessible Vehicles (Saloon Vehicles) – A saloon vehicle refers to any vehicle which is not wheelchair accessible. If the vehicle is a saloon vehicle it must be approved by the Council and comply with the following specification:

- i. Have at least four doors that can be opened from both inside and outside the vehicle. Each door must be capable of being opened by passengers from both inside and outside the vehicle.

- ii. have a minimum seating capacity for at least four adult passengers based on a width of not less than 400mm per person across the rear seat.
- iii. must be so constructed as to provide adequate space within its structure for the safe carriage of each passenger's luggage or any equipment. If that is not possible or practical then d, e and f (as applicable) below will apply
- iv. The minimum wheelbase of the vehicle must be 2.44 metres.
- v. The minimum unobstructed distance between the uncompressed seat cushion and the roof must be 0.9 metres (measured 0.25 metres from and parallel with the seat back) in relation to the front passenger and driver seats, and 0.84 metres in relation to any other passenger seats.
- vi. The minimum unobstructed distance between the seat back and the footwell bulkhead/facing seat back must be 0.95 metres in relation to the front passenger and driver seats, and 0.6 metres in relation to any other passenger seats.
- vii. The minimum unobstructed interior width of the vehicle must be 1.3 metres (excluding any armrests).

3.4.12 **Additional requirements for minibus and MPV type vehicles** – in order to be licensed, a minibus/MPV type vehicle must be fitted, in addition to the front driver and passenger doors, with at least:

- One other side loading door plus a rear door/doors or tailgate that can be opened from inside the vehicle; or
- Two side loading doors that can be opened from the inside.

3.4.13 No vehicle shall be more than four years old when granted an initial licence as a private hire vehicle.

3.4.14 No vehicle more than eight years old will be relicensed as a private hire vehicle.

3.4.15 The age of the vehicle will be determined as follows:

- If not previously used on a road anywhere in the world: date of first registration with DVLA
- If previously used on a road anywhere in the world (e.g. an imported vehicle): the date of manufacture.

3.4.16 Applications for renewals must be made at least six weeks before the licence expires. If no application is made to renew the vehicle licence in time there may be a period when the vehicle cannot be used as a private hire vehicle. If the renewal application is not received before the expiry of the current licence, it will

be treated as a new application rather than a renewal and the applicant will have to provide all the information that is required for a new application.

3.4.17 Renewals are generally dealt with by officers under delegated powers and can be processed reasonably quickly. However, if there have been any changes since the last grant of the licence (e.g. if the vehicle's age exceeds the policy or there have been complaints or concerns about the proprietors behaviour or the proprietor has been convicted of any crime) the renewal application may need to be considered by the General Licensing Sub-Committee or Licensing Committee. If the decision is not made before the expiry of the vehicle licence, the vehicle cannot be used until the new licence is granted.

3.4.18 The licence is issued to the proprietor and it can be transferred to another proprietor. If that occurs, the Council must be notified immediately on the transfer form available from the Councils website or the Customer Contact Centre and the fee must be paid.

3.4.19 Following any transfer of licence to another person, on expiry of that licence, renewal will be at the Council's discretion e.g. if the new proprietor does not satisfy the Council's requirements, the licence may not be renewed.

Grandfather Rights

3.4.20 Vehicles that are wheelchair accessible or previously categorised as 'minibuses' which are licensed at the time this policy is implemented, may continue to be licensed until they fail the Council's mechanical vehicle test. These vehicles will be subject to a mechanical vehicle test every ?? months. The cost of the test will be met by the vehicle owner. At each renewal test, and subsequent test will be permitted one retest only. Once a vehicle fails a test and retest it will cease to be suitable for licensing.

Electric and Zero Emission capable vehicles

3.4.21 The Council encourages and promotes the purchase of zero emission or hybrid vehicles to be licensed as Private Hire Vehicles. Where possible the Council will seek to implement a number of 'charge-points around the Borough which will be available for vehicle proprietors to use, and also to actively target funding opportunities for charge-points within the Borough of Cheshire East.

Vehicle Emissions Policy

3.4.22 With effect from [DATE] no private hire vehicle licence will be issued or renewed unless the vehicle has been manufactured to Euro 5 or a higher specification. The use of Bio-diesel, bio fuel or LPG conversions will not be accepted after this date.

3.4.23 By [+24 months] no private hire vehicle licence will be issued or renewed unless the vehicle has been manufactured to Euro 6 or a higher specification or UK equivalent.

3.4.24 The Council may approve conversions or adaption systems for vehicles to comply with the requirements of the Council's emission standards. The Council must be provided with satisfactory evidence that the conversion or adaptation system achieves the required emission standard and that test data complies with the European test standards for vehicle emissions. Such approval may be engine/vehicle specific. The cost of obtaining approval of new conversion of adaptation systems will not be met by the Council.

3.4.25 It is for the vehicle proprietor to provide satisfactory evidence to the Council or the approved testing station that any vehicle presented for licence or inspection complies with the requirements of this policy.

3.4.26 Any vehicle that has previously be 'written off' as a Category C or D may be licensed provided that the vehicle meets all other requirements and passes the Council's vehicle test. The application must also be accompanied by a DVSA voluntary individual vehicle assessment.

Application and Supporting Documentation

3.4.27 The application form must be fully completed and include all relevant information, supporting documentation and appropriate fee. If any part of the application form is incomplete or the relevant information, supporting documentation or fee is not provided, the applicant will be requested to provide the missing information/documentation/fee and informed that the application will not be processed until such time as all the information/documentation is provided. The full fee for the licence is payable at the time the application is submitted.

3.4.28 Any person wishing to licence a private hire vehicle must submit:

- a) A completed application form;
- b) A Basic Standard, or Enhanced Disclosure Certificate issued within the last 12 months or a DBS Certificate registered on the update service (unless also licensed as a driver and have provided an enhanced DBS and update service registration as part of that process);
- c) Complete a Statutory Declaration detailing the complete history of any criminal or motoring convictions, cautions, reprimands, speed awareness courses and fixed penalty notices;
- d) The appropriate licence fee (in full at the time of application);
- e) A valid MOT (in accordance with the requirements set out at paragraph ?? below);

- f) A current vehicle fitness/garage test pass certificate (from the Council approved garage);
- g) A valid certificate of insurance for public hire. This must remain valid for the period of the licence and must be produced on demand to an authorised officer or police, and in any case within 24 hours;
- h) The V5 registration certificate (or alternative interim measure outlined in paragraph ?? below);
- i) Where a taximeter is fitted – a valid certificate/report to confirm the vehicle taximeter is fitted in accordance with the requirements set out at Appendix?;
- j) Converted vehicles must provide an appropriate certificate to prove the conversion has been carried out to the required standard (European-wide type approval or equivalent).

3.4.29 Where the vehicle is fitted with a mechanically operated ramp/lift; a valid certificate/report confirming the ramp/lift complies with the requirements of the Lifting Operations and Lifting Regulation 1998 (N.B. The vehicle proprietor is responsible for ensuring that a competent person carries out the necessary checks, which should be undertaken every 6 months, in accordance with the Regulations);

3.4.30 Where non-mechanical ramps are used; confirmation is required from the proprietor of the vehicle that the ramps comply with the relevant provisions of the Use of Work Equipment Regulations 1998. (N.B. Council officers will check that the provisions of non-mechanical ramps is being maintained by the vehicle proprietor); and

3.4.31 where fittings are used to secure wheelchairs to the floor of a vehicle, a valid certificate/report confirming that all the fittings meet the required specifications should be provided that has been issued by an approved installer.

Vehicle Testing Requirements

3.4.32 Vehicles must be tested at a relevant test centre which will be either:

- Environmental Hub (ANSA), Cledford Lane, Middlewich, CW10 0JR; or
- Macclesfield MOT Testing Station, Unit 6 Pool street, Macclesfield, SK11 7NX

3.4.33 Rules are in place at the testing stations for the safety of applicants and the safety of the testers and all licence holders should comply with the rules at all times.

The vehicle test will be tested against a set of Private Hire Vehicle Test Guidelines. Refer to Appendix ?

3.4.34 Vehicles licensed by Cheshire East Council fall under the MoT exemption requirements, therefore applicants will need to be aware that when their vehicle is no longer licensed, it will need to be presented for an MoT.

3.4.35 When the vehicle has met the test criteria, the licence will be granted which will exempt the vehicle from requiring a standard MoT.

3.4.36 Applicants will be able to tax the vehicle at the Post Office by completing a V112 Declaration of Exemption Form, this must be done in person.

3.4.37 Licence holders are required to carry the vehicle licence in the vehicle that it relates to as proof of MoT.

Vehicle Fitness/Inspection

3.4.38 The Council requires all vehicles to be tested at least once a year, to ensure that they are suitable and 'fit' to be licensed. Vehicles can be tested prior to an application for an initial Private Hire Vehicle Licence being submitted. Similar tests will be required following an application for renewal of a vehicle licence. In both cases, the vehicle must pass the test before the licence will be granted.

3.4.39 The frequency of testing is once per year until the vehicle reaches its 5th anniversary when the vehicle will be required to be tested every 6 months after the licence has been granted. If the vehicle fails the test the licence will be suspended using the powers contained in Section 68 of the Local Government (Miscellaneous Provisions) Act 1976 until such time as the faults are rectified.

3.4.40 Where a vehicle fails the garage test the proprietor will be given 28 days to rectify the failure items and submit the vehicle for re-inspection. If the garage deems the vehicle to be non-repairable, it fails the inspection or is not resubmitted within 28 days then the vehicle will not be eligible for a retest and any licence in place will lapse or will not be granted.

3.4.41 It is the responsibility of the applicant/licence holder to ensure that the vehicle is presented for test at the time indicated. Any vehicle that is presented after this time will not be inspected.

3.4.42 The licence holder/applicant may cancel a test appointment only if they provide at least two working days notice (excluding Saturday, Sunday and Bank Holidays) to the Council Contact Centre.

3.4.43 If you fail to present the vehicle for a scheduled test, you may have to pay a test fee before a further test appointment will be allocated.

3.4.44 On an inspection for renewal of a vehicle licence, if an authorised officer is not satisfied that a vehicle is fit for use as a Private Hire, the officer may

immediately suspend the vehicle licence under section 68 of the Local Government (Miscellaneous Provision) Act 1976 which means the vehicle cannot be used as a private hire. The proprietor will be asked to surrender the licence plate and additional signage. The return of the plate and additional signage, and issue of a licence will be conditional on the vehicle passing a further test (which will be at the expense of the licence holder) in accordance with instructions from the vehicle examiner. When the vehicle passes the further test, the suspension will be lifted. If the licence plate and additional signage are not surrendered voluntarily, the plate will be removed after 7 days, by an authorised officer. If the proprietor refuses to surrender the vehicle plate, a tamperproof 'Vehicle Licence Suspended' stickers will be affixed to the vehicle plate. In this instance a replacement vehicle plate will be available for purchase from the Council if and when the suspension is lifted.

Vehicles not fit for the conveyance of passengers

3.4.45 Where a proprietor has notified the council that damage has occurred to a vehicle, or an inspection of the vehicle by an officer of the council has determined that a vehicle is not fit for the purpose of conveying passengers, an authorised officer of the council will decide if the condition is such that the vehicle may continue in service or not. If not, an authorised officer of the Council may, at the time, suspend the vehicle and require the proprietor of the vehicle to return the vehicle's plate to the within 7 days. The suspension will be lifted and the plate returned at such time when the condition of the vehicle is demonstrated, to the satisfaction of the Council to be fit for conveying passengers. A vehicle fitness/garage test certificate will be required to determine whether the suspension can be lifted.

Requirements for all vehicles

Plates and Identification of vehicle

3.4.46 All private hire vehicles must display the licence plates and additional signage provided by the Council, on the vehicle at all times in the positions specified in the vehicle conditions (See appendix ?). As the vehicle is a licensed private hire vehicle, the plate and any identification signage must be displayed at all times during the currency of the licence.

3.4.47 If the licence plates or additional signage are lost or become damaged, the proprietor must report it to the Council and request duplicates within 7 days. The cost of duplicate plates/signage will be met by the proprietor.

3.4.48 In addition to the plates and signage provided by the Council, the following signage must be displayed, at the proprietor's own expense, on each side of a private hire vehicle (on the body panel and not on a window):

- I. The words "PRIVATE HIRE"
- II. The words "ADVANCED BOOKINGS ONLY"
- III. The telephone number or name of the vehicle operator

3.4.49 The wording "PRIVATE HIRE", "ADVANCED BOOKINGS ONLY" and the telephone number of the vehicle operator shall:

- i. Be clearly and permanently affixed and displayed in a clearly contrasting colour in letters and numbers not less than 65mm in height and not less than 8mm thickness; and
- ii. Be positioned together in a manner previously approved in writing by the Council.

For the avoidance of doubt the above wording shall not be deemed to be "permanently affixed and displayed" if they are so affixed and displayed by means of a demountable magnetic sign or by any other type of sign which is able to be removed and re-affixed to the vehicle.

3.4.50 The vehicle shall not display a roof sign whether illuminated or not.

3.4.51 The vehicle shall not display any illuminated signs on or from within the vehicle.

3.4.52 The vehicle shall, at all times, display identification stickers supplied by the Council. The stickers shall be displayed on:

- i. The inside of the lower near-side windscreen, so that the sticker is visible to passengers within the vehicle;
- ii. The top near-side rear window, facing outwards; and
- iii. The top off-side window, facing outwards.

3.4.53 One licence plate shall be affixed the front of the vehicle and one licence plate shall be affixed to the rear of the vehicle. Both licence plates shall be displayed in a vertical position and firmly fixed to the outside of the vehicle using the fixing bracket provided for the purpose. Velcro or cable ties are not permitted to be used.

3.4.54 The plates and stickers, and any fixing brackets supplied by the Council shall, at all times, remain the property of the Council and the vehicle proprietor shall not cause or permit the information displayed upon the licence plates to be altered, removed or obscured in any way.

Exemptions

3.4.55 The Local Government (Miscellaneous Provisions) Act 1976 gives a Council the discretion to grant a proprietor of a private hire vehicle licence a dispensation from

displaying the licence plate on their licensed private hire vehicle. Each application for a dispensation will be considered on its own merit and in line with the 'Executive Plating' requirements set out at Appendix ?

Advertising

3.4.56 Advertisements may be displayed in or from the vehicle provided any advertising complies with legislation, the British Code of Advertising Practice and the approval of the council has been obtained. All requests for permission to advertised on a vehicle must be made to the Licensing Team Leader, before the advert is put on the vehicle.

3.4.57 Generally only one advert will be allowed to be applied to any vehicle. Any request for further adverts must be made in writing, and will be at the discretion of the Licensing Team Leader.

Taximeters

3.4.58 Private hire vehicles are not required to be fitted with a taximeter but if they do then they must comply with the specifications and requirements set out in Appendix ? and the Council advises all applicants and current licence holders to familiarise themselves with this section.

Seating

3.4.59 In any vehicle all exits must be easily accessible and not obstructed by another seat. Access to all doors must be free from obstruction. **Any seats that require passengers to move any part of another seat to gain access or egress will not be licensed for carrying passengers.** The seating configuration and number of passengers that can be carried is subject to the approval by the Council.

3.4.60 All seats must be permanently fixed to the vehicle and must be factory fitted with a 3-point seat belt. All retrospectively fitted seat belts must be approved by the Council. The use of folding seats is not permitted.

General requirements

3.4.61 Passengers must be able to communicate with the driver via a sliding screen, mesh or hole in any fitted division between the drivers and passenger compartments.

3.4.62 The vehicle must be wind and water-tight.

3.4.63 The vehicle must have a floor properly covered with fitted carpet, rubber type floor covering or other suitable non-slip covering.

- 3.4.64 The vehicle must have an adequate, fully functioning internal light to enable passengers to enter and exit the vehicle safely.
- 3.4.65 The vehicle's bodywork and paintwork must be in good condition and free from dents or other damage or rust (see the testing guidelines for further information).
- 3.4.66 The vehicle must be provided with a spare wheel and tyre of the correct size to fit the vehicle, and the wheel must be securely stored. The tyre of the spare wheel must be inflated to the same pressure as the highest specified pressure on any of the road-wheels. There must also be provided, equipment to change the wheel including a spare wheel and tyre, jack and wheel brace, unless the manufacturer's specification when new did not include a spare wheel, in which case the manufacturer's alternative (e.g. temporary sealant repair kit) will be acceptable.
- 3.4.67 The vehicle must be fitted with a nearside and offside exterior rear view mirror which must be maintained in a serviceable condition.
- 3.4.68 The vehicle must have at least one window on each side of the passenger compartment which is capable of being opened and closed.
- 3.4.69 The vehicle must be fitted with glass which is in accordance with current Vehicle Construction and Use Regulations prescribed in respect of the normal zone of vision as follows:

Front windows (windscreen and front side windows)

- To transmit 75% through the front windscreen.
- To transmit 70% light through the front driver/passenger side windows.
- Any subsequent replacement windows shall confirm to the above requirements.
- No tinted films or other adhesive material will be acceptable on any part of the windows of the vehicle.

Other windows (rear passenger windows/quarter light windows/rear windscreen)

- To transmit 70% light through.
- Any subsequent replacement windows shall confirm to the above requirements.
- No tinted film or other adhesive materials will be acceptable on any part of the windows of the vehicle.

3.4.70 Any vehicle which is a convertible must meet all other requirements and have a waterproof roof and side windows which must be raised at the request of any passenger.

3.4.71 The vehicle must be equipped with a 1kg dry powder extinguisher or a 2 litre AFFF extinguisher provided to BS EN3: 1996, with the private hire licence number painted on it. The fire extinguisher must have been properly maintained in accordance with BS 5306; Part 3 and be secured in such a position in the vehicle as to be fit for immediate use in an emergency.

3.4.72 The vehicle must be equipped with a first aid kit in a suitable container, which the licence number painted on it.

3.4.73 The vehicle must not be fitted with any additional lights other than those originally fitted by the manufacturer unless they are approved by the Council.

3.4.74 Roof racks will be permitted. Any luggage carried on the roof rack must be protected from the elements by a waterproof cover and properly secured. A properly fitted roof box in an acceptable alternative.

Changes/Transfers etc.

Vehicle substitution

3.4.75 If the proprietor wishes to change the vehicle that is licensed the following procedures must be followed:

- The proprietor must complete an application form for the 'new' vehicle.
- The proprietor must pay the stated fee for a 12 month period.
- The proprietor must surrender the original licence. Any refund against a licence will be calculated by the Council, taking into consideration the period of time for which the licence has already been held and the administrative cost incurred, and shall be subject to a minimum level of £50, below which no refund will be made.
- The new vehicle must be presented for test and subsequently pass.
- Written proof of consent to the change of vehicle must be provided from all interested parties.
- The proprietor must maintain and produce evidence of a continuous policy of insurance, which clearly states that the vehicle is to be used for hire or reward.

Change of proprietor and/or driver

3.4.76 The proprietor must give notice to the Council of any transfer in their interest in the private hire vehicle to a person other than the proprietor whose name is specified in the licence. Such notice must be given in writing, within 14 days specifying the name and address of the person to whom the vehicle has been

transferred and accompanied by the relevant documentation for the proprietor. Please refer to Appendix ? for application process.

3.4.77 The proprietor must give notice to the Council when any changes are made as to the driver of the vehicle.

Change of address

3.4.78 The proprietor of a private hire vehicle must notify the Council in writing, within 7 days, of any change of their address.

Letting/Leasing of vehicle

4.3.79 If the proprietor enters into a leasing arrangement, the proprietor will remain on the vehicle licence as a person with a beneficial interest in the vehicle and will still be jointly responsible for the vehicle.

Temporary Replacement Vehicles in the event of an accident

4.3.80 The proprietor of an existing licensed private hire vehicle must report, to the Licensing Service, within 72 hours, that the vehicle has been involved in an accident and their possible intention to licence a temporary replacement vehicle.

4.3.81 The temporary replacement vehicle must satisfy the standards for private hire vehicles adopted by Cheshire East Council before it is considered for licensing.

3.4.82 An application for a temporary replacement vehicle must be submitted to the Licensing Service together with the appropriate fee, the insurance document for the vehicle being presented for licensing, vehicle registration document for the vehicle being presented for licensing and a lease agreement/contract from the Insurance Company/Vehicle Supplier for the vehicle being presented for licensing. The existing vehicle licence plate will then be transferred to the replacement vehicle. Refer to Appendix ? for the application process.

3.4.83 The temporary replacement vehicle must be mechanically tested, at the Council approved testing station prior to it becoming licensed.

3.4.84 Where a taximeter is fitted, this must be tested and sealed, by the Licensing Service, prior to it becoming licensed.

3.4.85 The temporary replacement vehicle will only be permitted for use for a period not exceeding 30 days. In exceptional circumstances, this period may be extended by a further 14 days, at the discretion of a Licensing Team Leader.

3.4.86 As soon as the proprietors' vehicle is repaired, an application to return the licence back to the original vehicle will be required.

3.4.87 If requested, the proprietor shall present the original vehicle for a further vehicle examination, at the Council approved testing station, before it becomes relicensed. This will be dependent on the damage sustained.

Closed Circuit Television (CCTV)

3.4.88 Proprietors of private hire vehicles are permitted to install closed circuit television (CCTV) systems providing such systems are installed in accordance with the appropriate legal framework and the Council has been notified, in writing, of their intention to do so. If CCTV is fitted then the proprietor must prominently display signs indicating that CCTV is in use in the vehicle. In addition to fitting CCTV signage to the vehicle the proprietor is required to be registered as a 'Data Controller' with the Information Commissioners Office (ICO). Further information can be found at <https://ico.org.uk>.

Engine/Chassis Numbers

3.4.89 The chassis/vehicle identification number plate and engine numbers must match the numbers recorded with the DVLA. In the event of a vehicle being presented with numbers that do not correspond to the paperwork the council will inform the police who may undertake checks.

Timescale for issuing a licence

3.4.90 Once a fully completed application has been made the application will be processed and all information provided will be verified and the vehicle tested. The vehicle licence and plates will then be available within 10 working days of the decision that a licence can be granted being taken.

Licence Conditions

3.4.91 The applicable conditions relevant to a private hire vehicle licence are set out at Appendix ?; these conditions must be complied with. These conditions are in addition to any matters set out within the main body of this policy.

3.5 Private Hire Operators Licence

Summary

3.5.1 Operators licences are licensed in accordance with the Local Government (Miscellaneous Provisions) Act 1976. Any person who wishes to take bookings, in the course of a business, for a private hire vehicle, must hold a private hire operator's licence.

3.5.2 Applications for Private Hire Operator Licences can be made by post or by email. Please see Appendix ? for the application process.

Period of Licence

3.5.3 Operators licence will be issued for a period of 5 years unless the Council has reasonable cause to issue for a shorter time period.

Operators Premises

3.5.4 All applicants must have a base within the administrative area of Cheshire East in order to ensure that the Council can inspect the base and associated operator records to check compliance with licence conditions.

3.5.5 The Council will only grant operator licences applicable to the physical premises from which the operator's business will be run.

3.5.6 The Council advises operators to have all necessary planning permissions for the operator base before a licence is granted. Proof of which may be requested as part of the application procedure.

3.5.7 Where the base is accessible to the public, either for booking or waiting, the Council will expect the premises to be clean, adequately ventilated and heated and that all relevant legislation has been complied with, including the Equality Act 2010.

3.5.8 There are a number of specific conditions set out in the operator licence conditions that apply to premises. Operators must be particularly mindful of complying with these and should they fail to do so the Council will consider revoking the operator's licence.

Record Keeping

3.5.9 Operators must keep records in accordance with the conditions attached to their licence. Such records must be available upon request from an authorised officer of the Council or a Police Officer.

3.5.10 Under the conditions, the operator is required to keep a number of different forms of records namely:

- Booking records (to include which member of staff took the booking when the booking was taken by a person and not a computerised method);
- Operator vehicle schedule;
- Operator driver schedule.

Each of these records must be kept up to date and retained by the operator for a period of at least 2 years (as per conditions of licence).

3.5.11 The application form must be fully completed and include all relevant information, supporting documentation and appropriate fee. If any part of the application form is incomplete or the relevant information or supporting documentation or fee is not provided, the applicant will be requested to provide the missing information/documentation and informed that the application will not be processed until such time as all the information/documentation is provided. The full fee for the licence (including the cost of a DBS check and Safeguarding Training, where appropriate is payable at the time the application is submitted.

3.5.12 Any person (including a sole trader, partnership or company) wishing to become a licensed private hire operator must submit:

- i. A completed application form (where the application relates to a partnership or a company, the application form must provide the name, address and date of birth of all partners, directors/company secretaries, as appropriate). A check of the Companies House register may be undertaken to confirm these details;
- ii. A basic standard or enhanced DBS certificate issued within the last 12 months or a DBS certificate registered on the update service (unless also licensed as a driver and have provided an enhanced DBS and update service registration as part of that process); for each director, partner and company secretary;
- iii. A schedule of employees that are not CEC licensed drivers indicating those staff who take bookings and dispatch vehicles;
- iv. A Statutory Declaration detailing the complete history of any criminal and motoring convictions, cautions, reprimands, speed awareness courses and fixed penalty notices including any pending charges and 'spent' convictions;
- v. A Safeguarding Training Certificate for each director, company secretary and employees that are not CEC licensed drivers;
- vi. Details of the policy regarding the employment of ex-offenders;
- vii. The appropriate licence fee
- viii. A list of the vehicles and drivers which are/are to be operated under the operators licence; and
- ix. Any fleet insurance held with an accompanying schedule of vehicles and named drivers disclosed to the insurance company.

Criminal Records Disclosure

3.5.13 All applicants (including sole traders, partnerships and companies) for a private hire operator licence must prove that they are 'fit and proper' to hold an operator licence.

The applicant must also prove that all employees that work for them and who take bookings, dispatch vehicles, or have access to booking records are 'fit and

proper' to be employed in such positions. They must provide evidence that they have seen a basic DBS for each employee who are not CEC licensed driver and also evidence that it is a condition of their employment that they will inform the employer of any criminal convictions they receive during their employment.

3.5.14 Where the applicant or employee already holds a valid dual driver licence issued by CEC (this will only apply to sole traders as individuals) a check will be made on the DBS update service. If the driver is not registered on the DBS update service then they will be required to submit a Basic DBS certificate. If the applicant is not a licensed driver then they will be required to submit a Basic DBS certificate.

3.5.15 For partnerships or companies, the above requirements will apply to all partners and directors/company secretaries.

3.5.16 The Council adopts the same principles when determining whether an applicant is a 'fit and proper person' to hold a private hire operator licence as it does to persons applying for a drivers licence. In this respect, applicants are required to have due regard, as appropriate, to the requirements and information set out at paragraph 3.2 of this policy.

3.5.17 Persons who have not been resident within the United Kingdom for the five years prior to submitting an application will be required to produce a certificate of good conduct or equivalent document (at their own cost) issued by the relevant Embassy or High commission. The certificate must be authenticated, translated and sealed by the embassy or High Commission.

Insurance

3.5.18 Any premises that provide access to members of the public must be covered by Public Liability insurance for a minimum of £5,000,000.

3.5.19 If there is a requirement for the operator to have Employers Liability Indemnity then it must be for a minimum of £10,000,000.

3.5.20 For vehicle insurance, the Council will only generally accept original insurance documentation. The exception to that policy is that the Council will accept copy documentation where the Council itself receives an email confirmation of cover direct from the Insurance Company itself and the Council is entirely satisfied as to its validity.

3.5.21 Where the policy is a vehicle fleet policy, confirmation that the vehicle is included on the schedule of vehicles will also be required in addition to the insurance certificate.

Closed Circuit Television (CCTV)

3.5.22 Operators are permitted to install closed circuit television (CCTV) systems in premises to which the public have access to make bookings or to wait providing such systems are installed in accordance with the appropriate legal framework and the Council has been notified, in writing, of their intention to do so. If CCTV is fitted then the operator must prominently display signs indicating that CCTV is in use in the premises. In addition to fitting CCTV signage to the premises the operator is required to be registered as a 'Data Controller' with the Information Commissioners Office (ICO). Further information can be found at <https://ico.org.uk>.

Complaints Procedure

3.5.23 Operators are required to have in place a complaints procedure and must maintain a record of all complaints received, including details of any investigation and/or actions taken as a result of a complaint. This information should be kept for a minimum of two years.

3.5.24 The complaints procedure and complaint records must be made available to an authorised officer of the Council or a Police Officer.

Licence Conditions

3.5.25 Applicable conditions relevant to a private hire operators licence are set out at Appendix ?. These conditions must be complied with at all times.

Contract

3.5.26 Every contract for the hire of a private hire vehicle is deemed to be made with the operator who accepted the booking for that vehicle, not the operator who provided the vehicle.

Sub-Contracting

3.5.27 Where a licensed operator accepts a booking and then is subsequently unable to honour that booking, or should the operator not have a vehicle immediately available, the booking may be sub-contracted to another operator, including an operator licensed by another local authority.

3.5.28 Where this is the case, the original operator must:-

- a) keep a record of the initial booking details for audit purposes.
- b) contact the hirer and advise that the booking can no longer be honoured and seek guidance from the hirer as to whether or not they wish the booking to be sub-contracted to an alternative private hire operator.

- c) identify an alternative private hire operator and advise the original hirer of the details of that alternative operator details.
- d) provide full details of the booking to the alternative private hire operator and keep a record of the private hire operator to whom the booking was sub-contracted.
- e) keep a record of the alternative private hire operator's licence details as follows:
 - i) the name of the issuing authority for the private hire vehicle operator's licence.
 - ii) the licence number of the private hire vehicle operator's licence.
 - iii) the date the private hire vehicle operator's licence was granted by the issuing authority.
 - iv) the date the private hire vehicle operator's licence issued by the issuing authority is due to expire.

Production of records/documents

3.5.29 Any records required to be retained in accordance with the licence must be produced, on request, to any authorised officer of the council or to any police officer. The operator licence must also be produced if requested.

Safeguarding Training

3.5.30 Where the applicant or employee already holds a valid taxi driver licence (this will only apply to sole traders as individuals), no further checks will be undertaken by the Council and the current Safeguarding Training Certificate will be considered sufficient. However, if a valid taxi driver licence is not held, the applicant/employee must attend a Safeguarding Awareness Training prior to an operator licence being granted, including being renewed and employees being permitted to take bookings.

4. Compliance, Enforcement and Complaints

4.1 Summary

4.1.1 This part of the policy sets out the manner in which the Council approaches compliance and enforcement, including the way in which complaints will be dealt with, as it relates to hackney carriage and private hire licensing.

Compliance and Enforcement

4.1.2 The Council's licensing officers will work closely with the hackney carriage and private hire trades to achieve compliance with the relevant legislation and the Council's conditions of licence. The Council will do so in accordance with the Council's Enforcement Policy and Regulatory Services and Health Enforcement Policy, which are available on the Council's website.

In addition, hackney carriage and private hire vehicle drivers and operators must comply with all reasonable requests made by officers of the Council, other local authorities and the police. Obstructing Officers is an offence and the Council will consider enforcement action for such offences.

- 4.1.3 The Council will work closely with other enforcement authorities when dealing with licensed and unlicensed vehicles and drivers, especially concerning cross border related issues.
- 4.1.4 Licence holders are strongly encouraged to cooperate with officers of all other local authorities. Failure to cooperate may lead to the suspension or revocation of their driver's licence.
- 4.1.5 Breaches of the driver code of conduct and/or vehicle and operator licence conditions will be dealt with in accordance with the Council's enforcement policy and will be referred to the duly authorised officer. Serious or repeated breaches of licence conditions will result in the matter being referred to the General Licensing Sub-Committee.

Complaints

- 4.1.6 Where appropriate, complainants will be encouraged to raise complaints directly with the relevant licence holder or business concerned in the first instance. However, the Council will also respond to complaints in line with its Enforcement Policies and will use complaint information to assist in the determination of licensing decisions.
- 4.1.7 The Council will maintain a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licence holders. Data held within the system will be used to target compliance and enforcement activity as well as to provide a picture of the potential risks a licence holder may pose. It will also be used as part of the 'balance of probabilities' assessment required in any licence review undertaken as a result of multiple or serious complaints.

4.2 Enforcement - Policy Statement

- 4.2.1 The Council has an Enforcement Policy which it will taken into account before taking any enforcement action.
- 4.2.2 The Licensing Team must be familiar with the requirements of the policy and appropriate training will be provided, where required.

- 4.2.3 Enforcement Officers will be authorised by the Council to take enforcement action relevant and appropriate to their level of competence. Competency will be assessed individually by reference to qualifications and experience.
- 4.2.4 Where there is a shared enforcement role with other agencies, e.g. the police, we will liaise with and co-operate with them to ensure there is no conflict of interest or unnecessary duplication of enforcement.
- 4.2.5 The Council will investigate all valid complaints with regards to drivers, vehicles and operators/proprietors. It will also do spot checks and undercover checks. Investigations will be focused and targeted on businesses that do not comply and/or in those areas of the Borough where complaints have identified potential problems. Those individuals or businesses will face proportionate and meaningful sanctions. Complaints are frequently made against hackney carriage and private hire drivers. Such complaints will be considered first by a licensing officer as to the nature of the complaint being serious enough to be forwarded to an authorised Officer or the General Licensing Sub-Committee.
- 4.2.6 The authorised officer of the Council/General Licensing Sub-Committee will consider the history of all complaints made against the licence holder to assess any patterns. If a problem is inherent, then the Council will consider whether the licence holder is a 'fit and proper person' to continue to hold such a licence.
- 4.2.7 Complaints may be investigated by way of an interview under caution in compliance with the Police and Criminal Evidence Act 1984.
- 4.2.8 Hackney carriage and private hire and drivers are professional drivers and must be aware of the safety of their passengers and the safety of their vehicles at all times. Any traffic offences show a lack of responsibility whilst driving. The Council expects all licence holders to adhere to the specifications set out in this policy and in any relevant legislation. Any complaints that relate to misconduct will be fully investigated and appropriate action will be taken where deemed necessary.
- 4.2.9 Licence holders are expected to co-operate fully with all requests made of them by an authorised officer of the Council. Failure to do so and/or obstruct an officer in their duty will lead to appropriate action being taken where deemed necessary. This includes, but is not limited to, attending interview and vehicle inspections, and producing documentation upon request.

4.3 Enforcement Options

- 4.3.1 Licence applications and enforcement decisions will always be consistent, balanced, fair and relate to common standards which ensure that the public is adequately protected. In reaching any decision many criteria will be considered including the:

- Seriousness of any offences;
- Driver or operator's past history;
- Consequence of non-compliance;
- Likely effectiveness of the various enforcement options;
- Danger to the public.

Having considered all relevant information and evidence, the choices for action are:

Licensing Applications

- Grant licence subject to the Council's Standard Conditions;
- Grant licence subject to the Council's Standard Conditions and any other reasonable conditions specific to the case;
- Refuse to grant a licence;
- Grant for a limited time period.

Enforcement Action

- Take no action
- Take informal action
- Suspend a licence
- Revoke a licence
- Use simple cautions
- Prosecution

Where an officer is unable to determine an application/licence, where an applicant has declared convictions, or when the Council have become aware of convictions the application/licence may be referred to the General Licensing Sub-Committee. The Council will have regard to the Convictions Guidelines at Appendix?

Information Action

4.3.2 Informal action to secure compliance with legislation includes offering advice, verbal and written warnings and written requests for action. Verbal warnings will be confirmed in writing.

4.3.3 Such information actions may be appropriate in any of the following circumstances:

- The act or omission is not serious enough to warrant more formal action;
- From the individual driver or operator's past history it can be reasonably expected that information action will achieve compliance;
- Confidence in the operator's management is generally high;
- The consequences of non-compliance will not pose a significant risk to the safety of the public;

- Failure to notify of a conviction that would not in itself breach the guidance on determining the suitability outlined in the policy.

Details of any information action will be recorded on the Council's records. This will form part of the history which will be reviewed when considering the appropriate action to take if further enforcement action is prompted. When a licence holder has received three warnings in a 36-month rolling period, their licence will be referred to the General Licensing Sub-Committee to determine whether any further action is required.

Appearance before the General Licensing Sub-Committee

4.3.4 An offending individual or company may be summoned before the General Licensing Sub-Committee to answer allegations of breaches of relevant legislation, or Conditions attached to licences.

The Licensing Sub-Committee have the option of deciding the application on its merits and may:

- Take no action
- Give a formal written warning
- Require the production of driving licences or other specified documentation at the Council's office
- Suspend the licence for a period of time
- Revoke the licence
- Recommend prosecution action

Details of the appeals procedure will be sent out in the written notification of action sent by the Council.

The General Licensing Sub-Committee will have regard to the guidance on convictions shown at Appendix ? of this policy.

Suspension Notices under Section 68 of the Local Government (Miscellaneous Provisions) Act 1976

4.3.5 An authorised officer may serve notice, in writing, for a hackney carriage, private hire vehicle or taximeter attached to a licensed vehicle, requiring the vehicle or taximeter to be examined at the Council's garage at a time specified in the notice.

4.3.6 This notice will only be served having had due regard to the condition of the vehicle or with reasonable grounds to suspect the accuracy of the taximeter. An authorised officer may, in addition to requiring the vehicle to be tested, suspend the vehicle licence until such time as the Officer is satisfied with the condition of the vehicle.

4.3.7 This action will only be taken when the Officer has reasonable grounds to suspect that the condition of the vehicle is not fit for use as a licensed vehicle.

Prosecutions

4.3.8 The decision to prosecute is a significant one. Prosecutions will, in general be restricted to those circumstances where the law is blatantly disregarded, legitimate instructions of the Council are not followed and/or the public is put at serious risk. Such circumstances are, however, in a minority. Decisions to prosecute will be made in a consistent manner and be proportionate to the circumstances.

The circumstances which are likely to warrant prosecution may be characterised by one or more of the following:

- Where there is a blatant disregard for the law, particularly where the economic advantages of breaking the law are substantial and the law-abiding are placed at a disadvantage to those who disregard it;
- When there appears to have been reckless disregard for the safety of passengers or other road users;
- Where there have been repeated breaches of legal requirements;
- Where a particular type of offence is prevalent;
- Where a particular contravention has caused serious public alarm.

Officers will take account of the Council's Enforcement Policy when circumstances have been identified which may warrant a prosecution.

Simple Cautions

4.3.9 A simple caution may be used as an alternative to a prosecution in certain circumstances.

5. Table of Fares

5.1 Cheshire East Council will keep the Table of Fares under review. The Council will respond to reasonable requests to change the table of fares from the hackney carriage trade.

6. Policy Consultation

6.1 Members of the public were invited to put forward their comments to the proposed policy document during a series of consultation periods. In addition consultation was undertaken with the following stakeholders and partners:

- Hackney carriage and private hire operators, drivers and proprietors
- Members of Cheshire East Council's Licensing Committee

- Officers of Cheshire East Council's Legal Services
- Officers of Cheshire East Council's Licensing and Environmental Services
- Cheshire East Council's Garage Vehicle Inspectors
- Cheshire East Council's Partnership team
- Cheshire East Council's Transport Services Team (TSS)
- Cheshire East Council's Safeguarding Children and Adult Safeguarding Services
- Cheshire Police
- Cheshire Fire & Rescue Services
- Guide dogs for the blind

The most recent draft policy was approved to go out to consultation by the General Licensing Sub-Committee on [DATE]. The consultation was for a [x week period] after which the responses were collated, amendments were made where deemed appropriate and the updated policy was referred back to the General Licensing Sub-Committee to be approved.

The General Licensing Sub-Committee agreed to adopt the policy in its current form on [DATE] for it to be implemented on [DATE].

APPENDICES

Appendix A – Safeguarding

Appendix B – Guidance relating to the relevance of convictions, cautions, penalty points etc.

Appendix C - Driver Code of Conduct

Appendix D – Driver Criteria

Appendix E – Hackney Carriage Vehicle Conditions

Appendix F – Plying for Hire

Appendix G – Private Hire Vehicle Conditions

Appendix H Private Hire Operator Conditions

Appendix I Vehicle signage

Appendix J Code of conduct when working with vulnerable persons

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Department
for Transport

Statutory Taxi & Private Hire Vehicle Standards

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1. Introduction

- 1.1 There is evidence to support the view that taxis and private hire vehicles are a high-risk environment. In terms of risks to passengers, this can be seen in abuse and exploitation of children and vulnerable adults facilitated and in some cases perpetrated by the trade and the number of sexual crimes reported which involve taxi and private hire vehicle drivers. Links between the trade and child sexual abuse and exploitation have been established in many areas and other investigations continue. Data on reported sexual assaults by taxi and private hire vehicle drivers evidence the risk to passengers; data from [Greater Manchester](#) and [Merseyside](#) suggest that, if similar offence patterns are applied across England, 623 sexual assaults per year are reported. These figures do not however account for the under reporting of crime which is estimated to be as high as 83 percent in the [Crime Survey for England and Wales](#).
- 1.2 The Policing and Crime Act 2017 enables the Secretary of State for Transport to issue statutory guidance on exercising taxi and private hire vehicle licensing functions to protect children and vulnerable individuals who are over 18 from harm when using these services. For the purposes of this document, a child is defined as anyone who has not yet reached their 18th birthday; and the term “vulnerable individual” has the same meaning as the definition of a ‘vulnerable adult’ for the purpose of section 42 of the [Care Act 2014](#), which applies where a local authority has reasonable cause to suspect that an adult in its area (whether or not ordinarily resident there):
- (a) has needs for care and support (whether or not the authority is meeting any of those needs),
 - (b) is experiencing, or is at risk of, abuse or neglect, and
 - (c) as a result of those needs is unable to protect himself or herself against the abuse or neglect or the risk of it.
- 1.3 Whilst the focus of the Statutory Taxi and Private Hire Vehicle Standards is on protecting children and vulnerable adults, all passengers will benefit from the recommendations contained in it. There is consensus that common core minimum standards are required to regulate better the taxi and private hire vehicle sector, and the recommendations in this document are the result of detailed discussion with the trade, regulators and safety campaign groups. **The Department therefore expects these recommendations to be implemented unless there is a compelling local reason not to.**
- 1.4 It should be noted that as policing and criminal justice is not a devolved matter, the Statutory Taxi and Private Hire Vehicle Standards issued under the Policing and Crime Act 2017 will continue to have effect in Wales although responsibility for taxi and private hire vehicle policy was devolved to the Welsh Assembly in April 2018. Should the Welsh Government introduce legislation to regulate on these issues, the standards in this document would, cease to apply.

- 1.5 All local authorities and district councils that provide children's and other types of services, including licensing authorities, have a statutory duty to make arrangements to ensure that their functions and any services that they contract out to others are discharged having regard to the need to safeguard and promote the welfare of children. This means that licensing authorities should have in place arrangements that reflect the importance of safeguarding and promoting the welfare of children. This includes clear whistleblowing procedures, safe recruitment practices and clear policies for dealing with allegations against people who work with children, as set out in the [Working Together to Safeguard Children](#) statutory guidance.
- 1.6 The Statutory Taxi and Private Hire Vehicle Standards reflect the significant changes in the industry and lessons learned from experiences in local areas since the 2010 version of the Department's Best Practice Guidance. This includes extensive advice on checking the suitability of individuals and operators to be licensed; safeguarding children and vulnerable adults; the Immigration Act 2016 and Common Law Police Disclosure (which replaced the Notifiable Occupations Scheme).
- 1.7 The standards in this document replace relevant sections of the Best Practice Guidance issued by the Department in 2010, where there is a conflict between the Statutory Taxi and Private Hire Vehicle Standards and the Best Practice Guidance the Department issue on taxi and private hire vehicle licensing, the standards in this document take precedence.

Terminology

Taxis are referred to in legislation, regulation and common language as 'hackney carriages', 'black cabs' and 'cabs'. The term '**taxi**' is used throughout this document and refers to all such vehicles. Taxis can be hired immediately by hailing on the street or at a rank.

Private hire vehicles include a range of vehicles including minicabs, executive cars, chauffeur services, limousines and some school and day centre transport services. All private hire vehicle journeys must be pre-booked via a licensed private hire vehicle operator and are subject to a 'triple licensing lock' i.e. the operator fulfilling the booking must use vehicles and drivers licensed by the same authority as that which granted its licence. The term 'private hire vehicle' is used throughout this document to refer to all such vehicles.

2. Consideration of the Statutory Taxi and Private Hire Vehicle Standards

- 2.1 The past failings of licensing regimes must never be repeated. The Department has carefully considered the measures contained in the Statutory Taxi and Private Hire Vehicle Standards and recommend that these should be put in to practice and administered appropriately to mitigate the risk posed to the public. The purpose of setting standards is to protect children and vulnerable adults, and by extension the wider public, when using taxis and private hire vehicles.
- 2.2 The Government set out in the [Modern Crime Prevention Strategy](#) the evidence that where Government, law enforcement, businesses and the public work together on prevention, this can deliver significant and sustained cuts in certain crimes. That is good news for victims and communities and it makes clear economic sense too. Educating the public on the risks of using unlicensed drivers and vehicles, how to identify the licensed trade and appropriate measure to take when using these services will protect help all passengers, more information is annexed to this document (Annex - Staying safe: guidance for passengers).
- 2.3 The Strategy committed to protect children and young people from the risk of child sexual abuse and exploitation (CSAE), by working with local authorities to introduce rigorous taxi and private hire vehicle licensing regimes. Both the [Jay](#) and [Casey](#) reports on CSAE highlighted examples of taxi/private hire vehicle drivers being directly linked to children that were abused, including instances when children were picked up from schools, children's homes or from family homes and abused, or sexually exploited.
- 2.4 The Casey Report made clear that weak and ineffective arrangements for taxi and private hire vehicle licensing had left the children and public at risk. The Department for Transport has worked with the Home Office, Local Government Association (LGA), personal safety charities, trade unions and trade bodies,

holding workshops, forums, and sharing evidence and good practice with local authorities to assist in the setting of the standards.

- 2.5 This document is published by the Secretary of State for Transport under section 177(1) of the Policing and Crime Act 2017 following consultation in accordance with section 177(5).
- 2.6 The document sets out a framework of policies that, under section 177(4), licensing authorities “**must have regard**” to when exercising their functions. These functions include developing, implementing and reviewing their taxi and private hire vehicle licensing regimes. “Having regard” is more than having a cursory glance at a document before arriving at a preconceived conclusion.
- 2.7 “Having regard” to these standards requires public authorities, in formulating a policy, to give considerations the weight which is proportionate in the circumstances. **Given that the standards have been set directly to address the safeguarding of the public and the potential impact of failings in this area, the importance of thoroughly considering these standards cannot be overstated.** It is not a question of box ticking; the standards must be considered rigorously and with an open mind.
- 2.8 Although it remains the case that licensing authorities must reach their own decisions, both on overall policies and on individual licensing matters in light of the relevant law, it may be that the Statutory Taxi and Private Hire Vehicle Standards might be drawn upon in any legal challenge to an authority’s practice, and that any failure to adhere to the standards without sufficient justification could be detrimental to the authority’s defence. **In the interest of transparency, all licensing authorities should publish their consideration of the measures contained in Statutory Taxi and Private Hire Vehicle Standards, and the policies and delivery plans that stem from these.** The Department has undertaken to monitor the effectiveness of the standards in achieving the protection of children and vulnerable adults (and by extension all passengers).
- 2.9 The Statutory Taxi and Private Hire Vehicle Standards does not purport to give a definitive statement of the law and any decisions made by a licensing authority remain a matter for that authority.

3. Administering the Licensing Regime

Licensing policies

- 3.1 The Department recommends all licensing authorities make publicly available a cohesive policy document that brings together all their procedures on taxi and private hire vehicle licensing. This should include but not be limited to policies on convictions, a 'fit and proper' person test, licence conditions and vehicle standards.
- 3.2 When formulating a taxi and private hire vehicle policy, the primary and overriding objective must be to protect the public. The importance of ensuring that the licensing regime protects the vulnerable cannot be overestimated. This was highlighted in the [report by Dame Louise Casey CB](#) of February 2015 on safeguarding failings.

“It will be evident from this report that in many cases the activities of perpetrators take place in spheres which are regulated by the Council – taxis have been the focus of particular concern. Persistent and rigorous enforcement of the regulatory functions available to the council, including the placing of conditions on private hire taxi operator licences where appropriate, would send a strong signal that the trade is being monitored and would curtail the activities of opportunistic perpetrators whereby taxi drivers have solicited children to provide sex in return for cigarettes, alcohol or a fare free ride.”

- 3.3 The long-term devastation caused by CSAE was summarised in the same report:

“Victims suffer from suicidal feelings and often self-harm. Many become pregnant. Some have to manage the emotional consequences of miscarriages and abortions while others have children that they are unable to parent appropriately. The abuse and violence continues to affect victims into adulthood. Many enter violent and abusive relationships. Many suffer poor mental health and addiction.”

- 3.4 Rotherham Metropolitan Borough Council ('Rotherham Council') provides an example of how the systematic review of policies and procedures and the implementation of a plan to drive improvements in practice can result in a well-functioning taxi and private hire vehicle sector that is rebuilding local confidence in the industry. The history of past failings here and elsewhere is well known, but it is the transparency and resolution that Rotherham Council has demonstrated and the high standards they now require that are rebuilding public confidence.
- 3.5 One of the key lessons learned is that it is vital to review policies and reflect changes in the industry both locally and nationally. **Licensing authorities should review their licensing policies every five years, but should also consider interim reviews should there be significant issues arising in their area, and their performance annually.**

Duration of licences

- 3.6 A previous argument against issuing licences for more than a year was that a criminal offence might be committed, and not notified, during this period; this can of course also be the case during the duration of a shorter licence. This risk can be mitigated for drivers by authorities to undertaking regular interim checks. To help authorities monitor licensees' suitability, licensing authorities should engage with their police force to ensure that when the police believe a licensee presents a risk to the travelling public they use their Common Law Police Disclosure powers (see paragraphs 4.9 - 4.11) to advise them.
- 3.7 The Local Government (Miscellaneous Provisions) Act 1976 (as amended) sets a standard length at three years for taxi and private hire vehicle drivers and five years for private hire vehicle operators. Any shorter duration licence should only be issued when the licensing authority thinks it is appropriate in the specific circumstances of the case, if a licensee has requested one or where required (e.g. when the licence holder's leave to remain in the UK is time-limited) or when the licence is only required to meet a short-term demand; they should not be issued on a 'probationary' basis.

Whistleblowing

- 3.8 It is in the application of licensing authority's policies (and the training and raising of awareness among those applying them) that protection will be provided. Where there are concerns that policies are not being applied correctly, it is vital that these can be raised, investigated and remedial action taken if required. **Licensing authorities should have effective internal procedures in place for staff to raise concerns and for any concerns to be dealt with openly and fairly.**

A report into the licensing of drivers by South Ribble Borough Council highlights the implications of not applying the agreed policies. In early August 2015, concerns were raised regarding decisions to renew the licences of drivers where there were potential incidents of child sexual exploitation. An internal review concluded that there had been failings in local investigatory procedures which might have affected the ability of the General Licensing Committee to make proper decisions, and information sharing with the police and data recording was not satisfactory.

- 3.9 The external investigation in South Ribble concluded “that there had been a lack of awareness and priority given to safeguarding and the safety of taxi [and private hire vehicle] passengers in the manner in which licensing issues were addressed”. We are pleased to note that the [report](#) concludes, “The Council have been active at every stage in responding to issues and concerns identified. It has taken steps to address operational issues in the licensing function and has engaged fully with other agencies in so doing. In the light of the above, it is not necessary to make any further recommendations.”
- 3.10 It is hoped that all licensing authorities will have learnt from these mistakes but to prevent a repeat, **local authorities should ensure they have an effective ‘whistleblowing’ policy and that all staff are aware of it.** If a worker is aware of, and has access to, effective internal procedures for raising concerns then ‘whistleblowing’ is unlikely to be needed.
- 3.11 The Public Interest Disclosure Act 1998 (PIDA), commonly referred to as whistleblowing legislation, provides protection for those that have a reasonable belief of serious wrongdoing, including failure to comply with professional standards, council policies or codes of practice/conduct. The PIDA is part of employment law. In the normal course of events, if a worker reveals information that his employer does not want revealed it may be a disciplinary offence. If someone leaked their employer’s confidential information to the press, they might expect to be dismissed for that. The PIDA enables workers who ‘blow the whistle’ about wrongdoing to complain to an employment tribunal if they are dismissed or suffer any other form of detriment for doing so. It is a qualified protection and certain conditions would have to be met for the worker to be protected. More information is available online for [employees](#) and [employers](#):

Consultation at the local level

- 3.12 Licensing authorities should consult on proposed changes in licensing rules that may have significant impacts on passengers and/or the trade. Such consultation should include not only the taxi and private hire vehicle trades but also groups likely to be the trades’ customers. Examples are groups representing disabled people, Chambers of Commerce, organisations with a wider transport interest (e.g. the Campaign for Better Transport and other transport providers), women’s groups, local traders, and the local multi-agency safeguarding arrangements. It may also be helpful to consult with night-time economy groups (such as Pubwatch) if the trade is an important element of dispersal from the local night-time economy’s activities.
- 3.13 Any decision taken to alter the licensing regime is likely to have an impact on the operation of the taxi and private hire vehicle sector in neighbouring areas; and **licensing authorities should engage with these areas to identify any concerns and issues that might arise from a proposed change.** Many areas convene regional officer consultation groups or, more formally, councillor liaison meetings; this should be adopted by all authorities.

Changing licensing policy and requirements

- 3.14 **Any changes in licensing requirements should be followed by a review of the licences already issued.** If the need to change licensing requirements has been identified, this same need is applicable to those already in possession of a licence. That is not however to suggest that licences should be automatically revoked overnight, for example if a vehicle specification is changed it is proportionate to allow those that would not meet the criteria to have the opportunity to adapt or change their vehicle. The same pragmatic approach should be taken to driver licence changes - if requirements are changed to include a training course or qualification, a reasonable time should be allowed for this to be undertaken or gained. The implementation schedule of any changes that affect current licence holders must be transparent and communicated promptly and clearly.
- 3.15 Where a more subjective change has been introduced, for example an amended policy on previous convictions, a licensing authority must consider each case on its own merits. Where there are exceptional, clear and compelling reasons to deviate from a policy, licensing authorities should consider doing so. Licensing authorities should record the reasons for any deviation from the policies in place.

4. Gathering and Sharing Information

- 4.1 Licensing authorities must consider as full a range of information available to them when making a decision whether to grant a licence and to meet their ongoing obligation to ensure a licensee remains suitable to hold a licence.

The Disclosure and Barring Service

- 4.2 The Disclosure and Barring Service (DBS) provides access to criminal record information through its disclosure service for England and Wales. The DBS also maintains the lists of individuals barred from working in regulated activity with children or adults. The DBS makes independent barring decisions about people who have harmed, or where they are considered to pose a risk of harm to a child or vulnerable person within the workplace. The DBS enables organisations in the public, private and voluntary sectors to make safer employment decisions by identifying candidates who may be unsuitable for certain work, especially that which involves vulnerable groups including children.
- 4.3 Enhanced certificates with a check of the barred lists include details of spent and unspent convictions recorded on the Police National Computer (PNC), any additional information which a chief officer of police believes to be relevant and ought to be disclosed, as well as indicating whether the individual is barred from working in regulated activity with children or adults. Spent convictions and cautions are disclosed on standard and enhanced certificates according to rules set out in legislation. Convictions which resulted in a custodial sentence, and convictions or cautions for a specified serious offence such as those involving child sexual abuse will always be disclosed on a standard or enhanced certificate. Full details of the disclosure rules, and those offences which will always be disclosed, are available from the [DBS](#). As well as convictions and cautions, an enhanced certificate may include additional information which a chief police officer reasonably believes is relevant and ought to be disclosed. Chief police officers must have regard to the [statutory guidance](#) issued by the Home Office when considering disclosure. A summary of the information provided at each level of DBS checks is annexed to this document (Annex – Disclosure and Barring Service information).
- 4.4 It should be noted that licensing authorities must not circumvent the DBS process and seek to obtain details of previous criminal convictions and other information that may not otherwise be disclosed on a DBS certificate. Whilst data protection legislation (not just the Data Protection Act 2018 or General Data Protection Regulation (GDPR)) gives individuals (or data subjects) a 'right of access' to the personal data that an organisation holds about them, it is a criminal offence to require an individual to exercise their subject access rights so as to gain information about any convictions and cautions. This could potentially lead to the authority receiving information to which it is not entitled. The appropriate way of accessing an individual's criminal records is through an enhanced DBS and barred lists check.

The Disclosure and Barring Service Update Service

- 4.5 Subscription to the DBS Update Service allows those with standard and enhanced certificates to keep these up to date online and, with the individual's consent, allows nominees to check the status of a certificate online at any time. Subscription to the service removes the need for new certificates to be requested, reduces the administrative burden and mitigates potential delays in relicensing.
- 4.6 The DBS will search regularly to see if any relevant new information has been received since the certificate was issued. The frequency varies depending on the type of information; for criminal conviction and barring information, the DBS will search for updates on a weekly basis. For non-conviction information, the DBS will search for updates every nine months.
- 4.7 Licensing authorities are able to request large numbers of status checks on a daily basis. The DBS has developed a Multiple Status Check Facility (MSCF) that can be accessed via a web service. The MSCF enables organisations to make an almost unlimited number of Status Checks simultaneously. Further information on the MSCF is available from the [DBS](#).
- 4.8 Should the MSCF advise that new information is available the DBS certificate should no longer be relied upon and a new DBS certificate requested.

Common Law Police Disclosure

- 4.9 The DBS is not the only source of information that should be considered as part of a fit and proper assessment for the licensing of taxi and private hire vehicle drivers. Common Law Police Disclosure ensures that where there is a public protection risk, the police will pass information to the employer or regulatory body to allow them to act swiftly to mitigate any danger.
- 4.10 Common Law Police Disclosure replaced the Notifiable Occupations Scheme (NOS) in March 2015 and focuses on providing timely and relevant information which might indicate a public protection risk. Information is passed on at arrest or charge, rather than on conviction which may be some time after, allowing any measures to mitigate risk to be put in place immediately.
- 4.11 This procedure provides robust safeguarding arrangements while ensuring only relevant information is passed on to employers or regulatory bodies. **Licensing authorities should maintain close links with the police to ensure effective and efficient information sharing procedures and protocols are in place and are being used.**

Licensee self-reporting

- 4.12 Licence holders should be required to notify the issuing authority within 48 hours of an arrest and release, charge or conviction of any sexual offence, any offence involving dishonesty or violence and any motoring offence. An arrest for any of the offences within this scope should result in a review by the issuing authority as to whether the licence holder is fit to continue to do so. This must not

however be seen as a direction that a licence should be withdrawn; it is for the licensing authority to consider what, if any, action in terms of the licence should be taken based on the balance of probabilities. Should an authority place an obligation on licensees to notify under these circumstances, authorities should also ensure appropriate procedures are in place to enable them to act in a suitable timeframe if and when needed.

- 4.13 Importantly, a failure by a licence holder to disclose an arrest that the issuing authority is subsequently advised of might be seen as behaviour that questions honesty and therefore the suitability of the licence holder regardless of the outcome of the initial allegation.

Referrals to the Disclosure and Barring Service and the Police

- 4.14 In some circumstances it may be appropriate under the Safeguarding Vulnerable Groups Act 2006 for licensing authorities to make referrals to the DBS. **A decision to refuse or revoke a licence as the individual is thought to present a risk of harm to a child or vulnerable adult, should be referred to the DBS.** The power for the licensing authority to make a referral in this context arises from the undertaking of a safeguarding role. Further guidance has been provided by the [DBS](#).

- 4.15 The Department recommends that licensing authorities should make a referral to the DBS when it is thought that:

- an individual has harmed or poses a risk of harm to a child or vulnerable adult;
- an individual has satisfied the '[harm test](#)'; or
- received a caution or conviction for a relevant offence and;
- the person they are referring is, has or might in future be working in regulated activity;

if the above conditions are satisfied, the DBS may consider it appropriate for the person to be added to a barred list.

- 4.16 These referrals may result in the person being added to a barred list and enable other licensing authorities to consider this should further applications to other authorities be made. Further information on referrals to DBS is [available](#).

Working with the Police

- 4.17 The police are an invaluable source of intelligence when assessing whether a licensing applicant is a 'fit and proper' person. It is vital that licensing authorities have a partnership with the police service to ensure that appropriate information is shared as quickly as possible. As part of building an effective working relationship between the licensing authority and the police, **action taken by the licensing authority as a result of information received should be fed-back to the police.** Increasing the awareness among police forces of the value licensing authorities place on the information received, particularly on non-conviction intelligence, will assist furthering these relationships and reinforce the benefits of greater sharing of information.
- 4.18 This relationship can be mutually beneficial, assisting the police to prevent crime. The police can gain valuable intelligence from drivers and operators, for example, the identification of establishments that are selling alcohol to minors or drunks, or the frequent transportation of substance abusers to premises.
- 4.19 To aid further the quality of the information available to all parties that have a safeguarding duty, a revocation or refusal on public safety grounds should also be advised to the police.

Sharing licensing information with other licensing authorities

- 4.20 As has been stated elsewhere in this document, obtaining the fullest information minimises the doubt as to whether an applicant or licensee is 'fit and proper'. An obvious source of relevant information is any previous licensing history. **Applicants and licensees should be required to disclose if they hold or have previously held a licence with another authority. An applicant should also be required to disclose if they have had an application for a licence refused, or a licence revoked or suspended by any other licensing authority.** Licensing authorities should explicitly advise on their application forms that making a false statement or omitting to provide the information requested may be a criminal offence.
- 4.21 The LGA's Councillors' [Handbook on taxi and private hire vehicle licensing](#) advises that those responsible for licensing should "*communicate regularly with licensing committees and officers in neighbouring councils to ensure critical information is shared and that there is a consistency and robustness in decision-making. By working together, local government can make sure that this vital service is safe, respected, and delivering for local communities.*". While this approach may aid consistency and robustness in decision-making within regions, it has obvious inherent limitations as it is unlikely such protocols could be established between all licensing authorities. The LGA commissioned the National Anti-Fraud Network to develop a national register of taxi and private hire vehicle driver licence refusals and revocations (the register is known as 'NR3'). **Tools such as NR3 should be used by licensing authorities to share information on a more consistent basis to mitigate the risk of non-disclosure of relevant information by applicants.**

- 4.22 For these processes to be beneficial, all licensing authorities must keep a complete and accurate record as to the reasons for refusal, suspension or revocation of a licence in order that this might be shared if requested and appropriate to do so.
- 4.23 Data protection legislation provides exemption from the rights of data subjects for the processing of personal data in connection with regulatory activities. This includes taxi and private hire vehicle licensing. The exemption applies only to information processed for the core regulatory activities of appropriate organisations; it may not be used in a blanket manner. The exemption applies only to the extent that the application of the rights of data subjects to the information in question would be likely to prejudice the proper discharge of the regulatory functions. The Information Commissioner's Office has published [guidance](#) to assist organisations to fully understand their obligations and suggest good practice.
- 4.24 If notification under paragraph 4.20 or 4.21 of a refused or revoked licence is disclosed, the relevant licensing authority should be contacted to establish when the licence was refused, suspended or revoked and the reasons why. In those circumstances, the relevant licensing authority must consider whether it should disclose any information in relation to the previous decision, consistent with its obligations under data protection legislation. If information is disclosed, it can then be taken into account in determining the applicant's fitness to be licensed. The relevance of the reason for refusing/revoking a licence must be considered. For example, if any individual was refused a licence for failing a local knowledge test, it does not have any safeguarding implications. Conversely, a revocation or refusal connected to indecency would. Licensing authorities should not simply replicate a previous decision, authorities must consider each application on its own merits and with regard to its own policies.
- 4.25 Should a licensing authority receive information that a licence holder did not disclose the information referred to in paragraph 4.20, for example by checking the NR3 register, the authority should consider whether the non-disclosure represents dishonesty and should review whether the licence holder remains 'fit and proper'.

Multi-agency Safeguarding Hub (MASH)

- 4.26 Multi-Agency Safeguarding Hubs are a way to improve the safeguarding response for children and vulnerable adults through better information sharing and high quality and timely safeguarding responses. MASHs (or similar models) should operate on three common principles: information sharing, joint decision making and coordinated intervention.
- 4.27 The Home Office report on [Multi Agency Working and Information Sharing](#) recommended that effective multi-agency working still needs to become more widespread. The Children's Commissioner's 2013 [Inquiry into Child Sexual Exploitation in Gangs and Groups](#) found that both police and local authorities still identified the inability to share information as a key barrier to safeguarding children from sexual abuse and exploitation.

- 4.28 All licensing authorities should operate or establish a means to facilitate the objectives of a MASH (i.e. the sharing of necessary and relevant information between stakeholders). As has been emphasised throughout this document, one of the most effective ways to minimise the risk to children and vulnerable adults when using taxis and private hire vehicles is to ensure that decisions on licensing individuals are made with the fullest knowledge possible.

Complaints against licensees

- 4.29 Complaints about drivers and operators provide a source of intelligence when considering the renewal of a licence or to identify problems during the period of the licence. Patterns of behaviour such as complaints against drivers, even when they do not result in further action in response to an individual complaint, may be indicative of characteristics that raise doubts over the suitability to hold a licence. **All licensing authorities should have a robust system for recording complaints, including analysing trends across all licensees as well as complaints against individual licensees.** Such a system will help authorities to build a fuller picture of the potential risks an individual may pose and may tip the 'balance of probabilities' assessment that licensing authorities must take.
- 4.30 Licensees with a high number of complaints made against them should be contacted by the licensing authority and concerns raised with the driver and operator (if appropriate). Further action in terms of the licence holder must be determined by the licensing authority, which could include no further action, the offer of training, a formal review of the licence, or formal enforcement action.
- 4.31 To ensure that passengers know who to complain to, licensing authorities should produce guidance for passengers on making complaints directly to the licensing authority that should be available on their website. Ways to make complaint to the authority should be displayed in all licensed vehicles. This is likely to result in additional work for the licensing authority but has the advantage of ensuring consistency in the handling of complaints. Currently, it is more likely that a complaint against a taxi driver would be made directly to the licensing authority whereas a complaint against a private hire vehicle driver is more likely to be made to the operator. An effective partnership in which operators can share concerns regarding drivers is also encouraged.
- 4.32 Importantly, this approach will assist in the directing of complaints and information regarding the behaviour of drivers who may be carrying a passenger outside of the area in which the driver is licensed to the authority that issued the licence. In order for this to be effective licensing authorities must ensure that drivers are aware of a requirement to display information on how to complain and take appropriate sanctions against those that do not comply with this requirement.
- 4.33 In terms of investigating complaints CCTV footage of an incident can provide an invaluable insight, providing an 'independent witness' to an event. This can assist in the decision whether to suspend or revoke a licence. The potential benefits of mandating CCTV in vehicles is discussed in paragraphs 7.7 - 7.12.

Overseas convictions

- 4.34 The DBS cannot access criminal records held overseas, only foreign convictions that are held on the Police National Computer may, subject to the disclosure rules, be disclosed. Therefore, a DBS check may not provide a complete picture of an individual's criminal record where there have been periods living or working overseas; the same applies when an applicant has previously spent an extended period (three or more continuous months) outside the UK. It should however be noted that some countries will not provide an 'Certificate of Good Character' unless the individual has been resident for six months or more
- 4.35 Licensing authorities should seek or require applicants to provide where possible criminal records information or a 'Certificate of Good Character' from overseas in this circumstance to properly assess risk and support the decision-making process (. It is the character of the applicant as an adult that is of particular interest, therefore an extended period outside the UK before the age of 18 may be less relevant. As with all licensing decisions, each case must be considered on its own merits. For information on applying for overseas criminal record information or 'Certificates of Good Character' please see the Home Office [guidance](#).
- 4.36 Where an individual is aware that they have committed an offence overseas which may be equivalent to those listed in the annex to this document (Annex – Assessment of previous convictions), licensing authorities should advise the applicant to seek independent expert or legal advice to ensure that they provide information that is truthful and accurate.

5. Decision Making

Administration of the licensing framework

- 5.1 A policy is only effective if it is administered properly. The taxi and private hire vehicle licensing functions of local councils are non-executive functions i.e. they are functions of the council rather than the executive (such as the Cabinet). The functions include the determination of licence applications, reviews and renewals, along with the attachment of conditions when considered appropriate. The function may be delegated to a committee, a sub-committee or an officer – which should be set out within a clear scheme of delegation. In London the taxi and private hire vehicle licensing function is undertaken by Transport for London.
- 5.2 Licensing authorities should ensure that all individuals that determine whether a licence is issued or refused are adequately resourced to allow them to discharge the function effectively and correctly.

Training decision makers

- 5.3 **All individuals that determine whether a licence is issued should be required to undertake sufficient training.** As a minimum, training for a member of a licensing committee should include: licensing procedures, natural justice, understanding the risks of CSAE, disability and equality awareness and the making of difficult and potentially controversial decisions. Training should not simply relate to procedures, but should include the use of case study material to provide context and real scenarios. All training should be formally recorded by the licensing authority and require a signature from the person that has received the training. Training is available from a number of organisations including the Institute of Licensing and Lawyers in Local Government; the LGA may also be able to assist in the development of training packages.
- 5.4 Public safety is the paramount consideration but the discharge of licensing functions must be undertaken in accordance with the following general principles:
- policies should be used as internal guidance, and should be supported by a member/officer code of conduct.
 - any implications of the Human Rights Act should be considered.
 - the rules of natural justice should be observed.
 - decisions must be reasonable and proportionate.
 - where a hearing is required it should be fairly conducted and allow for appropriate consideration of all relevant factors.
 - decision makers must avoid bias (or even the appearance of bias) and predetermination.
 - data protection legislation.

5.5 When a decision maker has a prejudicial interest in a case, whether it be financial or a personal relationship with those involved they should declare their interest at the earliest opportunity; this must be prior to any discussions or votes and, once declared, they must leave the room for the duration of the discussion or vote.

The regulatory structure

5.6 It is recommended that councils operate with a Regulatory Committee or Board that is convened at periodic intervals to determine licensing matters, with individual cases being considered by a panel of elected and suitably trained councillors drawn from a larger Regulatory Committee or Board. This model is similar to that frequently adopted in relation to other licensing matters. To facilitate the effective discharge of the functions, less contentious matters can be delegated to appropriately authorised council officers via a transparent scheme of delegation.

5.7 It is considered that this approach also ensures the appropriate level of separation between decision makers and those that investigate complaints against licensees, and is the most effective method in allowing the discharge of the functions in accordance with the general principles referred to in 5.4. In particular, the Committee/Board model allows for:

- Each case to be considered on its own merits. It is rare for the same councillors to be involved in frequent hearings – therefore the councillors involved in the decision making process will have less knowledge of previous decisions and therefore are less likely to be influenced by them. Oversight and scrutiny can be provided in relation to the licensing service generally, which can provide independent and impartial oversight of the way that the functions are being discharged within the authority.
- Clear separation between investigator and the decision maker – this demonstrates independence, and ensures that senior officers can attempt to resolve disputes in relation to service actions without the perception that this involvement will affect their judgement in relation to decisions made at a later date.

5.8 Avoidance of bias or even the appearance of bias is vital to ensuring good decisions are made and instilling and/or maintaining confidence in the licensing regime by passengers and licensees.

5.9 Unlike officers, elected members are not usually involved in the day to day operation of the service and as such do not have relationships with licence holders that may give the impression that the discharge of a function is affected by the relationship between the decision maker and the licence holder.

5.10 Some licensing authorities may decide to operate a system whereby all matters are delegated to a panel of officers; however, this approach is not recommended and caution should be exercised. Decisions must be, and be seen to be, made objectively, avoiding any bias. In addition, it may be more difficult to demonstrate compliance with the principles referred to above due to the close

connection between the officers on the panel, and those involved in the operational discharge of the licensing functions.

- 5.11 Whether the structure proposed is introduced or an alternative model is more appropriate in local circumstances, the objective should remain the same - to separate the investigation of licensing concerns and the management of the licence process. Regardless of which approach is adopted, **all licensing authorities should consider arrangements for dealing with serious matters that may require the immediate revocation of a licence.** It is recommended that this role is delegated to a senior officer/manager with responsibility for the licensing service.

Fit and proper test

- 5.12 Licensing authorities have a duty to ensure that any person to whom they grant a taxi or private hire vehicle driver's licence is a 'fit and proper' person to be a licensee. It may be helpful when considering whether an applicant or licensee is fit and proper to pose oneself the following question:

Without any prejudice, and based on the information before you, would you allow a person for whom you care, regardless of their condition, to travel alone in a vehicle driven by this person at any time of day or night?

- 5.13 If, on the balance of probabilities, the answer to the question is 'no', the individual should not hold a licence.
- 5.14 Licensing authorities have to make difficult decisions but (subject to the points made in paragraph 5.4) the safeguarding of the public is paramount. All decisions on the suitability of an applicant or licensee should be made on the balance of probability. This means that an applicant or licensee should not be 'given the benefit of doubt'. If the committee or delegated officer is only "50/50" as to whether the applicant or licensee is 'fit and proper', they should not hold a licence. The threshold used here is lower than for a criminal conviction (that being beyond reasonable doubt) and can take into consideration conduct that has not resulted in a criminal conviction.

Criminal convictions and rehabilitation

- 5.15 In considering an individual's criminal record, licensing authorities must consider each case on its merits, but they should take a particularly cautious view of any offences against individuals with special needs, children and other vulnerable groups, particularly those involving violence, those of a sexual nature and those linked to organised crime. In order to achieve consistency, and to mitigate the risk of successful legal challenge, licensing authorities should have a clear policy for the consideration of criminal records. This should include, for example, which offences would prevent an applicant from being licenced regardless of the period elapsed in all but truly exceptional circumstances. In the case of lesser offences, a policy should consider the number of years the authority will require to have elapsed since the commission of particular kinds of offences before they will grant a licence.

- 5.16 Annexed to this document are the Department's recommendations on the assessment of previous convictions (Annex – Assessment of previous convictions). This draws on the work of the Institute of Licensing, in partnership with the LGA, the National Association of Licensing Enforcement Officers (NALEO) and Lawyers in Local Government, in publishing its guidance on determining the suitability of taxi and private hire vehicle licensees.
- 5.17 These periods should be taken as a starting point in considering whether a licence should be granted or renewed in all cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain a licence. Authorities are however reminded that applicants are entitled to a fair and impartial consideration of their application.

6. Driver Licensing

Criminality checks for drivers

- 6.1 Licensing authorities are entitled to request an enhanced criminal record certificate with check of the barred lists from the DBS for all driver licence holders or applicants. The DfT's 2019 [survey of taxi and private hire vehicle licensing authorities](#) shows that all licensing authorities in England and Wales have a requirement that an enhanced DBS check is undertaken at first application or renewal.
- 6.2 All individuals applying for or renewing a taxi or private hire vehicle drivers licence licensing authorities should carry out a check of the children and adult Barred Lists in addition to being subject to an enhanced DBS check (in section x61 of the DBS application 'Other Workforce' should be entered in line 1 and 'Taxi Licensing' should be entered at line 2). All licensed drivers should also be required to evidence continuous registration with the DBS update service to enable the licensing authority to routinely check for new information every six months. Drivers that do not subscribe up to the Update Service should still be subject to a check every six months.
- 6.3 Driving a taxi or private hire vehicle is not, in itself, a regulated activity for the purposes of the barred list. This means that an individual subject to barring would not be legally prevented from being a taxi or private hire vehicle driver but the licensing authority should take an individual's barred status into account alongside other information available. **In the interests of public safety, licensing authorities should not, as part of their policies, issue a licence to any individual that appears on either barred list.** Should a licensing authority consider there to be exceptional circumstances which means that, based on the balance of probabilities they consider an individual named on a barred list to be 'fit and proper', the reasons for reaching this conclusion should be recorded.
- 6.4 Drivers working under an arrangement to transport children may be working in 'regulated activity' as defined by the [Safeguarding Vulnerable Groups Act 2006](#). It is an offence to knowingly allow a barred individual to work in regulated activity. The [guidance on home-to-school travel and transport](#) issued by the Department for Education should be considered alongside this document. Please see [guidance](#) on driver DBS eligibility and how to apply.

Safeguarding awareness

- 6.5 Licensing authorities should consider the role that those in the taxi and private hire vehicle industry can play in spotting and reporting the abuse, exploitation or neglect of children and vulnerable adults. As with any group of people, it is overwhelmingly the case that those within the industry can be an asset in the detection and prevention of abuse or neglect of children and vulnerable adults. However, this is only the case if they are aware of and alert to the signs of potential abuse and know where to turn to if they suspect that a child or vulnerable adult is at risk of harm or is in immediate danger.

6.6 All licensing authorities should provide safeguarding advice and guidance to the trade and should require taxi and private hire vehicle drivers to undertake safeguarding training. This is often produced in conjunction with the police and other agencies. These programmes have been developed to help drivers and operators:

- provide a safe and suitable service to vulnerable passengers of all ages;
- recognise what makes a person vulnerable; and
- understand how to respond, including how to report safeguarding concerns and where to get advice.

6.7 Since 2015, the Department for Education (DfE) has run a nationwide campaign – *‘Together, we can tackle child abuse’* which aims to increase public understanding of how to recognise the signs to spot and encourage them to report child abuse and neglect. The DfE continues to promote and raise awareness of the campaign materials through its [online toolkit](#), for local authorities, charities and organisations for use on their social media channels.

‘County lines’ exploitation

6.8 County lines is a term used to describe gangs and organised criminal networks involved in exporting illegal drugs (primarily crack cocaine and heroin) into one or more importing areas [within the UK], using dedicated mobile phone lines or other form of “deal line”.

6.9 Exploitation is an integral part of the county lines offending model with children and vulnerable adults exploited to transport (and store) drugs and money between locations. Children aged between 15-17 make up the majority of the vulnerable people involved in county lines, but they may also be much younger. We know that both girls and boys are groomed and exploited and offenders will often use coercion, intimidation, violence (including sexual violence) and weapons to ensure compliance of victims. Children exploited by county lines gangs may have vulnerabilities besides their age, such as broader mental health issues, disrupted or chaotic homes, substance misuse issues, being excluded from school or frequently going missing.

6.10 The National Crime Agency’s 2018 county lines threat assessment set out that the national road network is key to the transportation of county lines victims, drugs and cash; with hire vehicles being one of the methods used for transportation between locations.

6.11 Safeguarding awareness training should include the ways in which drivers can help to identify county lines exploitation. Firstly, they should be aware of the following warning signs:

- Children and young people travelling in taxis or private hire vehicles alone;

- travelling at unusual hours (during school time, early in the morning or late at night);
- travelling long distances;
- unfamiliar with the local area or do not have a local accent;
- paying for journeys in cash or prepaid.

6.12 The Home Office is working with partners to raise awareness of county lines and has provided [material](#) to help taxi and private vehicle hire staff to identify victims and report concerns to protect those exploited through this criminal activity.

6.13 Drivers (or any person) should be aware of what to do if they believe a child or vulnerable person is at risk of harm. If the risk is immediate they should contact the police otherwise they should:

- use the local safeguarding process, the first step of which is usually to contact the safeguarding lead within the local authority;
- call Crime Stoppers on 0800 555 111.

Language proficiency

6.14 A lack of language proficiency could impact on a driver's ability to understand written documents, such as policies and guidance, relating to the protection of children and vulnerable adults and applying this to identify and act on signs of exploitation. Oral proficiency will be of relevance in the identification of potential exploitation through communicating with passengers and their interaction with others.

6.15 A licensing authority's test of a driver's proficiency should cover both oral and written English language skills to achieve the objectives stated above.

7. Vehicle Licensing

7.1 As with driver licensing, the objective of vehicle licensing is to protect the public, who trust that the vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those granted a vehicle licence also pose no threat to the public and have no links to serious criminal activity. Although vehicle proprietors may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the licensing regime.

Criminality checks for vehicle proprietors

7.2 Enhanced DBS and barred list checks are not available for vehicle licensing. **Licensing authorities should require a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the ‘fit and proper’ threshold.

7.3 However, it is important that authorities acknowledge that in many cases individuals that license a vehicle may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking to licence a vehicle to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately.

7.4 A refusal to license an individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a vehicle or private hire vehicle operator licence; these decisions must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant’s full consent has been given.

7.5 Private hire vehicle operator and vehicle licences may be applied for by a company or partnership; licensing authorities should apply the ‘fit and proper’ test to each of the directors or partners in that company or partnership. For this to be effective private hire vehicle operators and those to whom a vehicle licence should be required to advise the licensing authority of any change in directors or partners.

7.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas so other checks must be considered where and applicant has lived or worked overseas (see paragraph 4.34 - 4.36).

In-vehicle visual and audio recording – CCTV

7.7 Government has acknowledged the potential risk to public safety when passengers travel in taxis and private hire vehicles. It is unfortunately the case that no matter how complete the information available to licensing authorities is when assessing whether to issue any taxi or private hire vehicle licence, nor how robust the policies in place are and the rigor with which they are applied, it will never completely remove the possibility of harm to passengers by drivers.

7.8 The Department's view is that CCTV can provide additional deterrence to prevent this and investigative value when it does. The use of CCTV can provide a safer environment for the benefit of taxi/private hire vehicle passengers and drivers by:

- deterring and preventing the occurrence of crime;
- reducing the fear of crime;
- assisting the police in investigating incidents of crime;
- assisting insurance companies in investigating motor vehicle accidents.

7.9 All licensing authorities should consult to identify if there are local circumstances which indicate that the installation of CCTV in vehicles would have either a positive or an adverse net effect on the safety of taxi and private hire vehicle users, including children or vulnerable adults, and taking into account potential privacy issues.

7.10 While only a small minority of licensing authorities have so far mandated all vehicles to be fitted with CCTV systems, the experience of those authorities that have has been positive for both passengers and drivers. In addition, the evidential benefits of CCTV may increase the level of reporting of sexual offences. According to the [Crime Survey for England and Wales](#) only 17 percent of victims report their experiences to the police, 28 percent of rape or sexual assault victims indicated that a fear they would not be believed as a factor in them not reporting the crime. The evidential benefits CCTV could provide are therefore an important factor when considering CCTV in vehicles.

7.11 The mandating of CCTV in vehicles may deter people from seeking a taxi or private hire vehicle licence with the intent of causing harm. Those that gain a licence and consider perpetrating an opportunistic attack against a vulnerable unaccompanied passenger may be deterred from doing so. It is however unfortunately the case that offences may still occur even with CCTV operating.

7.12 CCTV systems that are able to record audio as well as visual data may also help the early identification of drivers that exhibit inappropriate behaviour toward passengers. Audio recording should be both overt (i.e. all parties should be aware when recordings are being made) and targeted (i.e. only when passengers (or

drivers) consider it necessary). The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button.

- 7.13 Imposition of a blanket requirement to attach CCTV as a condition to a licence is likely to give rise to concerns about the proportionality of such an approach and will therefore require an appropriately strong justification and must be kept under regular review. More information and guidance on assessing the impacts of CCTV and on an authority mandating CCTV is annexed to this document (Annex – CCTV guidance).

Stretched Limousines

- 7.14 Licensing authorities are sometimes asked to license small (those constructed or adapted to carry fewer than nine passengers) limousines as private hire vehicles, these vehicles may be used for transport to 'school proms' as well as for adult bookings. It is suggested that licensing authorities should approach such requests on the basis that these vehicles – where they have fewer than nine passenger seats - have a legitimate role to play in the private hire trade, meeting a public demand. It is the Department's view that it is not a legitimate course of action for licensing authorities to adopt policies that exclude limousines as a matter of principle thereby excluding these services from the scope of the private hire vehicle regime and the safety benefits this provides. A blanket policy of excluding limousines may create an unacceptable risk to the travelling public, as it may lead to higher levels of unsupervised operation. Public safety considerations are best supported by policies that allow respectable, safe operators to obtain licences on the same basis as other private hire vehicle operators.
- 7.15 Stretched large limousines which clearly seat more than eight passengers should not be licensed as private hire vehicles because they are outside the licensing regime for private hire vehicles. However, in some circumstances a vehicle with space for more than eight passengers can be licensed as a private hire vehicle where the precise number of passenger seats is hard to determine. In these circumstances, the authority should consider the case on its merits in deciding whether to license the vehicle under the strict condition that the vehicle will not be used to carry more than eight passengers, bearing in mind that refusal may encourage illegal private hire operation.

8. Private Hire Vehicle Operator Licensing

8.1 As with driver licensing, the objective in licensing private hire vehicle operators is to protect the public, who may be using operators' premises and trusting that the drivers and vehicles dispatched are above all else safe. It is important therefore that licensing authorities are assured that those that are granted a private hire vehicle operator also pose no threat to the public and have no links to serious criminal activity. Although private hire vehicle operators may not have direct contact with passengers, they are still entrusted to ensure that the vehicles and drivers used to carry passengers are appropriately licensed and so maintain the safety benefits of the driver licensing regime.

Criminality checks for private hire vehicle operators

8.2 Enhanced DBS and barred list checks are not available for private hire vehicle operator licensing. **Licensing authorities should request a basic disclosure from the DBS and that a check is undertaken annually.** Any individual may apply for a basic check and the certificate will disclose any unspent convictions recorded on the Police National Computer (PNC). Licensing authorities should consider whether an applicant or licence holder with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, meet the 'fit and proper' threshold.

8.3 However, it is important that authorities acknowledge that in many cases individuals that license as a private hire vehicle operator may already be licensed as a driver. An authority which undertakes the biannual DBS checks recommended for its drivers should not require those seeking a private hire vehicle operator licence to provide a basic DBS check as part of the application process; a basic DBS would not provide any information in addition to that disclosed under the enhanced DBS and barred lists check used for the driver assessment. In these circumstances, the authority should instead rely on the fact that the applicant is considered as fit and proper to hold a driver licence when considering their suitability to hold a vehicle licence. Should the individual cease to hold a driver licence a basic certificate should be required immediately

8.4 Refusal to license in individual as a driver or to suspend or revoke a driver licence does not automatically mean that that individual cannot be issued or continue to hold a private hire vehicle operator licence; this decision must be independent of a driver licence refusal and based on the appropriate information i.e. it should not consider information that would only be available via an enhanced DBS check but instead that which would be disclosed on a basic check. DBS certificate information can only be used for the specific purpose for which it was requested and for which the applicant's full consent has been given.

8.5 A private hire vehicle operator licence may be applied for by a company or partnership; licensing authorities should apply the 'fit and proper' test to each of the directors or partners in that company or partnership. For this to be effective

private hire vehicle operators should be required to advise the licensing authority of any change in directors or partners.

- 8.6 As explained earlier in the context of driver licensing, the DBS cannot access criminal records held overseas. Further information on assessing the suitability of those that have spent extended periods in overseas is provided in paragraphs 4.34 - 4.36.

Booking and dispatch staff

- 8.7 Private hire vehicle drivers are not the only direct contact that private hire vehicle users have with private hire vehicle operators' staff, for example a person taking bookings (be it by phone or in person). A vehicle dispatcher decides which driver to send to a user, a position that could be exploited by those seeking to exploit children and vulnerable adults. It is therefore appropriate that all staff that have contact with private hire vehicle users and the dispatching of vehicles should not present an undue risk to the public or the safeguarding of children and vulnerable adults.
- 8.8 Licensing authorities should be satisfied that private hire vehicle operators can demonstrate that all staff that have contact with the public and/or oversee the dispatching of vehicles do not pose a risk to the public. **Licensing authorities should, as a condition of granting an operator licence, require a register of all staff that will take bookings or dispatch vehicles is kept.**
- 8.9 Operators should be required to evidence that they have had sight of a Basic DBS check on all individuals listed on their register of booking and dispatch staff and to ensure that Basic DBS checks are conducted on any individuals added to the register and that this is compatible with their policy on employing ex-offenders. DBS certificates provided by the individual should be recently issued when viewed, alternatively the operator could use a '[responsible organisation](#)' to request the check on their behalf. When individuals start taking bookings and dispatching vehicles for an operator they should be required, as part of their employment contract, to advise the operator of any convictions while they are employed in this role.
- 8.10 The register should be a 'living document' that maintains records of all those in these roles for the same duration as booking records are required to be kept, this will enable cross-referencing between the two records. A record that the operator has had sight of a basic DBS check certificate (although the certificate itself should not be retained) should be retained for the duration that the individual remains on the register. Should an employee cease to be on the register and later re-entered, a new basic DBS certificate should be requested and sight of this recorded.
- 8.11 Operators may outsource booking and dispatch functions but they cannot pass on the obligation to protect children and vulnerable adults. Operators should be required to evidence that comparable protections are applied by the company to which they outsource these functions.

8.12 Licensing authorities should also require operators or applicants for a licence to provide their policy on employing ex-offenders in roles that would be on the register as above. As with the threshold to obtaining a private hire vehicle operators' licence, those with a conviction for offences provided in the annex to this document (Annex – Assessment of previous convictions), other than those relating to driving, may not be suitable to decide who is sent to carry a child or vulnerable adult unaccompanied in a car.

Record keeping

8.13 Section 56 of the [Local Government \(Miscellaneous Provisions\) Act 1976](#) requires private hire vehicle operators to keep records of the particulars of every booking invited or accepted, whether it is from the passenger or at the request of another operator. **Licensing authorities should as a minimum require private hire vehicle operators to record the following information for each booking:**

- the name of the passenger;
- the time of the request;
- the pick-up point;
- the destination;
- the name of the driver;
- the driver's licence number;
- the vehicle registration number of the vehicle;
- the name of any individual that responded to the booking request;
- the name of any individual that dispatched the vehicle.

8.14 This information will enable the passenger to be traced if this becomes necessary and should improve driver security and facilitate enforcement. It is suggested that booking records should be retained for a minimum of six months.

8.15 Private hire vehicle operators have a duty under data protection legislation to protect the information they record. The Information Commissioner's Office provides comprehensive on-line guidance on registering as a data controller and how to meet their obligations.

Use of passenger carrying vehicles (PCV) licensed drivers

8.16 PCV licensed drivers are subject to different checks from taxi and private hire vehicle licensed drivers as the work normally undertaken, i.e. driving a bus, does not present the same risk to passengers. Members of the public are entitled to expect when making a booking with a private hire vehicle operator that they will receive a private hire vehicle licensed vehicle and driver. **The use of a driver who holds a PCV licence and the use of a public service vehicle (PSV) such**

as a minibus to undertake a private hire vehicle booking should not be permitted as a condition of the private hire vehicle operator's licence without the informed consent of the booker.

- 8.17 Where a private hire vehicle is unsuitable, for example where a larger vehicle is needed because more than eight passenger seats required or to accommodate luggage, the booker should be informed that a PSV is necessary, and that a PCV licenced driver will be used who is subject to different checks and not required to have an enhanced DBS check.

9. Enforcing the Licensing Regime

9.1 Implementing an effective framework for licensing authorities to ensure that as full a range of information made available to suitably trained decision makers that are supported by well-resourced officials is essential to a well-functioning taxi and private hire vehicle sector. These steps will help prevent the licensing of those that are not deemed 'fit and proper' but does not ensure that those already licensed continue to display the behaviours and standards expected.

Joint authorisation of enforcement officers

9.2 Licensing authorities should, where the need arises, jointly authorise officers from other authorities so that compliance and enforcement action can be taken against licensees from outside their area. An agreement between licensing authorities to jointly authorise officers enables the use of enforcement powers regardless of which authority within the agreement the officer is employed by and which issued the licence. This will mitigate the opportunities for drivers to evade regulation. Such an agreement will enable those authorities to take action against vehicles and drivers that are licensed by the other authority when they cross over boundaries. A model for agreeing joint authorisation is contained in the [LGA Councillors' handbook](#).

Setting expectations and monitoring

9.3 Licensing authorities should ensure that drivers are aware of the policies that they must adhere and are properly informed of what is expected of them and the repercussions for failing to do so. Some licensing authorities operate a points-based system, which allows minor breaches to be recorded and considered in context while referring those with persistent or serious breaches to the licensing committee. This has the benefit of consistency in enforcement and makes better use of the licensing committee's time.

9.4 The provision of a clear, simple and well-publicised process for the public to make complaints about drivers and operators will enable authorities to target compliance and enforcement activity (see paragraphs 4.29 - 4.33). This will provide a further source of intelligence when considering the renewal of licences and of any additional training that may be required. It is then for the licensing authority to consider if any intelligence indicates a need to suspend or revoke a licence in the interests of public safety.

Suspension and revocation of driver licences

9.5 Section 61 of the Local Government (Miscellaneous Provisions) Act 1976 provides a licensing authority with the ability to suspend or revoke a driver's licence on the following grounds: -

(a) that he has since the grant of the licence—

- (i) been convicted of an offence involving dishonesty, indecency or violence; or
- (ii) been convicted of an offence under or has failed to comply with the provisions of the Act of 1847 or of this Part of this Act;
- (aa) that he has since the grant of the licence been convicted of an immigration offence or required to pay an immigration penalty; or
- (b) any other reasonable cause

- 9.6 Licensing authorities have the option to suspend or revoke a licence should information be received that causes concern over whether a driver is a fit and proper person. Where the licence holder has been served an immigration penalty or convicted of an immigration offence the licence should be revoked immediately. [Guidance for licensing authorities](#) to prevent illegal working in the taxi and private hire vehicle sector has been issued by the Home Office. As with the initial decision to license a driver, this determination must be reached based on the balance of probabilities, not on the burden of beyond reasonable doubt.
- 9.7 Before any decision is made, the licensing authority must give full consideration to the available evidence and the driver should be given the opportunity to state his or her case. If a period of suspension is imposed, it cannot be extended or changed to revocation at a later date.
- 9.8 A decision to revoke a licence does not however prevent the reissuing of a licence should further information be received that alters the balance of probability of a decision previously made. The decision to suspend or revoke was based on the evidence available at the time the determination was made. New evidence may, of course, become available later.
- 9.9 New evidence may be produced at an appeal hearing that may result in the court reaching a different decision to that reached by the council or an appeal may be settled by agreement between the licensing authority and the driver on terms which, in the light of new evidence, becomes the appropriate course. If, for example, the allegations against a driver were now, on the balance of probability, considered to be unfounded, a suspension could be lifted or, if the licence was revoked, an expedited re-licensing process used.
- 9.10 A suspension may still be appropriate if it is believed that a minor issue can be addressed through additional training. In this instance the licence would be returned to the driver once the training has been completed without further consideration. This approach is clearly not appropriate where the licensing authority believes that, based on the information available at that time, on the balance of probability it is considered that the driver presents a risk to public safety.

Annex – Assessment of Previous Convictions

Legislation specifically identifies offences involving dishonesty, indecency or violence as a concern when assessing whether an individual is 'fit and proper' to hold a taxi or private hire vehicle licence. The following recommendations to licensing authorities on previous convictions reflect this.

Authorities must consider each case on its own merits, and applicants/licensees are entitled to a fair and impartial consideration of their application. Where a period is given below, it should be taken to be a minimum in considering whether a licence should be granted or renewed in most cases. The Department's view is that this places passenger safety as the priority while enabling past offenders to sufficiently evidence that they have been successfully rehabilitated so that they might obtain or retain a licence.

Crimes resulting in death

Where an applicant or licensee has been convicted of a crime which resulted in the death of another person or was intended to cause the death or serious injury of another person they will not be licensed.

Exploitation

Where an applicant or licensee has been convicted of a crime involving, related to, or has any connection with abuse, exploitation, use or treatment of another individual irrespective of whether the victim or victims were adults or children, they will not be licensed. This includes slavery, child sexual abuse, exploitation, grooming, psychological, emotional or financial abuse, but this is not an exhaustive list.

Offences involving violence against the person

Where an applicant has a conviction for an offence of violence against the person, or connected with any offence of violence, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Possession of a weapon

Where an applicant has a conviction for possession of a weapon or any other weapon related offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Sexual offences

Where an applicant has a conviction for any offence involving or connected with illegal sexual activity, a licence will not be granted.

In addition to the above, the licensing authority will not grant a licence to any applicant who is currently on the Sex Offenders Register or on any barred list.

Dishonesty

Where an applicant has a conviction for any offence where dishonesty is an element of the offence, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Drugs

Where an applicant has any conviction for, or related to, the supply of drugs, or possession with intent to supply or connected with possession with intent to supply, a licence will not be granted until at least 10 years have elapsed since the completion of any sentence imposed.

Where an applicant has a conviction for possession of drugs, or related to the possession of drugs, a licence will not be granted until at least five years have elapsed since the completion of any sentence imposed. In these circumstances, any applicant may also have to undergo drugs testing for a period at their own expense to demonstrate that they are not using controlled drugs.

Discrimination

Where an applicant has a conviction involving or connected with discrimination in any form, a licence will not be granted until at least seven years have elapsed since the completion of any sentence imposed.

Motoring convictions

Hackney carriage and private hire drivers are professional drivers charged with the responsibility of carrying the public. It is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence would not prohibit the granting of a licence. However, applicants with multiple motoring convictions may indicate that an applicant does not exhibit the behaviours of a safe road user and one that is suitable to drive professionally.

Any motoring conviction while a licensed driver demonstrates that the licensee may not take their professional responsibilities seriously. However, it is accepted that offences can be committed unintentionally, and a single occurrence of a minor traffic offence may not necessitate the revocation of a taxi or private hire vehicle driver licence providing the authority considers that the licensee remains a fit and proper person to retain a licence.

Drink driving/driving under the influence of drugs

Where an applicant has a conviction for drink driving or driving under the influence of drugs, a licence will not be granted until at least seven years have elapsed since the completion of any sentence or driving ban imposed. In the case of driving under the influence of drugs, any applicant may also have to undergo drugs testing at their own expense to demonstrate that they are not using controlled drugs.

Using a hand-held device whilst driving

Where an applicant has a conviction for using a held-hand mobile telephone or a hand-held device whilst driving, a licence will not be granted until at least five years have elapsed since the conviction or completion of any sentence or driving ban imposed, whichever is the later.

Annex – Disclosure and Barring Service information

Table 1: Information included in criminal record checks

Information included	Type of check			
	Basic check	Standard DBS check	Enhanced DBS check	Enhanced DBS (including barred list) check
Unspent convictions	Yes	Yes	Yes	Yes
Unspent cautions ¹	Yes	Yes	Yes	Yes
Spent convictions ²	No	Yes	Yes	Yes
Spent cautions ^{1 & 2}	No	Yes	Yes	Yes
Additional police Information ³	No	No	Yes	Yes
Barred list(s) Information ⁴	No	No	No	Yes

1. Does not include fixed penalty notices, penalty notices for disorder or any other police or other out-of-court disposals.
2. Spent convictions and cautions that have become protected under the Rehabilitation of Offenders Act 1974 (Exceptions Order) 1975, as amended, are not automatically disclosed on any level of certificate. Further guidance is available [the DBS filtering guide](#).
3. This is any additional information held by the police which a chief police officer reasonably believes to be relevant and considers ought to be disclosed.
4. This is information as to whether the individual concerned is included in the children's or adults' barred lists maintained by the Disclosure and Barring Service (DBS).

Annex – CCTV Guidance

It is important to note that, in most circumstances, a licensing authority which mandates the installation of CCTV systems in taxis and private hire vehicles will be responsible for the data – the data controller. It is important that data controllers fully consider concerns regarding privacy and licensing authorities should consider how systems are configured, should they mandate CCTV (with or without audio recording). For example, vehicles may not be exclusively used for business, also serving as a car for personal use - it should therefore be possible to manually switch the system off (both audio and visual recording) when not being used for hire. Authorities should consider the Information Commissioner's view on this matter that, in most cases, a requirement for continuous operation is unlikely to be fair and lawful processing of personal data.

The Home Office '[Surveillance Camera Code of Practice](#)' advises that government is fully supportive of the use of overt surveillance cameras in a public place whenever that use is:

- in pursuit of a legitimate aim;
- necessary to meet a pressing need;
- proportionate;
- effective, and;
- compliant with any relevant legal obligations

The Code also sets out 12 guiding principles which, as a 'relevant authority' under section 33(5) of the [Protection of Freedoms Act 2012](#), licensing authorities must have regard to. It must be noted that, where a licence is granted subject to CCTV system conditions, the licensing authority assumes the role and responsibility of 'System Operator'. The role requires consideration of all guiding principles in this code. The failure to comply with these principles may be detrimental to the use of CCTV evidence in court as this may be raised within disclosure to the Crown Prosecution Service and may be taken into account.

The Surveillance Camera Commissioner (SCC) has provided guidance on the Surveillance Camera Code of Practice in its '[Passport to Compliance](#)' which provides guidance on the necessary stages when planning, implementing and operating a surveillance camera system to ensure it complies with the code. The Information Commissioner's Office (ICO) has also published a [code of practice](#) which, in this context, focuses on the data governance requirement associated with the use of CCTV such as data retention and disposal, which it is important to follow in order to comply with the data protection principles. The SCC provides a [self-assessment tool](#) to assist operators to ensure compliance with the principles set out in the Surveillance Camera Code of Practice. The SCC also operate a [certification scheme](#); authorities that obtain this accreditation are able to clearly demonstrate that their systems conform to the SCC's best practice and are fully compliant with the Code and increase public confidence that any risks to their privacy have been fully considered and mitigated.

The [Data Protection Act 2018](#) regulates the use of personal data. Part 2 of the Data Protection Act applies to the general processing of personal data, and references and supplements the General Data Protection Regulation. Licensing authorities, as data controllers, must comply with all relevant aspects of data protection law. Particular attention should be paid to the rights of individuals which include the right to be informed, of access

and to erasure. The ICO has provided detailed [guidance](#) on how data controllers can ensure compliance with these.

It is a further requirement of data protection law that before implementing a proposal that is likely to result in a high risk to the rights and freedoms of people, an impact assessment on the protection of personal data shall be carried out. The ICO recommends in [guidance](#) that if there is any doubt as to whether a Data Protection Impact Assessment (DPIA) is required one should be conducted to ensure compliance and encourage best practice. A DPIA will also help to assess properly the anticipated benefits of installing CCTV (to passengers and drivers) and the associated privacy risks; these risks might be mitigated by having appropriate privacy information and signage, secure storage and access controls, retention policies, training for staff how to use the system, etc.

It is essential to ensure that all recordings made are secure and can only be accessed by those with legitimate grounds to do so. This would normally be the police if investigating an alleged crime or the licensing authority if investigating a complaint or data access request. Encryption of the recording to which the licensing authority, acting as the data controller, holds the key, mitigates this issue and protects against theft of the vehicle or device. It is one of the guiding principles of data protection legislation, that personal data (including in this context, CCTV recordings and other potentially sensitive passenger information) is handled securely in a way that 'ensures appropriate security', including protection against unauthorised or unlawful processing and against accidental loss, destruction or damage, using appropriate technical or organisational measures.

All passengers must be made fully aware if CCTV is operating in a vehicle. Given that audio recording is considered to be more privacy intrusive, it is even more important that individuals are fully aware and limited only to occasions when passengers (or drivers) consider it necessary. The recording of audio should be used to provide an objective record of events such as disputes or inappropriate behaviour and must not be continuously active by default and should recognise the need for privacy of passengers' private conversations between themselves. Activation of the audio recording capability of a system might be instigated when either the passenger or driver operates a switch or button. As well as clear signage in vehicles, information on booking systems should be introduced. This might be text on a website, scripts or automated messages on telephone systems; the Information Commissioner's Office (ICO) has issued guidance on privacy information and the right to be informed on its website.

Annex - Staying Safe: Guidance for Passengers

Licensing authorities should provide guidance to assist passengers in identifying licensed vehicles and the increased risks of using unlicensed vehicles. The guidance might include advice on:

- how to tell if a taxi or private hire vehicle is licensed.

Educate the public in the differences between taxis and private hire vehicles e.g.:

- a taxi can be flagged down or pre-booked.
- a private hire vehicle that has not been pre-booked should not be used as it will not be insured and may not be licensed.
- what a private hire vehicle should look like e.g. colour, signage, licence plates etc.
- the benefit of pre-booking a return vehicle before going out.
- arrange to be picked up from a safe meeting point.
- requesting at the time of booking what the fare is likely to be.

When using a private hire vehicle, passengers should always:

- book with a licensed operator.
- confirm their booking with the driver when s/he arrives.
- note the licence number.
- sit in the back, behind the driver.
- let a third party know details of their journey.

When using a taxi, passengers should where possible:

- use a taxi rank and choose one staffed by taxi marshals if available.



A summary of responses to Cheshire East Council's

Pre-Engagement Survey on 'Statutory Taxi & Private Hire Vehicle Standards' and Conditions of Licence



Lack of business during/since COVID has dramatically reduced turnover and proprietors have been hard hit financially. If Cheshire East pay for cost, then agree!



OFFICIAL

Introduction

Purpose of the survey

Throughout July 2021 Cheshire East Council conducted a pre-engagement survey with existing taxi licence holders called 'Pre-Engagement Survey on 'Statutory Taxi & Private Hire Vehicle Standards' and Conditions of Licence.' The purpose of the survey was to seek licence holder views on a number of changes being considered in relation to the Drivers, Vehicles and Operators Licences to reflect the publication of the statutory Taxi & Private Hire Vehicle Standards which local authorities have to have regard to.

This pre-engagement will feed into a larger consultation planned with regards to the introduction of a taxi policy across the Borough.

Survey responses

A total of 107 responses were received to the pre-engagement:

- 54 responses to the online survey
- 52 paper survey completions
- 1 letter

This report presents the results of both the paper and online surveys combined. The report is split into three sections which are as follows:

1. National Standards
2. Operator Licences
3. Consultation on existing Licensing Conditions

Report produced 26 July 2021 by the Research and Consultation Team, Cheshire East Council. Email RandC@cheshireeast.gov.uk for further information. Please note due to rounding percentages in visuals will not always sum to 100% and that comments can generate multiple references meaning total number of references in open comment section may not sum to total comments received.

Section 1: National Standards

Respondents were asked how strongly they agreed or disagreed with several aspects around DBS checks.

Enhanced Disclosure and Barring Service (DBS) check with searches on both barred lists every 6 months



Agree



Disagree



**Neither agree
nor disagree**

Total number of respondents 104

Required to sign up to the DBS update service and provide evidence of continuous registrations to enable the licensing authority to routinely check for new information



Agree



Disagree



**Neither agree
nor disagree**

Total number of respondents 103

A total of 24 comments were left to this section, the main reason given for disagreement with the checks were:

- Unacceptable costs to drivers (14 references)
- More time/red tape/ bureaucracy (4 references)
- 6 months was too frequent/should be 12 months (4 references)

Respondents raised concerns about drivers outside the local authority not being subject to these checks (2 references) and felt that the current system worked fine (2 references). Three respondents identified that these checks may have safety benefits to the public, especially vulnerable groups.

How strongly do you agree or disagree that all new driver applicants and existing holders of drivers licences should be required to complete a Council approved course relating to Safeguarding?



Total number of respondents 106

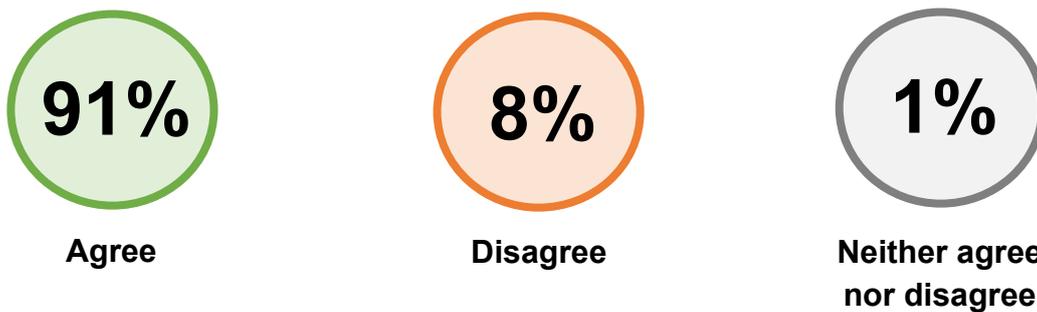
Respondents were more likely to agree that new applicants should complete the safeguarding course compared to existing licence holders (61% agree compared to 25% agree).

A total of 25 comments were left to this section, a summary is presented below:

- No need for extra training/ experience in the field should cover this/ more red tape (11 references)
- Already covered by existing training (NVQ/BTEC) (8 references)
- Additional costs (2 references)

Respondents raised concerns again about those acquiring a licence from a less strict authority (2 references) and that this could help protect vulnerable groups again (4 references).

How strongly do you agree or disagree that all new driver applicants should be required to obtain a recognised qualification or undertake an English language proficiency course as part of the application process?



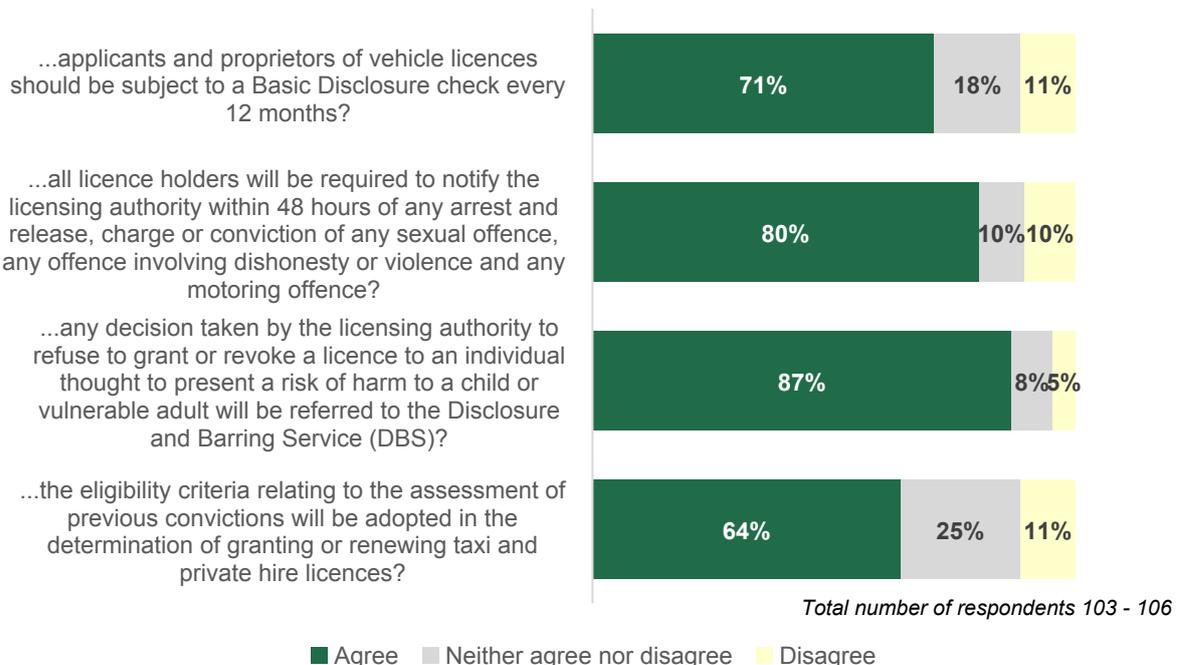
Total number of respondents 106

The majority of respondents agreed that all new driver applicants should be required to obtain a recognised qualification/English language proficiency course as part of the application process. A total of 24 comments were left to this section, the bulk of which focused on the positives and the need for drivers to be proficient in English for safety and to assist their customers (14 references). Respondents were surprised this wasn't already a requirement (3 references), that it should only apply to English second

language (2 references), concerns about cost (1 reference) and outside drivers (1 reference)

Figure one below presents a summary of responses to four questions around disclosure and convictions.

Figure 1: How strongly do you agree or disagree that...



Agreement with all four questions were high with the lowest level of agreement being 64% 'strongly agree' or 'agree' to previous convictions being adopted into the determination of granting or renewing a licence. Respondents left a total of 53 comments across all four questions, a summary of which is presented below:

- These would improve safety for the public/ keep unfit drivers unlicensed (17 references)
- The type of offence needs to be considered/ severity of offence (motoring vs violence for example) (12 references)
- Consideration of innocent until proven guilty/ needs hard evidence and convictions rather than 'thought' (10 references)
- Current system should already cover this/ works well (4 references)
- Longer timeframe for reporting needed, 72 hours to a week (3 references)
- Cost of checks prohibitive (2 references)

Following on from these respondents were asked if they agreed or disagreed that Cheshire East should impose a condition for mandatory CCTV in vehicles.

How strongly do you agree or disagree that Cheshire East Council should impose a condition on vehicles licences to make it mandatory for CCTV equipment to be fitted to all licensed vehicles?



Agree



Disagree



**Neither agree
nor disagree**

Total number of respondents 106

Respondents were generally split by mandatory CCTV in vehicles with 41% of all respondents either 'strongly disagreeing' or 'disagreeing' to this question.

A total of 24 comments were received to this section which clearly identified the reasons why respondents either agreed or disagreed with CCTV, a summary presented below:

Positives:

- Would help to protect drivers (5 references)
- Would help to protect the public (2 references)

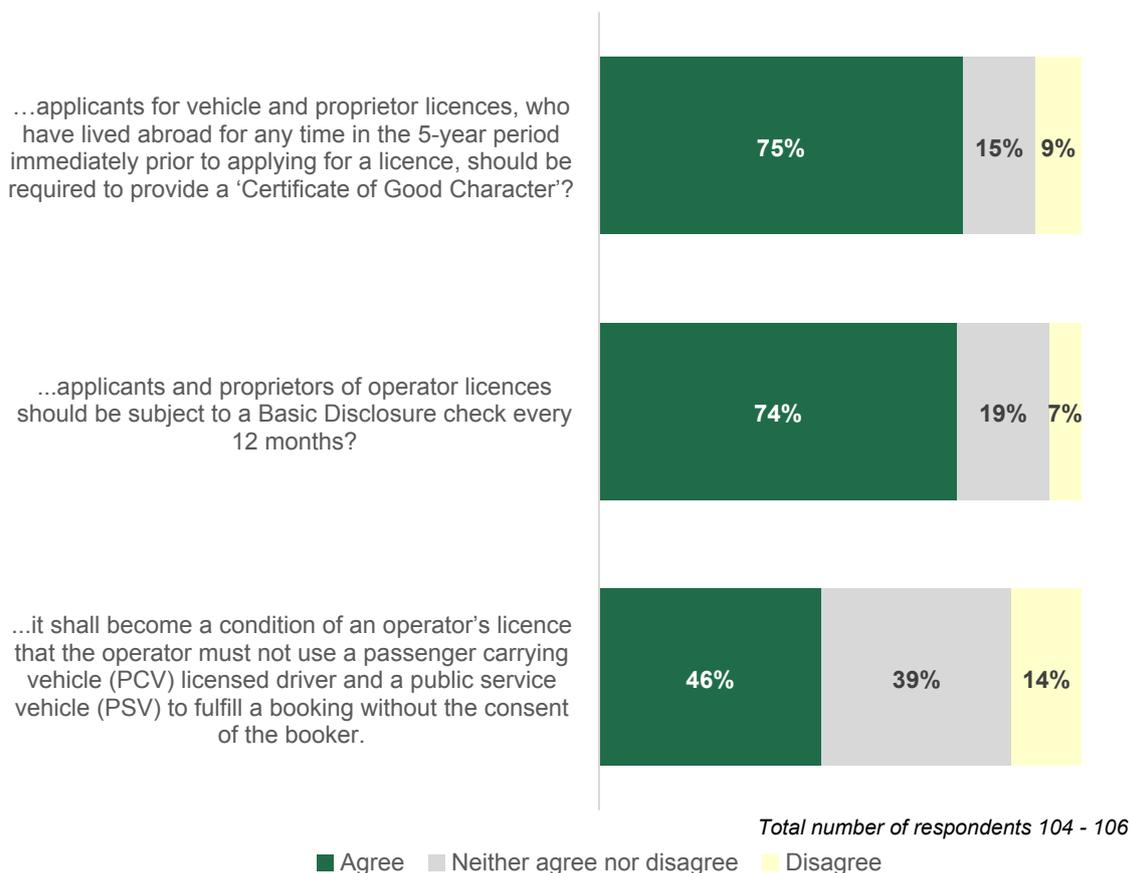
Negatives:

- The cost would be prohibitive/ could not afford/ would need assistance (9 references)
- Should be an owner's choice and not mandatory (6 references)
- Concerns about school transport due to recording minors (3 references)
- Not for private hire (1 reference)

Section 2: Operator Licences

Respondents were asked several questions regarding operator licences. Figure two below presents a summary of results to three of these questions.

Figure 2: How strongly do you agree or disagree that...



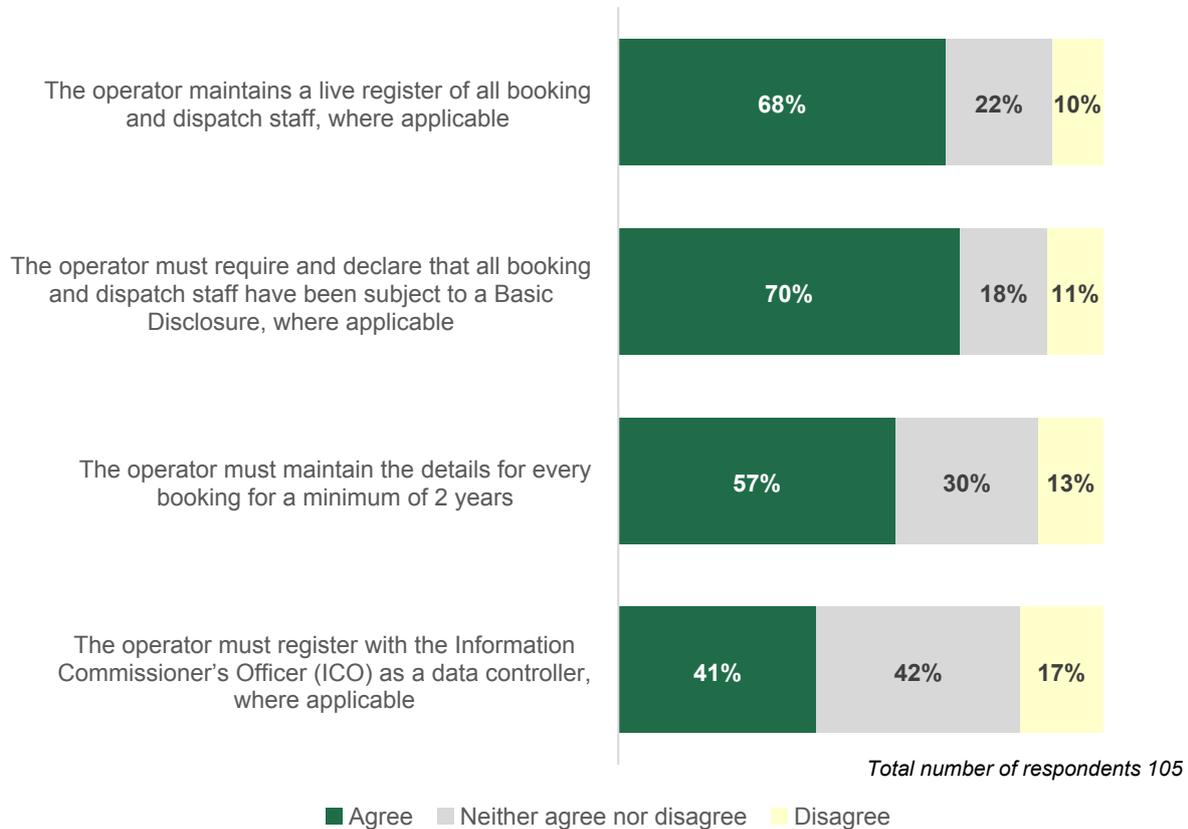
Agreement with a 'certificate of good character' and applicants being subject to a basic disclosure check every 12 months was high at 75% and 74% 'strongly agree' or 'agree' respectively. Agreement with PCV/PSV without the consent of the booker was slightly lower at 46% 'strongly agree' or 'agree.'

A total of 23 comments were received across these three questions, a summary is presented below:

- These requirements would improve safety/ stop unfit people getting licences (7 references)
- This system would be complicated/ reduce applications/ unfair to UK nationals (6 references)
- Current system works as is (3 references)
- How will false documents be prevented (2 references)
- More costs to operators (1 reference)

Figure three below presents a summary of results to how strongly respondents agree or disagree with several statements becoming a condition of an operator's licence.

Figure 3: How strongly do you agree or disagree that the following become a condition of an operator's licence?



Respondents expressed a high level of agreement to operators maintaining a live register of all booking and dispatch staff (68% 'strongly agree' or 'agree') and that these staff are subject to a basic disclosure (70% 'strongly agree' or 'agree').

Respondents were less likely to agree that booking records be maintained for a minimum of 2 years, and that they should register with the ICO as a data controller (57% and 41% 'strongly agree' or 'agree').

Respondents left 6 comments to this question:

- Bookings would become too complicated (1 reference)
- Too much bureaucracy/ no big firms left in Cheshire East (2 references)
- Due to limited data, registering to the ICO would not be proportionate (1 reference)
- Increased running costs (1 reference)
- Operators should test the legal alcohol limit of drivers each morning, especially school drivers (1 reference)

Section 3: Consultation on existing Licencing Conditions

Respondents were asked questions around the existing licencing conditions as part of the pre-engagement.

How strongly do you agree or disagree that Cheshire East Council should sign up to the National Register of Refused and Revoked licences (NR3)? *Total number of respondents 105*

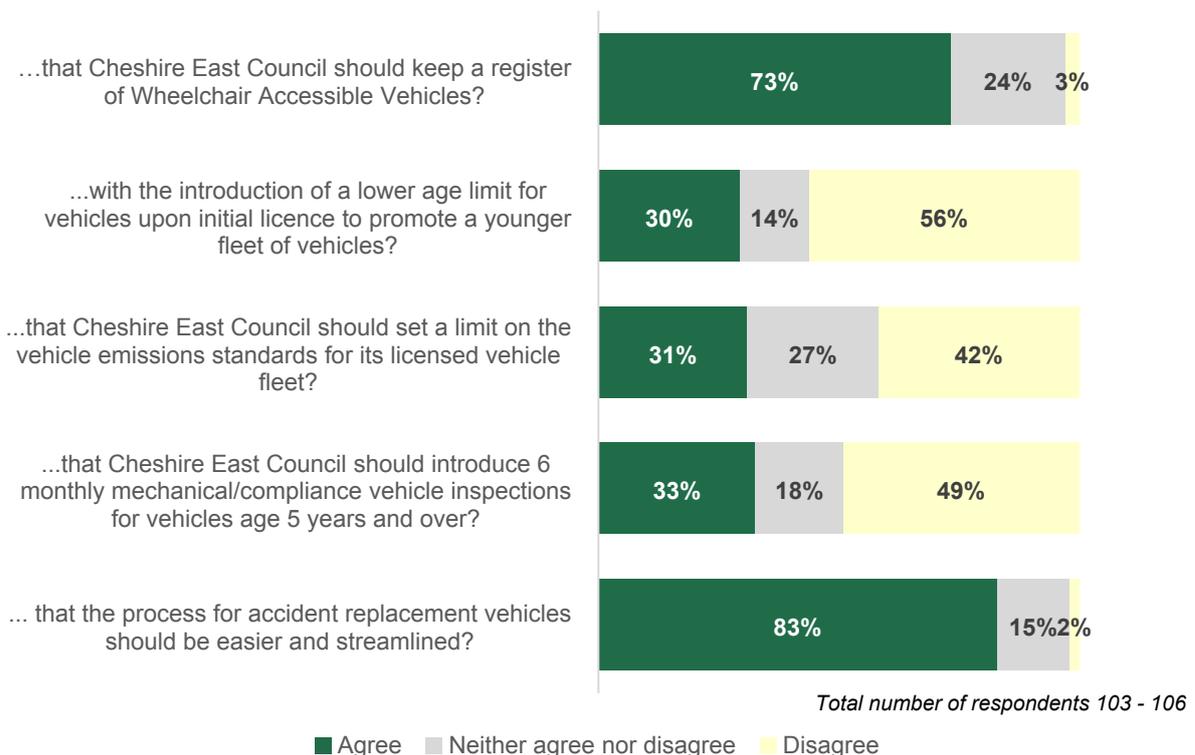


The majority of respondents agreed that Cheshire East Council should sign up to the National Register of Refused and Revoked licences (90% 'strongly agree' or 'agree'). A total of 12 comments were left to this section, a summary presented below:

- Agreement that this a good idea/needed/should have been in place already (11 references)
- Needed to monitor out of area drivers (3 references)
- Cheshire East should do its own checks rather than relying on this (1 reference)

Figure 4 below presents a summary of results to five conditions of licence around vehicles.

Figure 4: How strongly do you agree or disagree...



Respondents were very split on this set of questions with two conditions attracting a high level of agreement: the process of accident replacement vehicles being streamlined (83% 'strongly agree' or 'agree') and that Cheshire East should keep a register of wheelchair accessible vehicles (73% 'strongly agree' or 'agree'). A total of 16 comments were left to these two questions, a summary of which is presented below:

- A record of wheelchair accessible vehicles is needed and should be promoted (5 references)
- A record of wheelchair accessible vehicles is not needed/should already exist (3 references)
- Treatment of wheelchair users needs monitoring (attempt to book these vehicles) (2 references)
- A simpler/faster/easier process is needed for replacement vehicles to prevent loss of earnings (5 references)

Three conditions attracted a high level of disagreement ('strongly disagree' or 'disagree') all related to vehicles being used: 6 monthly inspection for vehicles older than 5 years (49%), a limit of vehicle emissions (42%) and a lower age limit for vehicles on initial licence (56%). A total of 52 comments were left to these three questions, a summary of which is presented below:

- Age of the vehicle is not the important factor; maintenance should hold more weight (19 references)
- Cost of a younger fleet/electric cars would be too high, would not function, cost of testing prohibitive (18 references)
- Over inspection of vehicles, not necessary (8 references)
- Inspections should be milage based, not age of vehicle based (4 references)
- Grants should be introduced to lower fleet age/electric cars (2 references)
- Current testing system struggles, this would add more pressure (1 reference)
- Safety benefit of increased testing (1 reference)
-

How strongly do you agree or disagree that all Private Hire Operators should keep a record of complaints received from customers for a minimum of 2 years?



Agree



Disagree



**Neither agree
nor disagree**

Total number of respondents 106

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A total of 14 comments were left to this section across a board range of considerations. Respondents were split between whether complaints should be kept for a longer duration (2 references) or a shorter duration or whether this was even needed (4 references). Respondents queried how this would be enforced (3 references), who would keep the log (1 reference) or whether the positive reviews would have a mechanism for capture also (1 reference).

Respondents also felt that the severity of the complaint needed to be considered within the system raising concerns around serial complainers or those under the influence of alcohol (3 references)

Respondents were asked where the most convenient locations for electric vehicle would be charging points in Cheshire East. A total of 75 comments were left to this section. Specifically named roads were as followed:

- Market Street
- Commercial Road Macclesfield
- Styal Road
- Oak Street
- Pedley Street
- Nantwich Swimming Baths
- Ruskin Road
- Beam Street
- Churchill Way
- Delamere Street

In terms of more generic locations respondents also suggested the following:

- Council owned/ free car parks (22 references)
- Taxi ranks (19 references)
- Supermarkets (11 references)
- Train stations (11 references)
- Petrol stations/garages (10 references)
- Town centre locations (8 references)
- Private households (7 references)
- Operator bases (6 references)
- Leisure centres/Libraries (2 references)

Some respondents questioned the viability of electric vehicles for trade due to cost (2 references) and felt that more taxi ranks were needed in general (2 references).

Conclusions

The pre-engagement survey obtained an acceptable level of feedback with a response rate of 19% to the paper survey and a 10% response to the online survey. However, there was a high rate of bounce backs on the email invite suggest that some emails on the database may need updating in the future (28% failure rate).

In terms of safety measures respondents were generally positive around these, especially regarding new licence applications. There was some resistance in terms of renewal of licences and how these changes may affect them in the future, but respondents did identify several measures and conditions that they felt would increase safety for both drivers and public.

In terms of mandatory conditions on vehicles (such as age, maintenance checks and CCTV) respondents were less supportive. The main issue repeatedly raised throughout the survey was around the cost that some of these conditions would impose on an already delicate balancing act. Support for these measures could be improved through suggested grant funding or phased integration to give time for costs to be absorbed. Secondly respondents felt that too much weight was being given to the age of the vehicle and felt that focus should be more on the maintenance and mileage of vehicles for additional checks.

Throughout the survey there were concerns raised around many points about the amount of time or 'red tape' and cost that adoption of these conditions would add to renewal and operating costs of a driver. This has been particularly sharpened by the impact of COVID-19 on the industry. Out of area drivers were brought up under several sections and respondents felt that the stricter Cheshire East became as a licencing authority, this was something that would increase in the future and would need to be dealt with.

Overall, the pre-engagement has provided a good base point for discussions into the future and for further consultation to be undertaken and the development of a taxi licencing strategy.

Work Programme – Environment and Communities Committee – 2021/22

Reference	Committee Date	Report title	Purpose of Report	Report Author /Senior Officer	Consultation and Engagement Process and Timeline	Equality Impact Assessment Required and Published (Y/N)	Part of Budget and Policy Framework (Y/N)	Corporate Plan Priority	Exempt Item and Paragraph Number
EC/09/21-22	9 Sep 2021	GEN4 (Recovery of forward funded infrastructure costs) D	To approve the draft supplementary planning documents for public consultation. This is guidance on the approach (mainly financial formulas) to securing S106 contributions for infrastructure. This enables the council to recoup investment it has made in for example, a road and then development comes forward that is reliant on the road and could not have happened if the road was not already built.	Director of Environment and Neighbourhood Services	N/A	N/A	N/A	A thriving and sustainable place	
EC/21/21-22	9 Sep 2021	Environmental Protection SPD	To approve the draft supplementary planning document for public consultation.	Director of Environment and Neighbourhood Services		N/A	N/A	A thriving and sustainable place	N/A
EC/12/21-22	9 Sep 2021	Houses of Multiple Occupation SPD	To consider the feedback received to the public consultation and adopt the supplementary planning document.	Director of Environment and Neighbourhood Services	N/A	N/A	N/A	A thriving and sustainable place	
EC/22/21-22	9 Sep 2021	Taxi Licensing Policy	To approve the draft Taxi Licensing Policy for public consultation.	Director of Environment and Neighbourhood Services		TBC	N/A	An open and enabling organisation	No
EC/17/21-22	11 Nov 2021	2021 Air Quality Annual Status Report	To consider the 2021 Air Quality Annual Status Report and the current status of air quality across the borough.	Director of Environment and Neighbourhood Services	N/A	TBC	Yes	A thriving and sustainable place	

Reference	Committee Date	Report title	Purpose of Report	Report Author /Senior Officer	Consultation and Engagement Process and Timeline	Equality Impact Assessment Required and Published (Y/N)	Part of Budget and Policy Framework (Y/N)	Corporate Plan Priority	Exempt Item and Paragraph Number
EC/08/21-22	11 Nov 2021	Adoption of Connected Communities Strategy	To approve the Connected Communities Strategy.	Director of Environment and Neighbourhood Services	TBC	TBC	Yes	A council which empowers and cares about people	
EC/23/21-22	11 Nov 2021	Carbon Neutral Programme Progress Report	To consider the progress made to date on the Carbon Action Plan.	Director of Environment and Neighbourhood Services		N/A	TBC	An open and enabling organisation	No
EC/18/21-22	11 Nov 2021	Everybody Sport and Recreation Annual Report	To consider the 2020-21 performance of the council's leisure centres and sports development service managed by Everybody Sport and Recreation.	Director of Environment and Neighbourhood Services	N/A	N/A	Yes	A thriving and sustainable place	
EC/19/21-22	11 Nov 2021	Food Law Enforcement Plan	To consider the 2021-22 Food Law Enforcement Plan.	Director of Environment and Neighbourhood Services	N/A	N/A	Yes	A thriving and sustainable place	
EC/13/21-22	11 Nov 2021	Housing SPD	To consider the feedback received to the public consultation and publish the supplementary planning document for public representations.	Director of Environment and Neighbourhood Services	N/A	N/A	N/A	A thriving and sustainable place	
EC/11/21-22	11 Nov 2021	Jodrell Bank Supplementary Planning Document	To approve the draft supplementary planning document for public consultation.	Director of Environment and Neighbourhood Services	N/A	N/A	N/A	A thriving and sustainable place	
EC/16/21-22	11 Nov 2021	Mid-Year Finance Review	To receive an update on the financial position for 2021/22 and to note or approve virements and supplementary estimates as required.	Director of Environment and Neighbourhood Services	N/A	N/A	Yes	An open and enabling organisation	
EC/10/21-22	11 Nov 2021	The Minerals and Waste Development Plan	To seek approval to publish the draft Cheshire East Minerals and Waste Development Plan Document (Local Plan part 3) along with its supporting evidence for public consultation.	Director of Environment and Neighbourhood Services	N/A	N/A	Yes	A thriving and sustainable place	

Reference	Committee Date	Report title	Purpose of Report	Report Author /Senior Officer	Consultation and Engagement Process and Timeline	Equality Impact Assessment Required and Published (Y/N)	Part of Budget and Policy Framework (Y/N)	Corporate Plan Priority	Exempt Item and Paragraph Number
EC/14/21-22	20 Jan 2022	Bio Diversity Net Gain SPD	To consider the feedback received to the public consultation and publish the supplementary planning document for public representations.	Director of Environment and Neighbourhood Services	N/A	N/A	N/A	A thriving and sustainable place	
EC/21/21-22	20 Jan 2022	Medium Term Financial Strategy (MTFS)	For the Environment and Communities Committee to respond to the Budget consultation.	Director of Environment and Neighbourhood Services	Yes	Yes	Yes	An open and enabling organisation	
EC/20/21-22	20 Jan 2022	Third Quarter Finance Review	To receive an update on the financial position for 2021/22 and to note or approve virements and supplementary estimates as required.	Director of Environment and Neighbourhood Services	N/A	N/A	No	An open and enabling organisation	
EC/15/21-22	7 Mar 2022	Developer Contributions SPD	To approve the draft supplementary planning document for public consultation.	Director of Environment and Neighbourhood Services	N/A	N/A	N/A	A thriving and sustainable place	

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