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A meeting of the **Overview & Scrutiny Committee** will be held Virtually on **Tuesday 22 March 2022 at 2.00 pm**

MEMBERS: Mrs C Apel (Chairman), Mrs T Bangert (Vice-Chairman), Mr G Barrett, Mrs N Graves, Mr T Johnson, Mr A Moss, Mr D Palmer, Mr C Page, Mr H Potter, Mrs C Purnell, Mrs S Sharp and Mrs S Lishman

AGENDA

1 **Chairman's Announcements**

Any apologies for absence will be noted at this point.

2 **Minutes** (Pages 1 - 5)

To approve the minutes of the Overview and Scrutiny Committee meeting held on 18 January 2022.

To receive an update on progress against recommendations made to the Cabinet and the Council.

3 **Urgent Items**

The Chairman will announce any urgent items that due to special circumstances are to be dealt with under the agenda item below relating to late items.

4 **Declarations of Interests**

Members and officers are reminded to make any declarations of disclosable pecuniary, personal and/or prejudicial interests they may have in respect of matters on the agenda for this meeting.

5 **Public Question Time**

The procedure for submitting public questions in writing by no later than noon 2 working days before the meeting is available [here](#) or from the Democratic Services Officer (whose contact details appear on the front page of this agenda).

6 **Planning Enforcement** (Pages 7 - 19)

That the Committee notes the operation of the planning enforcement process and makes any comments.

7 **Scope for East Pallant House Options Appraisal** (Pages 21 - 23)

1. That the Overview and Scrutiny Committee considers the scope of the East Pallant House options appraisal and recommends it to Cabinet

2. That Cabinet is recommended to agree up to £20,000 from reserves to fund a third party to undertake the detailed valuation exercise to inform the options appraisal.

8 **Development of Barnfield Drive - Post Project Evaluation** (Pages 25 - 29)

The Committee is asked to:

1. Consider the Post Project Evaluation (PPE) report for the development of land at Barnfield, Chichester Phases 1 and 2a.
2. To recommend any further actions to Cabinet if required.

9 **Late Items**

Consideration of any late items as follows:

- a) Items added to the agenda papers and made available for public inspection.
- b) Items which the Chairman has agreed should be taken as matters of urgency by reason of special circumstances reported at the meeting.

10 **Exclusion of the Press and Public**

The Committee is asked to consider in respect of agenda item 8: Barnfield Phase 1 and 2a - Post Project Evaluation: Appendix 2 - Financial And Contract Detail Summary whether the Public, including the Press, should be excluded from the meeting on the grounds of exemption under Paragraph 3 (Information relating to the financial or business affairs of any particular person (including the authority holding that information)) of Schedule 12a of The Local Government Act 1972, as indicated against the item and because, in all the circumstances of the case, the public interest in maintaining the exemption of that information outweighs the public interest in disclosing the information. The reports dealt with under this part of the agenda are attached for members of the Overview and Scrutiny Committee and Senior Officers only (Salmon Paper).

11 **Development of Barnfield Drive - Post Project Evaluation - Appendix 2 - Financial and contract detail summary (Page 31)**

NOTES

1. The press and public may be excluded from the meeting during any item of business where it is likely that there would be disclosure of "exempt information" as defined in section 100A of and Schedule 12A to the Local Government Act 1972.
2. Restrictions have been introduced on the distribution of paper copies of supplementary information circulated separately from the agenda as follows:
 - a) Members of the Overview & Scrutiny Committee, the Cabinet and Senior Officers receive paper copies of the supplements (including appendices).
 - b) The press and public may view this information on the council's website here [here](#) unless they contain exempt information.
3. The open proceedings of this meeting will be audio recorded and the recording will be retained in accordance with the council's information and data policies. If a member of the public enters the committee room or makes a representation to the meeting, they will be deemed to have consented to being audio recorded. If members of the public have any queries regarding the audio recording of this meeting, please liaise with the contact for this meeting at the front of this agenda.



Minutes of the meeting of the **Overview & Scrutiny Committee** held in virtually on Tuesday 18 January 2022 at 2.00 pm

Members Present: Mrs C Apel (Chairman), Mrs T Bangert (Vice-Chairman), Mr G Barrett, Mrs N Graves, Mr T Johnson, Mr A Moss, Mr D Palmer, Mr C Page, Mr H Potter, Mrs C Purnell, Mrs S Sharp and Mrs S Lishman

Members not present:

In attendance by invitation:

Officers present: Mrs L Rudziak (Director of Housing and Communities), Mr N Bennett (Divisional Manager for Democratic Services), Ms P Bushby (Divisional Manager for Communities), Mr A Buckley (Corporate Improvement and Facilities Manager), Mrs D Shepherd (Chief Executive) and Mr J Ward (Director of Corporate Services)

44 **Chairman's Announcements**

The Chairman confirmed that due to a meeting clash she would need to hand over chairmanship of today's meeting to Vice Chair Cllr Bangert at 15:40pm. It was also confirmed that Cllr Johnson would be late joining the meeting.

45 **Minutes**

The minutes of the meeting held on 16 November 2021 were approved.

46 **Urgent Items**

There were no urgent items.

47 **Declarations of Interests**

There were no declarations of interest made.

48 **Public Question Time**

It was confirmed that there had 4 questions submitted for public question time. The Monitoring Officer Mr Bennett provided advice to the Chairman stating that as these questions were all addressed for Chief Inspector Carter and therefore did not meet the public question time criteria for members should the Chairman want these

questions to be heard it would be right that these be asked and answered at the start of item 6 [Chief Inspector Carter – Sussex Police].

It was also confirmed by Miss Lavender that question two had been withdrawn by the member of the public.

49 **Chief Inspector Carter - Sussex Police**

The Chairman read out each public question that had been submitted, welcomed Chief Inspector Carter to the meeting and invited him to provide the Committee with his answers to the questions and an update on current policing challenges and issues across the district.

C.I Carter advised members that policing of the hub is derived from a number of different sources, neighbourhood policing teams which include PCSO's and warranted officers. Chichester District has one named PCSO for every electoral ward, meaning there are 14 PCSO's with another 2 in training starting in the coming weeks. He explained that the reality of policing is that he could not tell members how many officers there were in any one place, at any time across the district as they operate a very flexible policing model to ensure they can spread the teams in order to place officers where they are needed to be at any point. He confirmed there are several different teams that the district benefit from, divisional response teams, force teams most visibly those are road, firearms, and dog policing teams. The Rural crime team at Midhurst which provides a significant benefit to rural communities. Finally, he highlighted to members a variety of policing incidents that had taken place across the district recently. He also addressed that there had been a number of significant concerns brought to his attention previously and more recently regarding speeding and the inappropriate use of vehicles, across the district he wanted to reassure members that the police are taking steps to tackle this issue. He confirmed that for the calendar year for 2021 up to 20 December 2021, Sussex Police issued 8716 tickets or summonses.

In turning to the questions submitted by members of the public he provided the following answers;

Answer to question one:

"I am a Police Officer, I cannot become involved in politics, my job is to enforce the law that is enacted by parliament subject to tests, proportionality, necessity legitimacy and accountability."

Answer to question three:

"The riding of an e-scooter on anything other than private land (with the landowner's permission) is not currently permitted. They are mechanically propelled vehicles; you have to be licenced and insured and they have to be subject to testing. However, there is no offence of selling them. Officers do have powers to deal with escooters, but like all other powers the individual officers are accountable for their use and has to undertake a dynamic risk assessment of any action they are about to undertake and there are some very obvious risks when it comes to dealing with someone on a moving object. I am personally disappointed that Mr English has witnessed officers apparently ignoring persons on escooters. I have some clear

expectations that officers will, if it is safe to do so, intervene with someone using one. I have recently reiterated those expectations to my teams here following a separate incident elsewhere. Together with our partners, especially Chichester District Council, we have undertaken action and are planning further action, but this needs to be balanced against all the other competing demands on policing. There has been and continues to be work with retailers to emphasize the restrictions of their use as well as regular media campaigns about the law around scooters.”

Answer to question four:

“In connection with the medical cannabis access bill, I cannot be drawn into discussing the potential rights and wrongs of the bill. Specifically, in relation to drugs the focus of policing activity around drugs on this hub is principally aimed at reducing the harm caused by the supply and use of controlled substances. The vast majority of the policing activity is targeted against the supply and use of class A substances (not cannabis) and organised criminal activity. You heard from my introductory piece regarding the ghost-line the sort of work we are doing. I don’t know where Miss Eccott gets the figure of 1 day per month in the district to enforce road related matters as you’ve just heard with over 8700 summonses and ticket issues that I not the case. In the relation to the second point again I cannot be drawn into the potential rights and wrongs of the bill it has not yet passed through parliament, up until it receives royal assent a bill is subject to change and it is not possible to assess how or if the bill will impact on policing protest and again in relation to the comment about 1 day per month for road traffic enforcement, I have answered that earlier.”

Chief Inspector Carter then provided answers to the questions put forward from members ahead of the meeting as well as answering the supplementary questions put forward. Further questions were then asked by the Committee a summary of the topics discussed is below;

- Discussion regarding local speed watch groups and the positive impact seen from those communities who can do this. It was also discussed that it was not always possible for speed watch groups to take place for safety reasons.
- Improved communications regarding the work being undertaken by Police was felt to be needed. It was confirmed that force communications via social media pages were received positively and this is where a number of residents can keep up to date on what activity is taking place. It was also advised that local surgeries will be starting up again, these had been impacted by the pandemic and members expressed they would like to be informed when and where these would be taking place so they can pass this information on to their residents.
- Non-emergency communication with the police through forums was also discussed where it was confirmed that there were several channels of contact for residents including writing to the police, using the police website, making contact through their local Councillor and or member of Parliament who have direct access to the district commander
- Discussion regarding the issue of domestic abuse and what the police were doing to tackle this issue. It was confirmed that one of the many ways the police are tackling this issue was going out, into schools and speaking with children and young adults.

Cllr Johnson arrived at the meeting.

Chief Inspector Carter confirmed to members that he would be leaving his current role as district Commander on 9 February 2022, and he would be in contact with members to advise who would be replacing him. The Chairman thanked Chief Inspector Carter for his time and congratulated him on his new role.

50 **Affordable Housing Task & Finish Group**

RESOLVED

The Committee agreed that the membership of the Affordable Housing Task & Finish Group were Cllrs Bangert, Lishman, Graves and Purnell. Cllr Bangert was elected as Chairman.

51 **Work Programme 2021-22**

The Chairman advised that she and the vice-chair would be undertaking work with officers to look at the items remaining on the work programme for the Committee's March 2022 meeting with a view to moving a number of these items to meetings of the committee scheduled for the new municipal year.

After a short discussion it was clarified that the Chichester Festival Theatre and Pallant House Gallery items had been suggested to report through the Environment Panel in the future. The Chairman confirmed that the committee would be provided with a draft agenda to pre approve for March's meeting.

52 **Late Items**

There were no late items.

53 **Exclusion of the Press and Public**

Cllr Apel read the part II resolution in relation to agenda item 11. This was proposed by Cllr Apel and seconded by Cllr Purnell.

RESOLVED

That with regard to agenda item 11 the public including the press should be excluded from the meeting on the grounds of exemption in Schedule 12A to the Local Government Act 1972 namely Paragraph 3 (Information relating to the financial or business affairs of any particular person (including the authority holding that information)) and because, in all the circumstances of the case, the public interest in maintaining the exemption of that information outweighs the public interest in disclosing the information.

The Committee adjourned for 10 minutes at 15:33pm.

54 **Future Services Framework**

Mr Buckley introduced the item.

Members asked a number of questions and these were answered by Mr Buckley, Mr Ward and Mrs Hotchkiss.

Two amendments were proposed and seconded for recommendations 2.7 and 2.9 and these were carried.

RESOLVED

The Committee agrees the recommendations as amended in sections 2.1, 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.9 and 2.10 of the report.

The meeting ended at 4.27 pm

CHAIRMAN

Date:

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Chichester District Council

OVERVIEW AND SCRUTINY COMMITTEE

22 March 2022

Planning Enforcement Decision Making Process

1.0 Contacts

Cabinet Member:

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Report Author:

Shona Archer, Enforcement Manager,
Tel: 01243 534547 E-mail: sarcher@chichester.gov.uk

2.0 Recommendation:

2.1 That the committee notes the operation of the planning enforcement process and makes any comments.

3.0 Background

3.1 Chichester District Council (CDC) as the Local Planning Authority has powers under the Town and Country Planning Acts to control unauthorised development. Planning Enforcement is undertaken by a team within the Development Management Division. CDC has an agreement with the South Downs National Park Authority (SDNPA) to act on their behalf in the provision of Development Management services within the park, and this includes planning enforcement work.

3.2 This report details:

- i. How the enforcement process works and the Council's Enforcement Strategy
- ii. The investigation process
- iii. Powers available to the Council in respect of planning enforcement, including appeals and powers if an enforcement notice is breached
- iv. How decisions on whether to enforce are made; what matters are material considerations and what circumstances and issues influence whether formal action is taken
- v. Current workloads and the impact of Covid on planning enforcement

- vi. Investigation and enforcement in respect of alleged breaches of planning control on gypsy and traveller sites
- vii. Resident perceptions of the enforcement process

i. How the enforcement process works and the Council's Enforcement Strategy

- 3.3 Local planning authorities (LPA) have responsibility for taking enforcement action that may be necessary, in the public interest, in their administrative areas. As stated in paragraph 3.1 CDC has an arrangement to deliver planning enforcement within its administrative area of the SDNP. The purpose of the planning enforcement service is to investigate alleged breaches of planning control, taking enforcement action where appropriate. The aim of the service is to remedy planning harm being caused by breaches of planning control.
- 3.4 The National Planning Policy Framework (NPPF) encourages the creation of a plan to deliver proactive enforcement in a manner that is appropriate to the area. CDC adopted its Planning Enforcement Strategy in 2014 and to date it has not been revised. The strategy explains the approach the council will follow to investigate and remedy alleged breaches of planning control. The SDNPA has however adopted its own Enforcement Guide for matters affecting the National Park.
- 3.5 The Council's Enforcement Strategy explains the planning enforcement function. It clarifies the various breaches of planning control and criminal offences that planning enforcement can address and details the powers given to the Council and how and when these powers may be employed. The strategy gives clear guidance on what we can do as a local planning authority and how enforcement complaints which allege a breach of planning control are prioritized as High, Medium or Low. It explains how enforcement complaints can be made and sets out what can reasonably be expected from the Council once a complaint has been received. The document accords with advice contained in the NPPF which states: 'Effective enforcement is important to maintain public confidence in the planning system. Enforcement action is discretionary, and local planning authorities should act proportionately in responding to suspected breaches of planning control. They should consider publishing a local enforcement plan to manage enforcement proactively, in a way that is appropriate to their area. This should set out how they will monitor the implementation of planning permissions, investigate alleged cases of unauthorised development and take action where appropriate.'
- 3.6 The Council has a range of enforcement powers available, which are detailed below, however it is important to note the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG) are clear that Councils should act proportionately in using their enforcement powers. In addition, to undertake works without first obtaining planning permission is not a criminal offence and the planning legislation specifically allows for the submission of planning applications for development already undertaken. In this respect, the enforcement of planning control does not therefore seek to

punish people for undertaking works without first obtaining planning permission.

- 3.7 The exception to this is that it is an offence to carry out works that require listed building consent without a consent being obtained. It is also an offence to carry out works to trees within a conservation area and those with a Tree Preservation Order without first obtaining consent.

ii. The investigation process

- 3.8 Upon receipt of a report of an alleged breach of planning control an informal triage process is undertaken to ascertain if the report is a planning matter and/or if the matter requires further investigation. The triage process may include:

- determining if it is a planning matter
- identifying if it is permitted development (i.e. already granted planning permission by the Town and Country Planning (General Permitted Development) Order 2015, as amended)
- researching the planning history of the site
- identifying any special designations or constraints, for example, listed buildings, sites designated for their environmental or ecological importance
- searching other council data or publicly held information
- contacting the person responsible for the alleged breach to discuss the works being undertaken

- 3.9 If the matter reported is not a council issue or if no alleged breach of planning control is identified, then the complainant will be notified accordingly, and the planning enforcement service will take no further action.

- 3.10 Where the matter being raised falls within another council service area, for example it may be a noise disturbance or similar issue, the complainant will be advised accordingly. Their concerns and details will be forwarded on as appropriate for further investigation. Alternatively, the complainant will be signposted to the relevant service area to pursue the matter directly.

- 3.11 If the scenario's above do not apply the council will investigate the alleged breach of planning control to establish whether a breach of planning control has occurred. The investigation process will be dependent on the nature of the alleged breach of planning control, however it will in most cases involve a site visit at the start of the process to observe the alleged breach of planning control and to gather evidence. Several visits may be necessary to establish the occupation or use of the site or to identify if a planning condition is being breached.

- 3.12 Where a breach of planning control is identified, officers will consider the planning merits of the development being undertaken and any harm arising from the breach, taking into account national and local planning policies. This assessment will help determine the most appropriate course of action.

However, when making that decision it is necessary to take into consideration the public interest and the expediency of formal enforcement action. A key consideration in deciding whether to take formal enforcement action is, if a planning application had been submitted, whether that application would have been refused permission or only granted subject to conditions.

3.13 Once the investigation is concluded it could result in a number of different outcomes. These are outlined below:

- No breach established because the reported matter has not occurred, has ceased, or is outside of planning control.
- The breach of planning control has been remedied.
- The development is immune from enforcement action.
- A breach of planning control has occurred but causes no planning harm and no further action is necessary.
- A breach of planning control has occurred and harm has been identified such that it needs to be resolved through negotiation or formal action.

3.14 A remedy to a breach of planning control can occur because of one or more of the other outcomes listed above. For example, planning permission may have been granted, or the offending development has been removed. Nevertheless, in most cases, upon the remedy of a breach of planning control the council will close the enforcement case and notify the relevant interested parties accordingly. In some case it may be that formal action (i.e. prosecution or other legal action) may continue beyond the point of the breach being remedied. The decision to continue with this action will be made on a case-by-case basis and will be in line with the council's enforcement strategy.

3.15 Breaches of planning control become immune from enforcement action if they have existed for a certain period of time. In most cases, development becomes immune from enforcement if no action is taken:

- within 4 years of substantial completion for a breach of planning control consisting of operational development;
- within 4 years for an unauthorised change of use to a single dwellinghouse;
- within 10 years for any other breach of planning control (essentially other changes of use).

These time limits are set out in [section 171B of the Town and Country Planning Act 1990](#).

Note: There is no period of immunity for unlawful works to a Listed Building.

3.16 The fact that a breach of planning control has occurred does not automatically mean that formal action will be taken. Some breaches of planning control are minor and therefore cause limited or no planning harm (i.e. if an application

were to be submitted for the Council's consideration, it is likely that it would be unconditionally approved). In these instances, the council will use its discretion not to take further action as it would not serve a useful purpose or be a good use of our resources to do so. The developer would however be advised that planning permission is required for the works undertaken and of their right to regularise the development retrospectively under Section 73A of the Town and Country Planning Act 1990.

- 3.17 A decision to take no further action constitutes a formal decision of the authority which is displayed on the Council's website under the planning enforcement reference.
- 3.18 Resolving breaches of planning control can take a long time, particularly when taking formal enforcement action. The amount of time it takes to resolve a breach of planning control very much depends on the severity of the breach combined with the actions and/or reactions of the landowner(s)/occupier(s). Negotiations can often lead to a quicker resolution and to a better overall outcome. Where appropriate officers will negotiate with the owner/occupier and will consider options to address the planning harm resulting from the breach. The negotiation process may involve works being undertaken to remedy breaches of planning control to bring a development in line with permitted development rights or involve the submission of a retrospective planning application.
- 3.19 Where appropriate, the submission of a planning application will be invited to regularise the breach of planning control. In determining the application, the council could impose conditions on the planning permission to address the harm being caused by the unauthorised development and/or for the council to retain control of the development. This approach allows the planning merits of the development to be fully and openly considered. Applications for retrospective planning permission are considered objectively on their planning merits in the same way as those for proposed development. The council may, where it is appropriate and reasonable to do so, suspend any formal enforcement action whilst a retrospective planning application is being considered. However, where appropriate, the council will not allow the application process to unreasonably delay enforcement proceedings.
- 3.20 If it is not possible to remedy an identified harmful breach of planning control formal action will be undertaken to resolve the issue.

iii. Powers available to the Council in respect of planning enforcement, including appeals and powers if an enforcement notice is breached

- 3.21 Formal enforcement action is based on an assessment of the planning merits of the unauthorised development and can therefore only be taken where the development fails to meet the requirements of national and local plan policies. Formal enforcement action will be taken where it is reasonable and justified to do so, for example where negotiation has failed to resolve the breach of planning control occurring, or where a breach of planning control has a serious harmful impact that requires formal action.

3.22 Formal enforcement action may include:

- Planning contravention notice (PCN) – this is a tool to formally request information about an alleged breach of planning control (such as who is occupying a site, what uses are taking place and for how long). It may be served on the owner/occupiers of a site and it is an offence to not complete and return the information requested.
- Temporary Stop Notice (TSN) or Stop Notice (SN) – these are tools to stop a development/use taking place either temporarily or permanently.
- Enforcement notice (EN) – the notice will state the breach of planning control, identify the harm it causes, how it conflicts with national and local planning policies, the steps required to remedy the breach identified and a time frame by which the steps required [to remedy the breach] must be carried out.
- Prosecution for breach of condition(s) – court action may be taken against a failure to comply with the requirements of a breach of condition notice issued by the Council.
- Prosecution of the offence of failing to comply with an enforcement notice.
- An untidy land notice [issued under s.215 of the Planning Act] to remedy harm to the amenities of an area arising from unkempt land or premises.
- A Tree Replacement Notice to require planting following the unlawful removal of protected trees.

3.23 Serious breaches of control will be strictly enforced, but particularly where those breaches have a significant detrimental impact on living conditions, the local area, or where the breach has the potential to cause irreversible harm. In such cases, the council will use all the tools available to remedy the harm being caused. In some instances, the council may decide that the breach of planning control is so serious that it warrants immediate cessation. The council may therefore issue a temporary stop notice, or an enforcement notice accompanied by a stop notice.

3.24 Most formal notices have a right of appeal either to the Planning Inspectorate or through the courts. If an enforcement notice is subject to an appeal, the requirements of the notice will be held in abeyance until the appeal has been decided.

3.25 The failure to comply with the requirements of a formal notice is a criminal offence. Where such an offence is committed, the council will gather information about the offence, assess that information and decide the best course of action. This may be by seeking prosecution proceedings, applying for a high court injunction, undertaking works in default (take direct action) or continue to work with the offender to seek a suitable resolution. When deciding on the best course of action, the council will assess whether there is sufficient evidence to pursue the matter, whether such action is in the public interest and the expediency of pursuing the action.

iv. How decisions on whether to enforce are made; what matters are material considerations and what circumstances and issues influence whether formal action is taken

3.26 Decisions are made based on an assessment of the level of harm the unauthorised development has in respect of a range of matters including, but not limited to:

- Amenity of neighbouring properties
- Highway safety
- Noise and disturbance
- Landscape impacts
- Impacts upon the significance of a heritage asset
- Drainage and flood risk issues
- Ecological impacts

3.27 The assessment is based on the policies and guidance within national and local planning policies, including neighbourhood plans and other material considerations such as Supplementary Planning Documents, Conservation Area Character Appraisals, Village Design Statements and CDC guidance documents. In addition, the provisions of the Conservation of Habitat and Species Regulations 2017 and other legislation to protect wildlife may be a relevant consideration. Matters that are not material to any decision as to whether to take enforcement action or not, include land ownership, boundary disputes, or number of complaints received.

v. Impact of Covid on the team and enforcement action.

3.28 The team consists of a manager, principal planning officer, three planning officer posts and an administrative/technical support officer. Although officers were required to work from home at times during the Covid-19 pandemic, the work of the Planning Enforcement team did not significantly change or cease. The team continued to investigate reports of a breach of planning control and issue formal notices where it was deemed necessary, proportionate, and expedient to do so. The only change was that at the height of the pandemic, site visits were only carried out when it considered strictly necessary. Although, the team is currently fully resourced, one planning officer post was vacant between 8 November 2021 and 28 February 2022.

3.29 During the pandemic planning enforcement received an increased number of complaints. It is considered this was likely to be as a result of people spending more time at home to undertake works, and of course more people to observe what was taking place. In some cases, the work undertaken was to construct home offices. Table 1 contained within Appendix 1 provides details of the number of cases managed for the years 2018 to 2021 and they demonstrate

that the number of complaints received was highest in 2019, and the numbers are now falling. There was a reduction in the number of enforcement notices served in 2019, however the number increased in 2020 and 2021 as shown by the information contained within Table 2 of Appendix 1. The figures demonstrate that whilst covid impacted on working practices to a degree, the planning enforcement service continued to investigate breaches of planning control and pursued formal action where it was necessary.

- 3.30 The information provided shows that as a result of an increase in cases the number of on hand cases also increased in 2020. The number remain higher than in 2018 and 2019, however this is now reducing which is positive and it is anticipated with the vacant post now filled this downward trend will continue. Importantly, the information contained in Table 3 of Appendix 1 shows that performance, in respect of visits being undertaken and contact with complainants, dipped only very slightly in 2020 from the previous year, and in 2021 the planning enforcement team achieved 100% for all targets.
- 3.31 Therefore, whilst the pandemic brought challenges to the way the planning enforcement team operated it did not significantly affect performance against targets set out in the Enforcement Strategy, and performance continued at a high level.

V. Enforcement on traveller sites

- 3.32 The government's stated overarching aim is to ensure fair and equal treatment for travellers, in a way that facilitates the traditional and nomadic way of life of travellers while respecting the interests of the settled community. Hence, whilst the enforcement of breaches of planning control on travellers sites follows the principles and actions set out above, officers must also take into consideration government guidance contained in 'Planning Policy for Traveller Sites' (PPTS) which is read in conjunction with the National Planning Policy Framework. The identified need for sites in the district is also a material consideration.
- 3.33 In addition to considering the human rights of those affected in accordance with the Human Rights Act 1998, it is also necessary to consider whether there are any specific impacts upon the protected characteristics of persons identifying as a Gypsy in accordance with The Equality Act 2010, and the best interests of the child under Article 3 of the United Nations Convention on the Rights of the Child (UNCRC), arising from a proposed action. These matters must be assessed when considering whether to issue formal enforcement proceedings.

vi. Resident perceptions of the enforcement process

- 3.34 There are common misconceptions around what a planning enforcement service can achieve and the timescales in which it operates. It is therefore important that customer expectations are managed through compliance with the Enforcement Strategy and consistency, where possible, in the approach that is taken to investigating breaches of planning control.

3.35 It remains however that there are a few common perceptions around what can be enforced:

- Where communities report concerns about unauthorised development, that the Council can automatically take formal action – the Council would be challenged at appeal and in court if it proceeded to formal action without first engaging with a developer/transgressor, to do so may also lead to an award of costs against the Council, as the possibility of voluntary compliance should be explored in the first instance.
- Where land is taken into a development site that residents consider to be owned by someone else - land ownership is not a ground for taking formal action unless a material change in the use of the land takes place. For example, from a field to garden amenity land.
- Where unauthorised development affects a right of way, residents may expect that we can address the right of way – permission is required to divert a public right of way [PROW] but interference with a PROW, obstructing it or destroying its surface is a matter for WSCC as the PROW authority.
- Where a person has been issued with a Stop Notice that the Council can restrain them from continuing – undertaking any form of formal action relies on the recipient complying with the notice or court order served upon them as such actions do not physically restrain individuals from proceeding. By continuing with the breach identified, the person takes a calculated risk regarding future actions and costs in relation to the formal proceedings undertaken.
- Where a breach of a controlling planning condition takes place that a Breach of Condition Notice [BCN] can be issued to rectify the breach – a BCN can only require compliance with the wording of the controlling condition and cannot exceed the requirements of the planning permission to correct a perceived weakness in the approved scheme. For example, if the developer has provided 66 parking spaces [including 6 spaces for visitors] as required by condition, the LPA cannot then dictate where the visitor parking should be located if that is not specified within the permission issued.

4.0 Outcomes to be achieved

- 4.1 To raise awareness of the planning enforcement process.
- 4.2 To ensure that the decisions of Planning Enforcement are consistent with the Enforcement Strategy, relevant National and Local Planning Policies and other material considerations to enable the expectations of those engaged in the planning enforcement process to be managed.

5.0 Proposal

- 5.1 That the committee notes the operation of the planning enforcement process and makes any comments.

6.0 Resource and legal implications

6.1 There are no direct financial or budgetary implications arising from this matter. Working in accordance with the Council's adopted Enforcement Strategy, the South Downs National Park Enforcement Guide and Government guidance has resulted in few complaints having been received about the service. This has enabled it to focus on the core function of enforcement investigation and complaint resolution.

6.2 Paragraph 59 of The National Planning Policy Framework states:

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

The Enforcement Strategy meets the objectives of the NPPF.

7.0 Consultation

7.1 None

8.0 Community impact and corporate risks

8.1 Within the enforcement process there is a risk that an aggrieved party may make a formal complaint or seek financial compensation for any harm arising from a failure to enforce. These risks can be managed through the regular monitoring of cases by both officers and members as set out above.

9.0 Other Implications

Are there any implications for the following?	Yes	No
Crime & Disorder: The Council has a duty "to exercise its functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area". Do the proposals in the report have any implications for increasing or reducing crime and disorder?		No
Climate Change: Are there any implications for the mitigation of or adaptation to climate change? If in doubt, seek advice from the Environmental Strategy Unit (ESU).		No
Human Rights and Equality Impact: You should complete an Equality Impact Assessment when developing new services, policies or projects or significantly changing existing ones. For more information, see Equalities FAQs and guidance on the intranet or contact Corporate Policy.		No
Safeguarding: The Council has a duty to cooperate with others to safeguard children and adults at risk. Do these proposals have any		No

implication for either increasing or reducing the levels of risk to children or adults at risk?		
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10.0 Background Papers

10.1 NPPF
https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/1005759/NPPF_July_2021.pdf

10.2 NPPG
[Enforcement and post-permission matters - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/1005759/NPPG_July_2021.pdf)

10.3 The Enforcement Strategy
https://www.chichester.gov.uk/media/27975/Enforcement-Strategy-2017/pdf/Enforcement_Strategy_2017.pdf

11.0 Appendices

11.1 Appendix 1 – Planning Enforcement Performance

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Appendix 1: Planning Enforcement Performance

Table 1: Annual cases received, cases closed and cases on hand

	2018	2019	2020	2021
CDC Received	377	408	411	325
SDNP Received	144	158	135	169
TOTAL RECEIVED	521	566	546	494
CDC Closed	406	429	342	362
SDNP Closed	172	154	132	146
TOTAL CLOSED	578	583	474	508
Cases on hand	362	342	417	407

Table 2: Notices served

Notices Served:	2018		2019		2020		2021	
	CDC	SDNP	CDC	SDNP	CDC	SDNP	CDC	SDNP
Enforcement Notices	33	12	15	7	16	4	25	4
Breach of Condition Notices	6	2	5	1	6		3	2
Stop Notices			2		1		7	1
Temporary Stop Notices	1		3		11	2	6	6
Section 215 Notices	4	1	2				1	
Section 225A Notices								
High Hedge Remedial Notices			1		2		2	
Tree Replacement Notice							1	
Total	44	15	28	8	36	6	45	13

Table 3: CDC Performance against targets set out in the CDC Enforcement Strategy

[The following Performance Indicators are for CDC area only as this information is not available for cases within the South Downs National Park]

Time taken to initial visit from date of complaint					
Priority Level	Target	2018	2019	2020	2021
LOW	Visit within 20 days	97% (278)	100% (302)	98% (314)	100% (235)
MEDIUM	Visit within 10 days	98% (80)	100% (93)	97% (77)	100% (69)
HIGH	Visit within 2 days	95% (19)	100% (13)	100% (20)	100% (21)
Time taken to notify complainants of action decided from date of complaint					
LOW	Within 35 days	99% (280)	100% (316)	100% (321)	100% (245)
MEDIUM	Within 29 days	94% (84)	100% (94)	100% (78)	100% (69)
HIGH	Within 9 days	95% (19)	100% (14)	100% (20)	100% (23)

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Chichester District Council

OVERVIEW AND SCRUTINY COMMITTEE

22 March 2022

Scope for East Pallant House Options Appraisal

1. Contacts

Report Author:

Joe Mildred - Business Support Divisional Manager
Tel: 01243 534728 E-mail: jmildred@chichester.gov.uk

2. Recommendations

- 2.1 That the Overview and Scrutiny Committee considers the scope of the East Pallant House options appraisal and recommends it to Cabinet**
- 2.2 That Cabinet is recommended to agree up to £20,000 from reserves to fund a third party to undertake the detailed valuation exercise to inform the options appraisal.**

3. Background

- 3.1 Over recent years, the Council's office-based working has modernised and become more flexible. The office footprint has reduced, with space let to partners and tenants and there has been a move away from staff having their 'own' desks with hot desking now common place. The move to working flexibly has accelerated dramatically over the last two years with Covid restrictions requiring widespread homeworking. Most office-based staff now work from home for a proportion of their working week on an ongoing basis. As a result, the Council's future office space requirements are likely to be less, meaning that we could reduce our office space further.
- 3.2 East Pallant house is in the City Centre, within the City Walls and includes a listed town house that has had office space added to it over the years. The layout of the building (particularly the original part) is not effective for office use. It is not energy efficient and is expensive to run and maintain. The building has purpose-built Committee Rooms to hold public meetings and a large reception. East Pallant car park is immediately adjacent.
- 3.3 In the recent Future Services Framework prioritisation exercise undertaken by members, there was agreement that work on an options appraisal for the future use of East Pallant House and the Council's future office accommodation needs should be carried out.

4. Outcomes to be Achieved

- 4.1 The options appraisal should pull together the relevant information to allow members to make an informed decision on the future of the Council's office accommodation and the best use of the East Pallant site.
- 4.2 The options appraisal should consider the impact of the various options on the Council's customers, staff, its financial position (both capital and revenue), the environmental footprint, the impact on the local economy and the emerging Car Parking Strategy. There should also be consideration of the ongoing requirements of our current partner tenants.

5. Proposal

- 5.1 It is proposed that the options appraisal considers the options for the Council's future office requirements, with those requirements split into three main functions: customer facing / reception space, space for public meetings and committees and back-office space for staff. Each of these elements could be co-located as at present or be in separate, appropriate locations.
- 5.2 The options should explore the existing location (as it is or occupying a smaller footprint of the existing building with a view to letting additional areas), the potential for a new build on a separate site, any potential pre-existing office sites that could be purchased and sharing with local partners.
- 5.3 It is recommended that we instruct external agents to carry out valuations of the existing East Pallant site to include separate valuations for the different potential elements. We would also require indicative costs for a potential new build if an appropriate site can be located. It is recommended that Cabinet are asked to approve the funding of up to £20,000 from reserves for this work.
- 5.4 It is proposed that the relevant information is collated over the coming year and concluded in early 2023, with a final decision on the way forward being made by the new Council after the District Council elections in May 2023 and work undertaken to implement as appropriate at that time.
- 5.5 The elements of the project relating to the ongoing requirements of the Council's offices is to be led by the Divisional Manager for Business Support and those relating to the work to appraise the options for alternative sites and related costs and valuations is to be led by the Divisional Manager for Property and Growth.

6. Alternatives Considered

- 6.1 A full options appraisal is proposed and if any options are established as clearly unfeasible this will be outlined in the final report.

7. Resource and Legal Implications

7.1 The resource and legal implications will be key considerations for the options appraisal along with the other considerations set out in paragraph 4.2

8. Consultation

8.1 Consultation on the potential options will be undertaken with customers, staff, and members.

9. Community Impact and Corporate Risks

9.1 To be considered as a key part of the options appraisal.

10. Other Implications

	Yes	No
Crime and Disorder		x
Biodiversity and Climate Change Mitigation Potential to reduce the carbon footprint of the Council's buildings.	x	
Human Rights and Equality Impact An Equality Impact Assessment to be undertaken for any preferred option with a focus on accessibility.	x	
Safeguarding and Early Help		x
General Data Protection Regulations (GDPR)		x
Health and Wellbeing		x
Other (please specify)		

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Chichester District Council

OVERVIEW AND SCRUTINY COMMITTEE

22 March 2022

Barnfield Phase 1 and 2a – Post Project Evaluation

1. Contact

Report Author:

Vicki McKay – Divisional Manager, Property & Growth

Tel: 01243 534519 E-mail: vmckay@chichester.gov.uk

2. Recommendation

The committee is requested to:

- 2.1. Consider the Post Project Evaluation (PPE) report for the development of land at Barnfield, Chichester Phases 1 and 2a.**
- 2.2. To recommend any further actions to Cabinet if required.**

3. Background

- 3.1.** The development of the Council's land at Barnfield, Chichester has been undertaken by a third-party developer. This report is therefore a review of those arrangements and outcomes rather than a 'post project evaluation' in the usual sense.
- 3.2.** The land, sited to the east of the city centre, was considered in 2 main parcels, known as Plots 1 and 2. A site plan is included as Appendix 1.
- 3.3.** In 2003, Brookhouse developed the Homebase store via a lease of land owned by the Council (Plot 1a). Following appropriate procurement and due diligence processes, an Agreement for Lease between the Council and Brookhouse for the remaining Barnfield land was completed in 2011. Cabinet resolutions from that year supported the development of 'out of town' retail provision through a joint venture with Brookhouse and agreed that the then Director of Employment and Property agree terms for that agreement and subsequent leases for individual development sites.
- 3.4.** The remainder of Plot 1 (Plot 1b) has now been developed under the agreement with Brookhouse, with part of the land at Plot 2 (Plot 2a) more recently being developed to provide a Lidl foodstore.
- 3.5.** The remaining land (Plot 2b) remains covered by the agreement with Brookhouse, who will bring forward market led development opportunities as appropriate.

4. Post Project Evaluation

- 4.1 The Post Project Evaluation (PPE) provides a review of how the Barnfield Development has performed against the original intentions set out in the Agreement for Lease and subsequent supplemental documents. It allows lessons learned to be passed on to other projects and ensures that provisions have been made to address all open issues and risks alongside follow on actions and recommendations where appropriate. It also provides the opportunity to assess any expected outcomes that have already been achieved and/or provide a review plan for those outcomes yet to be realised.
- 4.2 Detail of the development undertaken to date is as set out below. The financial detail of the development to date is contained in Appendix 2 (exempt).
- 4.2.1 Phase 1A
Homebase formed the key development of the earliest phase of the Barnfield development.
- 4.2.2 Phase 1B
This comprises a development of Aldi stand-alone store, plus a terrace of units initially housing Halfords, Wickes and Iceland (Food Warehouse), which is complete and trading. The Wickes unit has more recently been assigned to Home Bargains.
- 4.2.3 Phase 2A
This accommodates the Lidl store that opened in March 2020, which was later than planned due to delays in the highways works.

5. Contract Monitoring and Performance

- 5.1 A summary of the contractual position is contained at Appendix 2 (exempt). Regular meetings take place between the Council and Brookhouse to discuss market activity and any contractual matters.
- 5.2 Independent professional valuation and legal advice has been obtained, which confirms that best consideration is maintained with Brookhouse and that appropriate indemnities are in place to protect the Council.

6. Consultation

- 6.1 Formal consultation on the development proposals has been carried out through the planning permission process.

7. Community impact and corporate risks

- 7.1 Development of the land at Barnfield has created local jobs and provided additional business investment into the area. Ongoing liaison between the Council and Brookhouse ensures any risks can be identified at an early stage and steps taken to mitigate their impact.

8. Other Implications

	Yes	No
Crime & Disorder: The additional employment opportunities created by the construction of the centre could help reduce incidents of crime and disorder.		X
Climate Change:		X
Human Rights and Equality Impact:		X
Safeguarding:		X
GDPR		X

9. Appendices

9.1 Appendix 1 – Location plan

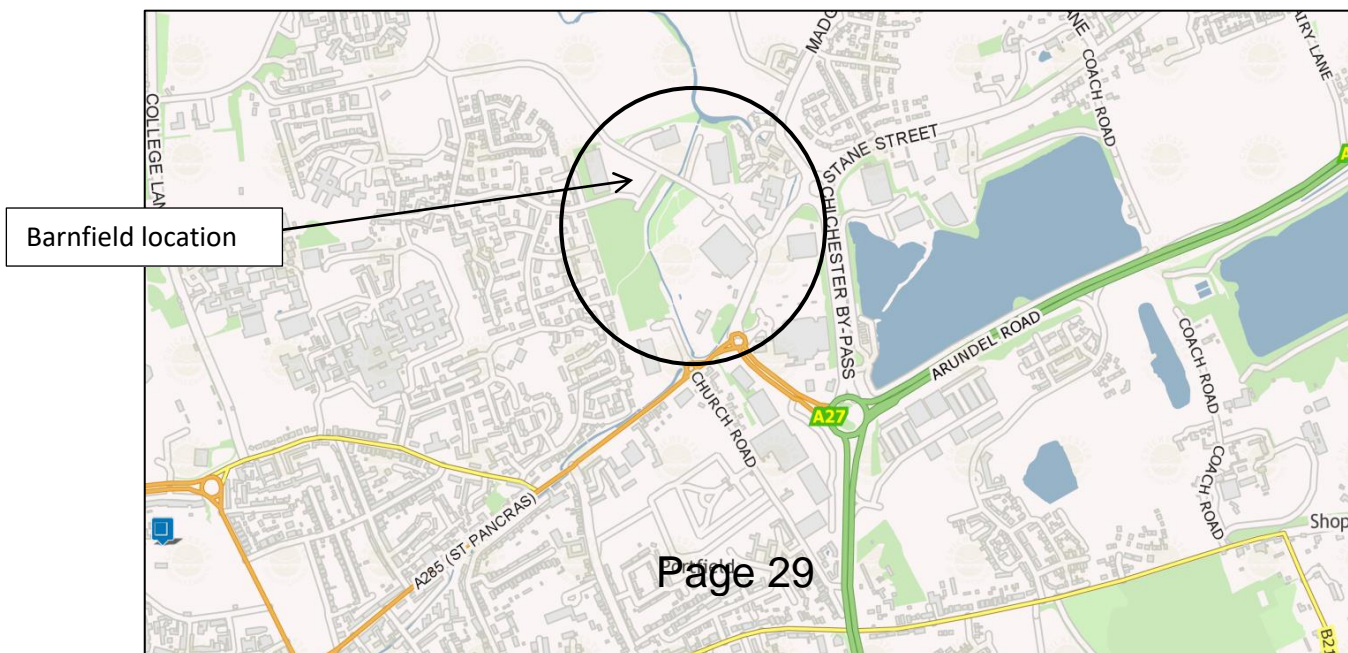
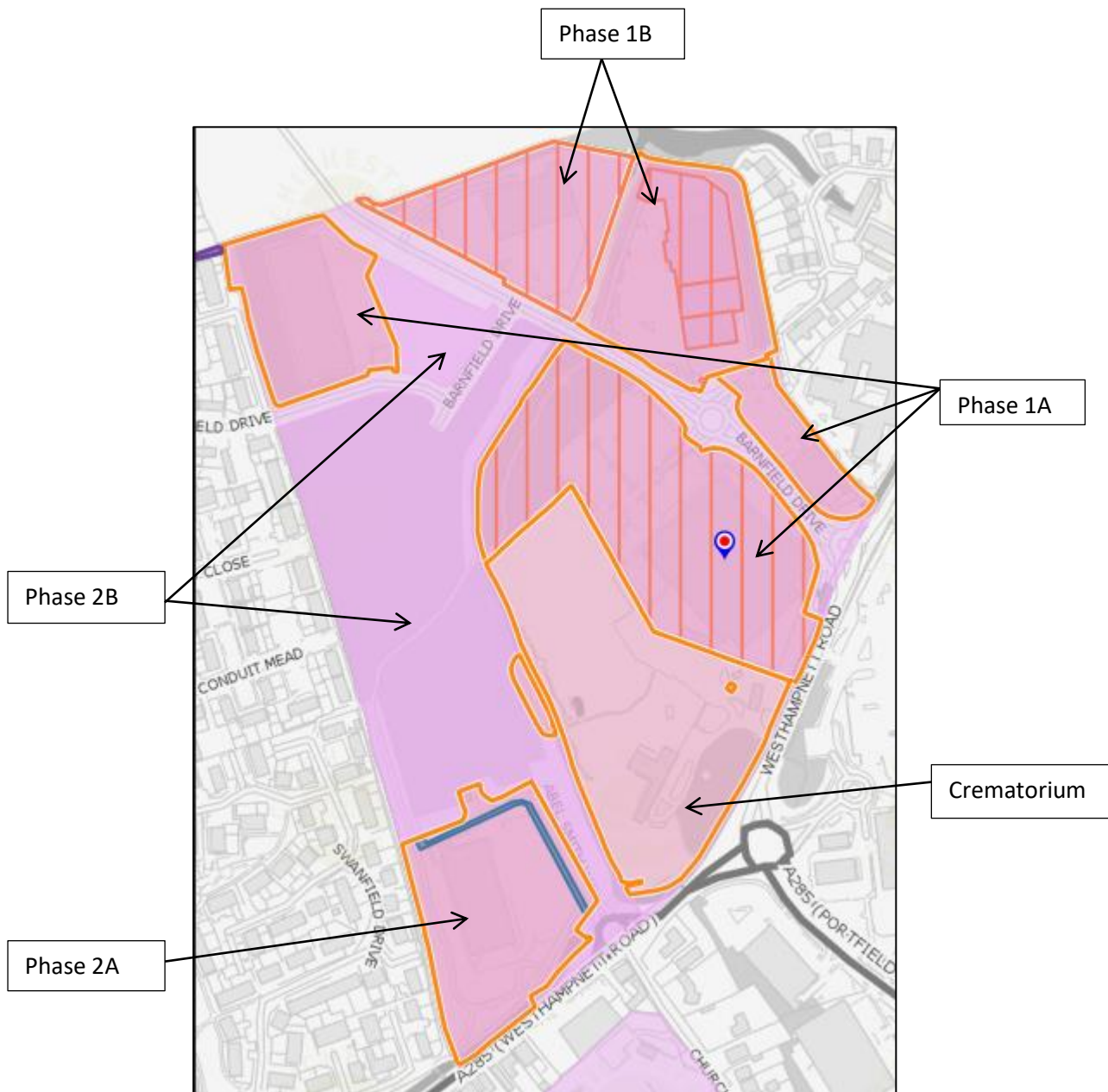
9.2 Appendix 2 – Financial and contract detail summary (Part II)

10. Background Papers

10.1 None

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Barnfield Phase 1 and 2a – Post Project Evaluation
APPENDIX 1



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

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