



DEVELOPMENT PLAN PANEL

Meeting to be held REMOTELY on
Tuesday, 8th September, 2020
at 1.30 pm

MEMBERSHIP

Councillors

B Anderson
C Campbell
A Carter
C Gruen
J McKenna
N Walshaw (Chair)
S Arif
D Collins
R Finnigan
L Mulherin
K Ritchie

Note to observers of the meeting:

To remotely observe this meeting, please click on the link below. This will take you to the Leeds City Council's YouTube channel, and the meeting can be viewed live from there.

<https://www.youtube.com/playlist?list=PLggQFjpTLgplgAcWdE9UNwAaDYRCjTMWS>

Agenda compiled by:
N Prosser
Governance Services
Telephone: 37 88021

Head of Strategic Planning:
Martin Elliot
Tel: 0113 37 87634

A G E N D A

Item No	Ward	Item Not Open		Page No
1			<p>APPEALS AGAINST REFUSAL OF INSPECTION OF DOCUMENTS</p> <p>To consider any appeals in accordance with Procedure Rule 15.2 of the Access to Information Rules (in the event of an Appeal the press and public will be excluded)</p> <p>(*In accordance with Procedure Rule 15.2, written notice of an appeal must be received by the Head of Governance Services at least 24 hours before the meeting)</p>	
2			<p>EXEMPT INFORMATION - POSSIBLE EXCLUSION OF THE PRESS AND PUBLIC</p> <p>1 To highlight reports or appendices which officers have identified as containing exempt information, and where officers consider that the public interest in maintaining the exemption outweighs the public interest in disclosing the information, for the reasons outlined in the report.</p> <p>2 To consider whether or not to accept the officers recommendation in respect of the above information.</p> <p>3 If so, to formally pass the following resolution:-</p> <p>RESOLVED – That the press and public be excluded from the meeting during consideration of the following parts of the agenda designated as containing exempt information on the grounds that it is likely, in view of the nature of the business to be transacted or the nature of the proceedings, that if members of the press and public were present there would be disclosure to them of exempt information, as follows:</p>	

Item No	Ward	Item Not Open		Page No
3			<p>LATE ITEMS</p> <p>To identify items which have been admitted to the agenda by the Chair for consideration.</p> <p>(The special circumstance shall be specified in the minutes).</p>	
4			<p>DECLARATION OF DISCLOSABLE PECUNIARY INTERESTS</p> <p>To disclose or draw attention to any disclosable pecuniary interests for the purposes of Section 31 of the Localism Act 2011 and paragraphs 13-16 of the Members' Code of Conduct</p>	
5			<p>APOLOGIES FOR ABSENCE</p>	
6			<p>MINUTES</p> <p>To approve the minutes of the meeting held on 29th July 2020 as a correct record.</p>	7 - 12
7			<p>LEGAL CHALLENGE ON THE SITE ALLOCATIONS PLAN (SAP) UPDATE</p> <p>To consider the report of the Chief Planning Officer that provides an update on the Legal Challenge to the Site Allocations Plan. The paper provides the latest information on the legal challenge and an outline of the immediate tasks required and the process moving forwards for consideration by Members.</p>	13 - 38

Item No	Ward	Item Not Open		Page No
8			<p>PLANNING WHITE PAPER</p> <p>To consider the report of the Chief Planning Officer that provides an early overview of proposals in the Government's White Paper on reform of the Planning System. For each of the proposal topics officers raise matters that may require consideration for Members as part of the Council's consultation response. There are also particular comments on the potential implications for the Local Plan Update. The report is also an opportunity for Members to provide their own comments on the proposals, in order to aid officers in preparing a draft response to the consultation, to be brought to DPP in October for endorsement.</p>	39 - 54
9			<p>DATE AND TIME OF NEXT MEETING</p> <p>To note the date and time of the next meeting as Tuesday 3rd November 2020 at 1.30 pm.</p> <p><u>Third Party Recording</u></p> <p>Recording of this meeting is allowed to enable those not present to see or hear the proceedings either as they take place (or later) and to enable the reporting of those proceedings. A copy of the recording protocol is available from the contacts named on the front of this agenda.</p> <p>Use of Recordings by Third Parties– code of practice</p> <ol style="list-style-type: none"> a) Any published recording should be accompanied by a statement of when and where the recording was made, the context of the discussion that took place, and a clear identification of the main speakers and their role or title. b) Those making recordings must not edit the recording in a way that could lead to misinterpretation or misrepresentation of the proceedings or comments made by attendees. In particular there should be no internal editing of published extracts; recordings may start at any point and end at any point but the material between those points must be complete. 	

Development Plan Panel

Wednesday, 29th July, 2020

PRESENT: Councillor N Walshaw in the Chair

Councillors B Anderson, C Campbell,
C Gruen, J McKenna, S Arif, D Collins,
R Finnigan, L Mulherin and K Ritchie

The Chair welcomed everyone to the first “remote meeting” of the Development Plan Panel.

The Chair explained that internet connectivity may be an issue for some participants and suggested it may be appropriate to appoint a Deputy Chair who could assume the Chair should the Chair lose connectivity.

The Chair proposed that Councillor Kevin Ritchie be nominated as the Deputy Chair, the proposal was seconded, upon being put to the vote the motion was passed.

1 Appeals Against Refusal of Inspection of Documents

There were no appeals.

2 Exempt Information - Possible Exclusion of the Press and Public

There were no exempt items.

3 Late Items

There were no formal late items. However, supplementary information had been circulated prior to the meeting in relation to agenda item 7 – Local Plan Update.

4 Declaration of Disclosable Pecuniary Interests

There were no declarations of disclosable pecuniary interests.

5 Apologies for Absence

Apologies for absence were received from Councillors An Carter and R Finnigan.

6 Minutes

RESOLVED- That the minutes of the Development Plan Panel meeting held on 21 January 2020 be approved as an accurate record.

Matters Arising

A Member queried the position on the Statement of Community Involvement (SCI) – public consultation. The Head of Strategic Planning informed the Panel, one round of formal consultation with members of the public and a steering group involving local representatives had been undertaken. It was confirmed there had been a delay for

Draft minutes to be approved at the meeting
to be held on Tuesday, 8th September, 2020

the next round of consultation due to the Pandemic. A progress update would be provided at the next Panel meeting.

7 Local Plan Update

The Panel considered a report of the Chief Planning Officer that provided an update on four key issues: the Legal Challenge to the Site Allocations Plan; the Site Allocations Plan Review; the Local Plan Review and the Local Plan Update. The report provided context on the latest information on the legal challenge and used the review of extant Local Plan policies to begin the process of updating the Local Plan and set out an initial broad scope of that update, alongside a timetable for preparation and consultation.

A summary table of the Leeds Local Plan review 2020, had been appended to the submitted report.

The Head of Strategic Planning informed the Panel on the position of the Legal Challenge to the Site Allocations Plan. The case focused on the release of Green Belt land within the Aireborough Housing Market Characteristic Area for housing within the Site Allocations Plan, and the Judgement had been handed down in June 2020. The Judge had supported three of the seven grounds submitted (which involved errors with the independent Inspectors' Report, not the Council's submission), and on that basis the claim was allowed and the Judge had sought suggested relief on the three grounds. The Panel heard that the relief submissions had been received by the Judge, and that to date the Judgment had yet to be handed down.

Additionally, the implications the legal challenge had on the Site Allocations Plan created impacts upon the scope and future timescale of the Site Allocation Plan Review. There was still a need to review additional housing allocations and safeguarded land designations to deliver the adopted housing requirement post 2023, as set out in SAP policy HGR1.

In response to Members comments on the update, the following had been discussed:

- *Greenbelt sites implicated with the challenge.* All submitted planning applications would be progressed and appropriate weight would be attached to policies until such a time as Relief was granted.
- *Downward housing trajectory (CSSR).* The reference in the report was specific to the downward trajectory of the housing target and reduction from 70k homes to 52k set in 2019. It was confirmed that the Judgement did not raise any immediate implications over the distribution of housing.
- *Shortfall in housing and allocation.* A Member raised concern regarding the allocation of housing through HMCAs, particularly the implications on the inner city areas and climate change, in terms of meeting housing requirements.
- *Strategic Housing Land Availability Assessment (SHLAA) Review.* The Panel heard that the SHLAA provided an opportunity to receive up to date information on sites being brought forward, and any information (including contaminated land) provided on behalf of housebuilders, would be checked by the Council.

The Group Manager (Policy and Plans) provided an update on the Local Plan Update. Town and Country Planning Act Regulations and paragraph 33 of the NPPF require a review of Local Plan Policies every 5 years; following that review, it was considered that a number of policies across the Local Plan would benefit from being updated. (Appendix 1 outlined the review by policy) The following information had been highlighted:

Climate Emergency

Previous discussions on the Local Plan Update (LPU) have focused on the climate emergency, and there was a commitment to focus on related matters including:

- Strategic plan to plant more trees;
- Sustainable and active travel access to new housing;
- Review of Leeds Bradford Airport policy SP12.

An update to Strategic policies in the Core Strategy and Natural Resources and Waste Plan could consist of:

- Spatial Strategy;
- Carbon reduction and sustainable design and construction;
- Renewable energy generation;
- Green and blue infrastructure;
- Sustainable Travel, car free living and walkable neighbourhoods

Other Policy Areas

To reflect current and future impacts of Covid-19 and potential for a broadened scope in line with the Local Plan Review to meet the priorities in the Best Council Plan, including:

- Infrastructure and investment – HS2, Mass Transit;
- Employment land requirements – Impact of Covid-19 on office demand;
- Health High Streets – how to create resilient local/town/city centres;
- Place-making – how to create resilient communities.

Changes to the Planning System

Major changes have been signalled by Government including Permitted Development Rights and Use Class Order (impacts on High Streets) changes.

Proposed Next Steps

Topic based papers are to be brought to Panel meetings with policy options;

- Agreement on the draft scope;
- Prepare Sustainability Appraisal Scoring Report;
- Progress made to enable Regulation 18 consultation which concerns matters of the scope via Executive Board;
- Indicative timetable of spring 2021 for Regulation 18 consultation.

Whilst acknowledging the limitations in terms of national guidance, the Chair was keen to identify initiatives on how the Council is to be net zero carbon by 2030. The Executive Member (Climate Change, Transport and Sustainable Development) added that travel plans had been looked at in terms of 'active travel' neighbourhoods and how this would be rolled out within communities. The opportunity to explore

community regeneration was expressed, particularly joined up approaches with local/town/city centres and hubs. The Chief Planning Officer further highlighted the need to ensure that longer term strategies meet the requirements around performance standard of new properties, housing requirements and the need to enable easier retrofit of housing stock.

In response to Members comments and questions, the following had been discussed:

- *Greenspace requirements.* The Panel shared a general consensus that adequate amounts of greenspace needs to be provided by developers. The Panel also highlighted the importance of developers being encouraged to have discussions with community groups, to enhance ownership of tree planting. It was confirmed that the Council had recently updated the policy within the CSSR on greenspace delivery, and this would need to be monitored overtime. Additionally, investment introduced 'pocket parks' across the city.
- *Permitted Development Rights.* In responding to concerns on conversion allowances, it was confirmed that a topic paper would be scheduled to come back to a future Panel meeting.
- *Place-making.* Suggestions were made to look at encouraging hedgerows instead of fencing.
- *Definition of environmental and social sustainability.* Officers highlighted that the Council would continue to ensure policies are sustainable at a local level against the Core Strategy and Best Council Plan objectives.
- *Managing the growth of Leeds/Bradford Airport.* The national focus required to tackle climate change in the aviation industry. It was confirmed that aviation would form part of the policy review and noted that the Council must use existing policy to determine the current airport application.
- *Impacts of the West Yorkshire Devolution Deal.* The Chief Planning Officer set out the role of the Combined Authority in preparing a Spatial Development Strategy (SDS), whilst confirming that the scope of the Local Plan Review had the potential to shape the SDS.
- *Cross boundary implications.* Officers confirmed the Duty to Cooperate approach had been robust and officers were confident this would be the case in the future.
- *Review of Policies H5 and SP6 & SP7.* The Panel noted the policies listed had been subject to recent review through the CSSR and the effectiveness of those policies would be picked up through an Authority Monitoring Report.
- *Climate Emergency Working Groups.* In acknowledging the importance and depth of work around climate emergency policies, a suggestion was made for Member involvement from the Development Plan Panel. The Chair confirmed Panel Members would be invited to relevant working groups.

In summarising, officers set out the next steps for the Local Plan Review, confirming that a scope consultation document would be brought to the Development Plan Panel meeting early 2021; climate emergency policies would take priority. The Group Manager (Policy and Plans) confirmed that the Local Plan Review would be subject to the Chief Planning Officers delegation powers, and the final document would be published on the Council website. The suggestion to maximise the use of existing policies was noted, and would be the subject of additional training and guidance notes for officers.

To conclude, the Chair requested that Members of the Development Plan Panel be invited to the relevant Climate Emergency Working Groups and that, a draft work programme be provided on the topics relating to:

- Aviation and Transport
- Carbon Housing
- Green Infrastructure
- Local Energy Production

RESOLVED –

- a) To note the position on the Site Allocation Plan legal challenge and review and that an update would be provided at a future Panel date;
- b) To note the contents of the report, and updates provided on the initial scope of the Local Plan Update;
- c) To note the contents of the Summary table of Leeds Local Plan Review 2020 – as set out in **Appendix 1**;
- d) That the comments made at the meeting be noted, and agreed that broad suggestions listed above will be used to form an indicative timetable and be brought to the next Panel meeting for consideration.

8 Date and Time of Next Meeting

RESOLVED – To note the date and time of the next meeting as 8 September 2020 at 1.30 p.m.

The meeting ended at 12:55

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Report author: Adam Harvatt, Lois Pickering, Matt Brook. Tel: 0113 37 87634

Report of Chief Planning Officer

Report to Development Plan Panel

Date: 8th September 2020

Subject: Legal Challenge on the Site Allocations Plan (SAP) Update

Are specific electoral wards affected? If yes, name(s) of ward(s): ALL	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has consultation been carried out?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will the decision be open for call-in?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary

1. A report to Development Plan Panel in July 2020 provided an update on the High Court challenge to the Site Allocations Plan (SAP). The SAP was adopted by Full Council on 10th July 2019, following receipt of the independent Inspectors' Report (IR) from the Planning Inspectorate. Post adoption, the SAP was the subject of a Legal Challenge by the Aireborough Neighbourhood Development Forum, submitted to the High Court on 20th August 2019. The case primarily focussed on the release of Green Belt land within the Aireborough Housing Market Characteristic Area for housing within the SAP. Subsequently, the case was heard at the High Court in February 2020, with Judgment being handed down on Monday 8th June 2020. The Judge found that three of the seven grounds constituted errors of law (within the IR) but at the time of Development Plan Panel in July a judgement on the relief to be ordered was awaited.
2. The High Court has now ordered relief (handed down on 7th August 2020) (see Appendix 1). The effect of this relief is that all parts of the SAP which allocate sites for housing (including mixed use sites) that, immediately before the adoption of the SAP were in the Green Belt (37 sites), will be remitted back to the Secretary of State and the Planning Inspectorate for further examination.

3. During this remittal process these 37 sites will be considered as not adopted and as such will return to the Green Belt until re-examined. The remainder of the SAP remains adopted and carries full weight. The 37 sites are listed at Appendix 2 with a plan showing their location at Appendix 3.
4. Appendix 4 shows the effects of the judgement on housing supply across Housing Market Characteristic Areas (HMCAs).
5. Policy HGR1 of the adopted SAP requires a review to assess and address the need for additional housing allocations and safeguarded land designations post 2023 following the adoption of the Core Strategy Selective Review. Policy HGR1 states that the review will be submitted by the end of December 2021. As the plan in part will now be re-examined by an inspector it is not possible to submit a review of housing allocations and safeguarded land by 2021, to address HGR1. However, as part of the remittal process the Council will in effect be reviewing the additional need for housing allocations post 2023 and as such the work undertaken may incorporate the same work required by HGR1. If this is the case, the proposals submitted to the Secretary of State for re-examination could include that policy HGR1 is deleted. This would have the effect of removing the need for a SAP Review.
6. Whilst a 5 year housing land supply still exists despite the Judgment, the relief order has reduced this from 7.2 years to 6.1 years supply, through removal of the 37 housing allocations.
7. Officers have commenced work on updating housing evidence, in particular the Strategic Housing Land Availability Assessment (SHLAA), as this will underpin any further proposed modifications to the Plan. The SHLAA is an ongoing technical process to inform planning policy development and implementation. It assists in the monitoring of whether there is an adequate supply of deliverable housing land at any point in time. The preparation of a SHLAA is an annual requirement of the National Planning Policy Framework (NPPF). The 2020 update will take account of new planning permissions and construction activity to a base date of 1 April 2020. The update will be informed by recent national planning policy announcements, current market adjustments and any challenges posed to housing delivery by Covid-19.
8. The process moving forward will be:
 - Update the evidence base as detailed above;
 - Determine what changes to the plan in respect of the 37 Green Belt allocations are required, taking account of the findings of the Judgment and the updated evidence;
 - Provide further update reports to DPP on the updated evidence and proposed approach to amending the Plan prior to resubmission to the Secretary of State;
 - Submit any proposals to the Secretary of State for further examination and subsequent adoption.

Recommendation

Panel Members are asked to:

- (i) note and comment on the contents of the report as it relates to the Site Allocation Plan legal challenge and review, and process prior to remittal back to the Secretary of State.

1. Purpose of this report

- 1.1 The purpose of this report is to update Members on the Legal Challenge to the Site Allocations Plan. The paper provides the latest information on the legal challenge and an outline of the immediate tasks required and the process moving forwards for consideration by Members.

2. Background information

- 2.1 The Leeds Site Allocations Plan (SAP) was adopted by Full Council on 10th July 2019. The SAP provides site allocations and requirements that help to deliver the Adopted Core Strategy (CS) 2014, ensuring that sufficient land is available in appropriate locations to meet the targets set out in the CS for housing (including Gypsies, Travellers and Travelling Showpeople), employment, retail and greenspace.
- 2.2 To account for the (then) imminent adoption of the CSSR, the SAP Inspectors introduced SAP Policy HGR1 which requires that once the new CS housing target (introduced into the CS on adoption of the CSSR) was adopted, the Council would undertake a review to consider the need for additional housing allocations and safeguarded land designations to deliver the new CS housing target (this is the 'SAP Review').
- 2.3 Upon adoption, the housing provision in the SAP was below the existing CS 2014 housing target. This was because the Council had taken steps to reflect a known downward housing trajectory (which was being advanced in its CSSR and, reduce (by over half) the amount of Green Belt land to be allocated. This resulted in the removal of 32 proposed Green Belt sites from the SAP.
- 2.4 The CSSR was adopted on 11th September 2019 and amended the housing requirement from 70,000 (net) between 2012-2028 to 51,952 (net) between 2017-2033, of which 46,400 homes need to be allocated in the SAP and the Aire Valley Leeds Area Action Plan.
- 2.5 However, following the day of adoption of a plan there is a six week statutory period within which interested parties may seek permission of the High Court to challenge the legality of the Plan. Aireborough Neighbourhood Development Forum submitted a High Court challenge in August 2019.
- 2.6 The challenge was on 7 grounds which were outlined in the DPP report dated 29th July. The case was heard at the High Court in February 2020 with Judgment being handed down on Monday 8th June 2020. The Judge, Mrs Justice Lieven DBE, allowed the Claim on three out of the seven grounds raised. These three grounds related to three legal errors of the independent inspectors (not of the Council), namely legally deficient reasons given in their report on:
- justifying the release of the specific Green Belt sites and site selection process; and
 - an error of fact relating to the calculated increase in supply of housing (mainly in the city centre) during the process.

- 2.7 As outlined in the DPP report in July, it should be noted that the Judge did not find that Green Belt sites could not properly be released and nor did she find that the site selection process was in error.
- 2.8 The Order for Relief was handed down on 7th August 2020 (see Appendix 1). The judge concludes at paragraph 24 that, *“It does however seem to me to be appropriate to remit this matter to the Secretary of State, and through him the Inspectorate, rather than quash either the whole or parts of the SAP. It seems reasonable to start from the position that the process should be taken back to the stage where the error of law occurred rather than back to the beginning through quashing.”*
- 2.9 The Judge goes on to say that *“If the matter is remitted then the Council will have to decide what, if any, modifications it intends to propose to the Inspectors. That is a matter of planning judgement for the Council and it is not for me to adjudicate on what approach the Council takes to exceptional circumstances for GB release once the matter is remitted”*, (paragraph 26). She also explains that once the SAP is remitted it is for the Secretary of State to make the appropriate arrangements and it is not essential that the matter should be put before different Inspector(s) (but this is a matter for the Planning Inspectorate to determine).
- 2.10 Paragraph 31 of the relief judgement concludes: *“The remittal of all GB allocations to the Inspectors will, I accept, cause delay and will impact upon the Council’s ability to show a 5YLS. [See paragraph 3.10 of this report in response to this]. However, those are not grounds not to remit if that is the only way to remedy the illegality that I have found. The planning judgements that follow, in terms of conformity with the NPPF and whether the tests for GB release are met, are matters for the Council and the Secretary of State and not for the court.”*
- 2.11 In summary, the effect of this relief is that all parts of the SAP which allocate sites for housing (including mixed use sites) that, immediately before the adoption of the SAP were in the Green Belt (37 sites), will be remitted back to the Secretary of State and the Planning Inspectorate for further examination.
- 2.12 During this remittal process these 37 housing sites will be considered as not adopted and as such will return to the Green Belt until re-examined. The remainder of the SAP remains adopted and carries full weight. The 37 sites are listed at Appendix 2, with a plan showing their location at Appendix 3.

3. Main Issues

- 3.1 Appendix 4 shows the pre-judgement and post-judgement figures for housing supply – figures are rounded for simplicity.
- 3.2 **Pre-judgement outstanding housing capacity** on sites adopted in the SAP and Aire Valley Leeds Area Action Plan (AVLAAP) was 50,600 homes (an overall surplus of around 4,200 new homes against the CSSR requirement from 2017 to 2033). A large surplus in City Centre and Inner Area HMCAs contributes significantly to the total. The distribution of housing varies between HMCAs with four in exceedance of requirement, two on target and five (all outer areas) in deficit.

- 3.3 **Post-judgement outstanding housing capacity** on sites adopted in the SAP and AVLAAP reduces plan supply to 46,530 homes overall (a surplus of 130 homes against requirement). The uneven distribution is exacerbated with eight HMCAs now in deficit of indicative targets and only three in surplus.
- 3.4 Appendix 4 also provides figures on **new windfall sites** that are not part of the adopted plan. We would expect this to contribute at least 500 dwellings per annum but because of activity in the City Centre and fringe and a buoyant student housing market the figure is 3,750 units (accrued over 3 years, since baseline SAP figures). This windfall adds to the overall picture of supply, which post-judgement totals **50,100 homes** and provides surplus/headroom of 3,880 homes or 8% over the CSSR requirement.
- 3.5 The effect of this is that with current allocations within the SAP and AVLAAP, plus recent permissions, there is a sufficient housing land supply to meet CSSR targets. However, this current position will need to be the subject of updated evidence to inform the Council's approach to the re-examination of the SAP, which takes account of an up to date housing supply picture, which may decrease or increased as a result of an updated SHLAA.

Up to date evidence

- 3.6 The Judge considered other judgements in her assessment and refers to the need for updated evidence (at number 5, Appendix 1): *"The passage of time may well require the council to update its evidence, and potentially, to invite the Inspector to recommend modification to policies"*. A Strategic Housing Land Availability Assessment (SHLAA) review has therefore now commenced (September 2020). The SHLAA is the evidence which will underpin any proposed modifications to the Plan. The SHLAA provides a technical database of all sites submitted for assessment for housing in terms of their availability (any known ownership constraints), suitability (in terms of site assessment including topography, flood risk and other considerations) and deliverability (whether the site is likely to deliver housing in the short (0-5 years), medium (5 to 10 years) or long term (10+ years). The SHLAA will provide an update on the SAP sites which remain adopted to ascertain the current land supply position.
- 3.7 The SHLAA assists in the monitoring of whether there is an adequate supply of deliverable housing land at any point in time. The preparation of a SHLAA is an annual requirement of the National Planning Policy Framework (NPPF). The 2020 update will take account of new planning permissions and construction activity to a base date of 1 April 2020. The update will be informed by recent national planning policy announcements, current market adjustments and any challenges posed to housing delivery by Covid-19.
- 3.8 The pipeline of sites both under construction and with planning permission yet to start remains healthy. Building control returns reveal that there are over 100 outlets operating district-wide with more than 5,000 individual plots actively being built across all markets and locations. There is a total stock of almost 29,000 new homes with planning permission reflective of the greatest level of outstanding capacity in over a decade. In addition, the Government's recent announcements including increased permitted development rights for new housing may further boost the picture of supply. At this stage it is too early to tell what the impacts of the pandemic will be on the supply and delivery of

housing. Whilst construction inevitably slowed during the lockdown months there are signs that this is now quickly recovering and Government has put in place measures to stimulate the house building sector. All these factors will need consideration in order to determine whether there is a need for any or all of the Green Belt allocations listed in the schedule.

- 3.9 It is recognised that the current housing land supply picture is supported by allocations and planning permissions within the City Centre and Inner HMCAs, which include Purpose Built Student Accommodation and Build to Rent schemes. The impact of Covid-19 sees the UK prepare for adjustments in the housing market on both the supply and demand side with potential impacts including shifts relating to locational preferences and requirements in the type and size of new homes. After the last recession in 2008 there was a significant reduction in delivery in the City Centre apartment schemes where starts have only recently started to recover to pre-recession figures in 2018/19. It is therefore fundamental to the robustness of Leeds' housing supply that City Centre and Inner Area schemes are not overly relied upon as these are the areas where market adjustments are felt most significantly.

Five Year Housing Land Supply

- 3.10 The Judgment has implications on the Council's Five Year Housing Land Supply (5YS) and on the SAP Review. In terms of the 5 year supply the removal of the 37 remitted sites means a reduction from 7.2 years to 6.1 years (i.e. around 3,700 homes surplus). The revised 5YS figure is calculated from the 2019 Five Year Housing Land Supply Statement excluding the contribution of units from the remitted sites during the short term period from the base date of 1 April 2019. This will also need to be updated through the SHLAA 2020, which will include a number of new sites from planning permissions granted during the previous year. Final performance for completed new homes in 2019/20 was 3,386 units exceeding the Core Strategy target in consecutive years. It means that currently we can defend against speculative proposals, but in the longer term supply needs to be managed correctly. The SHLAA process includes consultation with the Home Builders Federation, individual landowners, agents and developers in order to produce the most accurate and up-to-date picture of delivery for each site. Observations on lead-in times, build-out rates and the capacity of the industry to deliver will be taken into account. The accompanying report will detail the methodology and chronology of the update and set out the revised housing land supply position.
- 3.11 In paragraph 31 of the Judgement, Justice Leiven acknowledges the impact the relief will have on the 5YS. However, it is important to clarify that the Judge is not making a pronouncement on whether Leeds has a 5YS or not. Where a Plan is in part quashed or remitted Local Planning Authorities are treated as having an incomplete plan (despite the rest remaining adopted) and therefore in plan-making terms we are adjudged to not have a completed and adopted Plan with which we could use to demonstrate a 5YS. It is, however, important to stress that the Judge did not consider our 5YS picture in any detail, nor is the Judge making a judgement on whether we have a 5YS, the Judge is simply saying that we cannot currently rely upon our Plan to demonstrate the 5YS. However, in Leeds, because of permissions and existing allocations, the City Council has in excess of a 5YS position (6.1 years). Consequently, this provides a basis to resist speculative development on non-allocated greenfield sites.

SAP Review

- 3.12 Policy HGR1 of the adopted SAP requires a review to assess and address the need for additional housing allocations and safeguarded land designations post 2023 following the adoption of the Core Strategy Selective Review. Policy HGR1 states that the review will be submitted by the end of December 2021. As the plan in part will now be re-examined by an inspector it is not possible to submit a review of housing allocations and safeguarded land by 2021, to address HGR1. However, as part of the remittal process the Council will in effect be reviewing the additional need for housing allocations post 2023 and as such the work undertaken may incorporate the same work required by HGR1. If this is the case, the proposals submitted to the Secretary of State for re-examination could include that policy HGR1 is deleted. This would have the effect of removing the need for a SAP Review.

Next steps

- 3.13 The process moving forward will be:
- Update the evidence base as detailed above;
 - Determine what changes to the plan in respect of the 37 Green Belt allocations are required, taking account of the findings of the Judgement and the updated evidence;
 - Provide further update reports to DPP on the updated evidence and proposed approach to amending the Plan prior to resubmission to the Secretary of State;
 - Submit any proposals to the Secretary of State for further examination and subsequent adoption.
- 3.14 The effect of the Judgement is to revoke the adoption of 4,070 new homes across 37 sites. In some instances, it may, however, be the case that individual developments in specific contexts are able to demonstrate very special circumstances for development in the Green Belt, and therefore acquire planning consent in spite of no longer being allocated and being returned to the Green Belt.
- 3.15 At this stage, until evidence is updated, the approach for preparation of the Plan for remittal cannot be agreed. It is therefore proposed that a further report be brought back to DPP once the SHLAA has been updated and officers have considered what modifications (if any) may be required to the Plan.

Timescales

- 3.15 It is estimate that the process for the SHLAA can be concluded in between 6-8 weeks. Following consideration of this data and evidence, officers will aim to bring a further report to DPP in December, updating members on the evidence gathered and approach proposed. As set out in paragraph 2.9 of this report, once the SAP is remitted it will be for the Secretary of State to make the appropriate arrangements, with regards to Inspectors and dates and process for any future Examination proceedings.

4. Corporate considerations

4.1 Consultation and engagement

4.1.1 Following the Court's Order for Relief in the SAP Legal Challenge, any further proposals to amend the Plan will be subject to public consultation and examination.

4.2 Equality and diversity / cohesion and integration

4.2.1 An EDCI is not required for this report. Appropriate EDCI screenings / assessments will be undertaken in the course of the next steps noted in the report.

4.3 Council policies and the Best Council Plan

4.3.1 There is a clear role for planning in delivering against all of the Council's priorities as established through the Best Council Plan. In particular, the SAP overall contributes to the Council's key strategies, as follows:

Health and Well-being Strategy – through policies including the design of places, quality of housing and accessibility and the integration of public health infrastructure

Climate Emergency – managing the transition to zero carbon via policies including: the design of places, the location of development, accessibility to public transport, use of brownfield land, energy, supply, generation and the efficiency of buildings

Inclusive Growth Strategy – through policies including the links between homes and jobs, planning for the land use and infrastructure needs of key economic sectors, the location of development, green infrastructure and connectivity

4.4 Resources, procurement and value for money

4.4.1 Whilst this report does not have any budget implications, remittal of the Plan does have implications for resources in terms of time and staffing, at a time of increased budget pressure. In general, costs will be met from within existing budgets.

4.5 Legal implications, access to information, and call-in

4.5.1 There are no legal implications arising from the recommendations in this report.

4.6 Risk management

4.6.1 The High Court decision and the relief ordered is a process that is outside of the Council's control. Once evidence is updated, further reports will be brought to DPP to consider the process moving forward, prior to remittal to the Secretary of State. Given the delay caused to the SAP Review (SAPR) by the High Court Challenge, it is now considered unlikely that the Council will meet the December 2021 deadline for submitting the SAPR to the Secretary of State, and that this could be subsumed by the further work on the SAP, with a modification to the

Plan suggesting deletion of Policy HGR1.

5. Conclusions

- 5.1 This report has provided an update on the Legal Challenge to the Site Allocations Plan and an outline of the immediate tasks required and the process moving forwards.
- 5.2 A further report will be brought back to DPP once evidence required for further examination of the Plan has been updated.

6. Recommendation

Panel Members are asked to:

- (i) note and comment on the contents of the report as it relates to the Site Allocation Plan legal challenge and review, and process prior to remittal back to the Secretary of State.



Covid-19 Protocol: This judgment was handed down by the judge remotely by circulation to the parties' representatives by email and release to Bailii. The date and time for hand-down is deemed to be 10.30am on 7 August 2020

Neutral Citation Number: [2020] EWHC 2183 (Admin)

Case No: CO/3279/2019

IN THE HIGH COURT OF JUSTICE
QUEEN'S BENCH DIVISION
ADMINISTRATIVE COURT
PLANNING COURT

Royal Courts of Justice
Strand, London, WC2A 2LL

Date: 07/08/2020

Before :

MRS JUSTICE LIEVEN

Between :

AIREBOROUGH NEIGHBOURHOOD DEVELOPMENT FORUM

Claimant

and

LEEDS CITY COUNCIL

Defendant

and

**(1) SECRETARY OF STATE FOR HOUSING, COMMUNITIES AND LOCAL
GOVERNMENT**

(2) AVANT HOMES (ENGLAND) LIMITED

(3) GALLAGHER ESTATES LIMITED

Interested Parties

Jenny Wigley (instructed by Town Legal LLP) for the Claimant
Juan Lopez (instructed by Leeds City Council Legal Services) for the Defendant
The First Interested Party was not represented and did not attend
Charles Banner QC and Matthew Fraser (instructed by Walker Morris LLP) for the
Second Interested Party
James Corbet Burcher (instructed by Shoosmiths LLP) for the Third Interested Party

Hearing dates: 4 and 5 February 2020

Approved Judgment

Mrs Justice Lieven DBE :

1. This judgment deals with the relief to be granted after findings in the substantive case [2020] EWHC 1461 (Admin) in which I found a number of errors of law in the process leading to the adoption of the Leeds Site Allocations Plan (SAP). I have had written submissions from all the parties in respect of the relief that I should order. There are in effect two issues before me: firstly, whether the appropriate remedy should be a quashing order under section 113(7)(a) of the Planning and Compulsory Purchase Act 2004 (the 2004 Act) or an order for remittal of the SAP under s.113(7)(b); and secondly, the scope of that order.

2. Section 113(7)-(7C) of the 2004 Act provides:

—(7) The High Court may –

(a) quash the relevant document;

(b) remit the relevant document to a person or body with a function relating to its preparation, publication, adoption or approval.

(7A) If the High Court remits the relevant document under subsection (7)(b) it may give directions as to the action to be taken in relation to the document.

(7B) Directions under subsection (7A) may in particular –

(a) require the relevant document to be treated (generally or for specified purposes) as not having been approved or adopted;

(b) require specified steps in the process that has resulted in the approval or adoption of the relevant document to be treated (generally or for specified purposes) as having been taken or as not having been taken;

(c) require action to be taken by a person or body with a function relating to the preparation, publication, adoption or approval of the document (whether or not the person or body to which the document is remitted);

(d) require action to be taken by one person or body to depend on what action has been taken by another person or body.

(7C) The High Court's powers under subsections (7) and (7A) are exercisable in relation to the relevant document –

(a) wholly or in part;

(b) generally or as it affects the property of the applicant

3. The scope of the power to remit was considered by HHJ Robinson (sitting as Deputy Judge of the High Court) in *University of Bristol v North Somerset Council* [2013] EWHC 231. There are two judgments and the second deals with relief. At [6] the Judge refers to s.113 having been amended to “*expand the court’s powers by providing an alternative remedy*”. At [7] the Judge said:

7. In my judgment the amendments to s.113 make it clear that, instead of quashing the plan (or part), the court may remit it to an earlier stage in the process with appropriate directions. If the plan were quashed, it would no longer be possible to remit it to an earlier stage because the plan would no longer exist. For example, it would not be possible to direct that the plan be treated as having been submitted for public examination because there would be no plan to examine. In this example, subsection (7B) makes clear that, if remitted, the court may direct that the plan be treated as not adopted and require the public examination to take place again. In effect, the court may direct that the plan be remitted to any earlier stage in the process prior to adoption with a direction that the statutory steps be retaken from that point.”

4. The claimant in that case had sought a quashing order and argued that remittal would give rise to practical problems as a result of the passage of time and the need for much further work. The judge said at [10]:

“The University did not pursue an argument that the Inspector’s decision was irrational, therefore it would have been open to him in principle to accept the Council’s housing figure of 14,000 dwellings. In those circumstances I consider the starting point is that the examination of the relevant policies should be reconsidered. It was only at this stage that any illegality occurred and the illegality could be remedied by going through the examination process again.”

5. The most important passage is at [12]:

“The passage of time may well require the Council to update its evidence and, potentially, to invite the Inspector to recommend modifications to policies. That may require an SEA and further consultation. However, this is not an unusual procedure and although it will extend the process I consider that the delays and expense to objectors and the Council will be less than if the process has to go back to the start. Further, it is by no means a foregone conclusion that the Inspector would take the same view as that of the BANES Inspector or that the Council would agree that the Core Strategy should be withdrawn. In any event, decisions as to how best to progress the Core Strategy are for the Council. To quash the relevant policies would predetermine further decisions of the Council and an Inspector about the Core Strategy which are matters of planning judgment for them and not the court.”

6. In *JJ Gallagher v Cherwell DC* [2016] EWCA Civ 1007 the Court of Appeal considered the extent of the powers under s.113(7) and said at [29]:

*“29. The court’s powers to grant appropriate relief under section 113(7), (7A), (7B) and (7C) are widely drawn. They afford the court an ample range of remedies to overcome unlawfulness in the various circumstances in which it may occur in a plan-making process. As was recognized by the judge in *University of Bristol*, the provisions in subsection (7A), (7B) and (7C) were a deliberate expansion of the court’s powers to grant relief where a local plan is successfully challenged under section 113. They*

introduce greater flexibility in the remedies the court may fashion to deal with unlawfulness, having regard to the stage of the process at which it has arisen, and avoiding – when it is possible to do so – uncertainty, expense and delay. They include a broad range of potential requirements in directions given under subsection (7A), all of which go to “the action to be taken in relation to the [relevant] document”. The four types of requirement specified in subsection (7B) are stated to be requirements which directions “may in particular” include. None of them, however, would warrant the substitution by the court of its own view as to the issues of substance in a plan-making process, or as to the substantive content of the plan – its policies and text. They do not allow the court to cross the firm boundary separating its proper function in adjudicating on statutory challenges and claims for judicial review in the planning field from the proper exercise of planning judgment by the decision-maker.”

7. The claimant argues that I should make a partial quashing order in the following terms:

“All those parts of the Leeds SAP which allocate sites for housing development within the Green Belt (and which thereby take those sites out of the Green Belt) are quashed.”

8. The Claimant seeks to distinguish University of Bristol on the grounds that (a) there the only error found was in relation to the reasons, as opposed to the present case where I found a significant error of fact as well as a failure to give adequate reasons. (b) There would be no significant additional costs from quashing rather than remittal as there is planned to be a SAP review in any event. (c) That the GB housing allocations here are unlawful, whereas in the University of Bristol case the judge had said that the policies themselves were lawful.
9. The Claimant argues that the scope of the order should be across Leeds rather than being limited to Aireborough. The Claimant rightly points out that the substantive judgment found a significant error of fact amounting to an error of law underlying the case for all the GB allocations across the area. It also refers to the comment at J99 that the Council had engaged in “*a good deal of ex post facto justification*” in its efforts to uphold the SAP. It argues that the outcome proposed by the other parties, namely limited relief to Aireborough, would undermine the integrity of the planning process in the Leeds area.
10. In terms of the argument advanced by the Council, that quashing all the GB allocations would result in a lack of a five year land supply, in fact the Claimant says the result would be to reduce the supply from 7 to 6 years and thus not under the key level of 5 years.
11. The Claimant points out that it had always sought relief that included potentially remitting or quashing all the GB allocations, see [136] of the Statement of Facts and Grounds. Any third parties that are impacted by the relief would have had no materially different interest to present before the court than did those who were represented. The issues raised before the Court were neither site nor area specific and applied across the entire Leeds area.

12. The Council argues in sequence for (a) directing the Inspectors to give further reasons; (b) ordering the quashing of the Aireborough specific GB allocations; (c) remitting the matter to the Inspectors in respect of the Aireborough allocations alone and directing (i) the Inspectors to recommend the deletion of the Aireborough allocations and (ii) the Council to resolve to approve this recommendation and adopt the SAP subject to that amendment.
13. The Council seek to argue that it had given the Inspectors clear reasons for the GB allocations and the Inspectors were fully aware of any changes that were being proposed by the Council. In my view this analysis is an attempt to reargue the merits of the case on which I have already ruled.
14. The Council then argues that the quashing of all GB allocations would be “disproportionate”. It would be highly prejudicial to landowners and developers outside Aireborough who would not have known that there was any possibility in this litigation that there might be quashing beyond Aireborough and might have wished to participate in the proceedings. Further, broader quashing would greatly prejudice future plan-led development in Leeds by undermining the Council’s five year land supply and providing much less “headroom” in the 5YLS. The Council’s submissions then set out a number of planning considerations that indicate the importance of the 5YLS in the NPPF and thus for the good planning of the area.
15. The Council strongly argue against re-examination/re-opening any part of the SAP examination as being unnecessary. The Council appears to be supporting quashing the SAP over remitting it to the Inspectors. However, the argument as I understand it is that remittal to the Inspectors would achieve nothing rather than being a positive argument for quashing over remittal. The Council argues that if the SAP was remitted then interested parties would not be given any further meaningful opportunity to make new representations. For the reasons I explain below I find this submission extremely difficult to follow.
16. The Council argue that it would be impractical to reopen the examination of the SAP because it would unclear what the parameters would be.
17. The Secretary of State did not take any part in the hearing. However, through the Government Legal Department the Secretary of State did make a short submission on relief in an email dated 12 June 2020. This states:

“[T]he Secretary of State submits that it would not be appropriate to remit the SAP for immediate further examination by the Planning Inspectorate. The question of what should or should not be quashed in the SAP is most appropriately a matter for the Claimant and Defendant rather than the Secretary of State. It will subsequently be open to the Defendant Council to prepare a revised/updated/new SAP, taking into account the matters identified in the judgment, which would subsequently be submitted for examination in due course.”
18. The Secretary of State therefore aligns, at least in principle, with the Council in opposing remittal. Their positions do however appear to be different in as much as the Secretary of State is positively arguing for quashing whereas the Council appears to only be arguing against remittal.

19. The Second Interested Party argues in sequence for (a) remittal of the Aireborough GB parts of the SAP; (b) remittal of the Leeds GB allocations in the SAP; (c) quashing the Aireborough GB part of the SAP. They argue that remittal is more appropriate than quashing because the substantive judgment explains that exceptional circumstances could potentially be found for the GB release if properly reasoned and arrived on the correct factual basis. They rely on the reasoning in the *University of Bristol* and argue that remittal would enable the errors to be addressed. They reject the argument by the Council that remittal would not be able to make the SAP lawful and would only be a “patch and mend” exercise.
20. The Second Interested Party argues that any relief should be limited to Aireborough because the Claimant has indicated they would be content with that and that was what they originally sought. Further, it would be unfair on other third parties to grant the wider relief.
21. The Third Interested Party’s position is similar to that of the Second Interested Party. They highlight the possible inconsistency in the Council’s position in seeking to uphold the reasoning for the GB allocations but not supporting remittal and further consideration of exceptional circumstances. It seems to me that at least part of the Third Interested Party’s submissions go to issues of planning judgement relevant to the Council’s position if parts of the SAP are remitted rather than the legal issues before me.

Conclusions

22. I echo what was said in *University of Bristol* at [70] and *JJ Gallagher* at [29], the purpose of the extended powers in s.113 was to give the court a greater flexibility in deciding the appropriate relief depending on the nature of the unlawfulness; the stage of the process and seeking to avoid expense and delay where possible. I am also mindful of the distinction between my role in deciding legal issues and matters of planning judgement which are for either the Secretary of State or the local authority.
23. In deciding what is the appropriate remedy the starting point must be the nature of the legal errors found and how those errors can be remedied. The Council appears to be seeking to characterise the errors as being in the Inspectors’ reasons and, as such, capable of being remedied by simply requiring the Inspectors to provide further reasons. This is not correct. The errors of law included a material error of fact giving rise to an error of law, see ground 7. A direction simply to provide further reasoning would not remedy this error. Further, the errors in the reasoning are so fundamental to the Inspectors’ analysis that I would not have in any event considered that merely requiring further reasoning was sufficient.
24. It does however seem to me to be appropriate to remit this matter to the Secretary of State, and through him the Inspectorate, rather than quash either the whole or parts of the SAP. It seems reasonable to start from the position that the process should be taken back to the stage where the error of law occurred rather than back to the beginning through quashing. This allows precisely the flexible response that the amendments to s.113 were designed to create.
25. The Council argues that remittal will cause enormous administrative problems, expense and difficulties in the planning process. However, that would be equally true of

quashing the SAP and starting again. In either case, the Council will not have in place an adopted Plan which they can use to show a 5 year land supply. I fully understand the concern about the serious disadvantages of planning through applications and appeals rather than being plan led. However, this has to be balanced against GB releases which have not been adequately justified and which were made with a material error of fact. Once I have determined that merely requiring the giving of further reasons is not an appropriate remedy then delay and concomitant problems with a 5 year land supply are inevitable.

26. If the matter is remitted then the Council will have to decide what, if any, modifications it intends to propose to the Inspectors. That is a matter of planning judgement for the Council and it is not for me to adjudicate on what approach the Council takes to exceptional circumstances for GB release once the matter is remitted.
27. The Secretary of State opposes remittal but the reasoning for his position is not at all clear, nor is whether he has had regard to the caselaw referred to above. The Inspectors, not the Secretary of State, will have to have regard to any submissions and evidence as to what allocations should be made when the matter is remitted. I agree with the Second Interested Party that it is not necessary for the SAP to be quashed for the Inspectors to take into account the matters set out in the judgment.
28. Once the SAP is remitted it is for the Secretary of State to make the appropriate arrangements. However, it is appropriate to explain that I do not consider it essential that the matter should be put before different Inspector(s). Although this would normally be the case, here the Inspectors were faced with enormously confusing documentation and figures. Although I have found there were highly important errors made, on the facts of this particular case I do not consider that necessarily disqualifies the same Inspectors from considering the matter again. However, whether this is how the matter is dealt with is, I repeat, a matter for the Secretary of State.
29. I do not think it would be appropriate to limit the remittal of the SAP to those allocations that relate to Aireborough. The claim form makes quite clear that the Claimant was seeking quashing/remittal of all the GB allocations in the SAP, so there is no pleading point here. Although the Claimant focused on Aireborough, their case was not formally limited to those allocations. More fundamentally, the grounds that I found made out were not in any way limited to Aireborough. They were all matters that went to the GB allocations in their entirety rather than having any area specific or site specific rationale.
30. Although third parties will be impacted by the remittal of all GB allocations in the SAP, this is what the claim form sought. It is very possible that most, if not all, of those who had an interest in the SAP allocations will have been fully aware of this challenge, either through the media or via trade organisations such as the House Builders Federation. In any event, the entire case was argued on the basis of GB allocations in the SAP generally. A developer or landowner in a different part of Leeds would not have been able to advance a different and site specific issue that could have made any difference to the conclusions reached. It is very unlikely that if a number of other developers had come forward from other parts of Leeds and asked to be joined as interested parties the court would have acceded to that request. If there had been a large number of developers or landowners saying their interests could be affected the court would have undoubtedly have required them to join forces so that there would be no more than two interested

parties. For these reasons I do not think that the argument that it would be unfair to third parties for all GB allocations to be remitted stands up to scrutiny.

31. The remittal of all GB allocations to the Inspectors will, I accept, cause delay and will impact upon the Council's ability to show a 5YLS. However, those are not grounds not to remit if that is the only way to remedy the illegality that I have found. The planning judgements that follow, in terms of conformity with the NPPF and whether the tests for GB release are met, are matters for the Council and the Secretary of State and not for the court.
32. I accept that by remitting all GB allocations there will necessarily be an impact on some mixed use allocations. However, it is not possible to avoid this situation. It will have to be dealt with through the development control processes on a site specific basis if that is considered appropriate.
33. For these reasons I will remit the policies relating to GB allocations of housing (including mixed use allocations) to the Secretary of State.

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Appendix 2

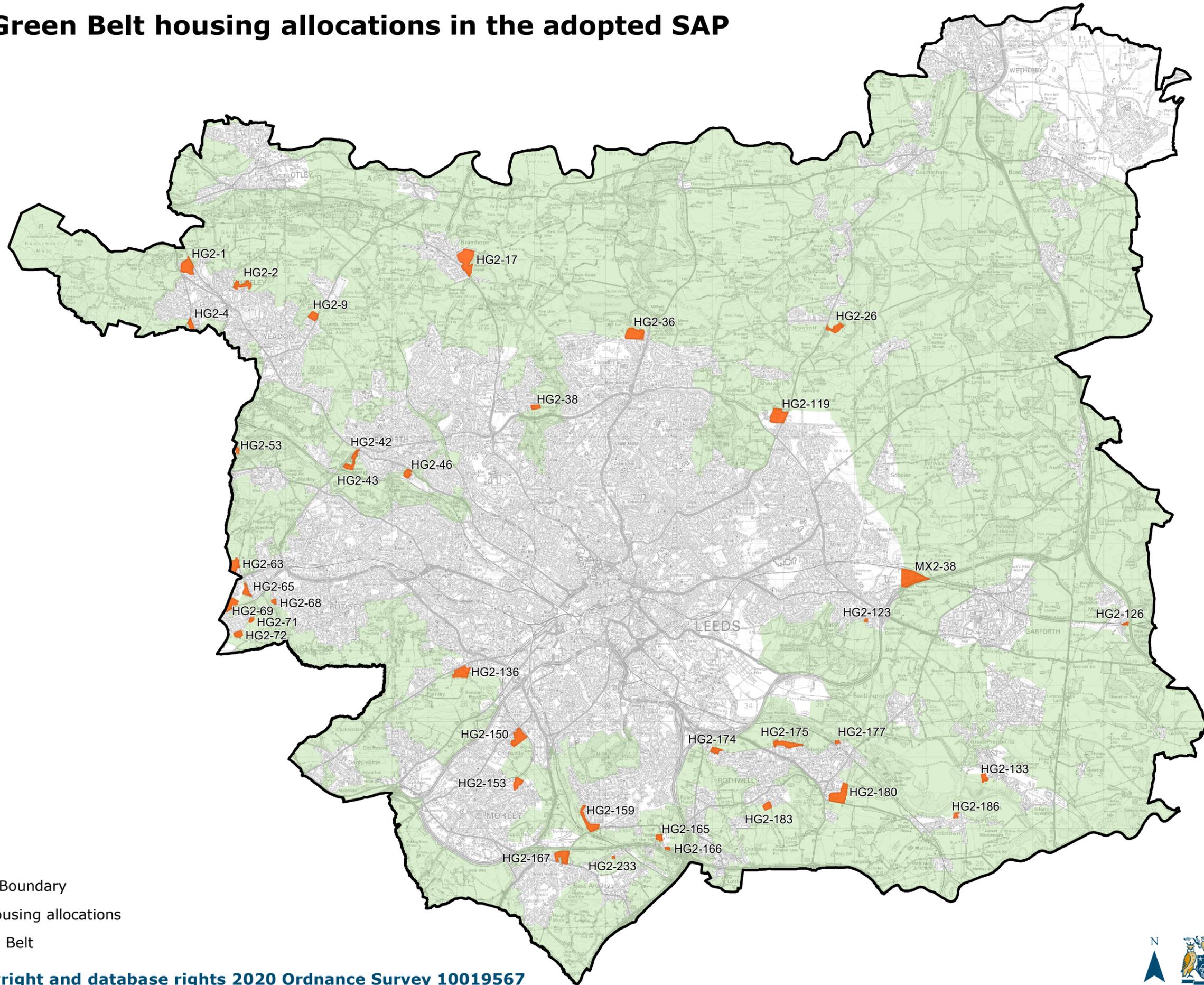
List of Sites within Site Allocations Plan affected by High Court Judgement and returned to the Green Belt until re-examined

Aireborough		Area ha	% GB	Capacity
HG2-1	New Birks Farm, Ings Lane Guiseley	10.84	99.28	160
HG2-2	Wills Gill, Guiseley	5.06	99.86	133
HG2-9	Victoria Avenue, Yeadon	3.9	100	102
HG2-4	Hollins Hill, Hawkstone Avenue, Guiseley	3.04	99.84	80
Total capacity				475
East Leeds				
HG2-119	Red Hall Playing Fields, LS17	13.91	14.41	50
HG2-123	Colton Road East Colton	0.52	57.34	17
HG2-174	Wood Lane – Rothwell Garden Centre	3.16	99.88	31
MX2-38	Barrowby Lane, Manston LS15	21.17	100	150
Total capacity				248
North Leeds				
HG2-36	Alwoodley Lane, Alwoodley, LS17	13.43	99.76	302
HG2-38	Dunstarn Lane, Adel LS16	2.25	99.99	68
HG2-42	Broadway and Calverley Lane, Horsforth	0.57	99.71	18
HG2-43	Horsforth Campus	5.35	100	134
HG2-46	Horsforth (former waste water treatment work)	3.18	100	53
Total capacity				575
Outer North East				
HG2-26	Wetherby Road, Scarcroft Lodge, Scarcroft	5.79	100	100
Total capacity				100
Outer North West				
HG2-17	Breary Lane East, Bramhope	19.3	20.12	87*
Total capacity				87
Outer South				
HG2-174	Wood Lane, Rothwell Garden Centre, LS26	3.16	99.88	52
HG2-175	Bullough Lane, Haigh Farm, Rothwell LS26	8.13	99.98	222
HG2-177	Alma Villas, Woodlesford LS26	0.71	11.75	12
HG2-180	Land between Fleet Lane & Methley Lane, Oulton	14.85	99.99	339
HG2-183	Swithens Lane, Rothwell, LS26	3.24	100	85
HG2-186	Main Street, Hunts Farm, Methley	1.15	19.37	25
Total capacity				735
Outer South East				
HG2-126	Micklefield Railway Station Car park, LS25	0.66	85.19	18
HG2-133	Ninevah Lane, Allerton Bywater	2.92	99.98	65

		Total capacity			83
Outer South West					
HG2-136	Whitehall Road, Harpers Farm	10.66	93.5	279	
HG2-150	Churwell LS27	10.44	99.93	223	
HG2-153	Albert Drive, Morley	4.65	40.3	121	
HG2-159	Sissons Farm, Middleton, LS10	8.19	99.88	222	
HG2-165	Thorpe Hill Farm, Lingwell Gate Lane, Thorpe	2.17	100	57	
HG2-166	Long Thorpe Lane, Thorpe, Wakefield WF3	0.64	100	17	
HG2-167	Old Thorpe Lane, Tingley WF3	9.2	100	207	
HG2-233	Land at Moor Knoll Lane, East Ardsley	0.36	99.99	11	
		Total capacity			1,137
Outer West					
HG2-53	Calverley Cutting, Apperley Bridge	1.11	99.97	32	
HG2-63	Woodhall Road, Gain Lane, Thornbury BD3	7.37	99.96	196	
HG2-65	Daleside Road, Thornbury North	3.37	99.87	89	
HG2-68	Waterloo Road, Pudsey, LS28	1.12	99.99	28	
HG2-69	Dick Lane, Thornbury	7.52	94	206	
HG2-71	Tyersal Road, Pudsey	1.07	100	33	
HG2-72	Land off Tyersal Court, Tyersal	2.9	100	46	
		Total capacity			630
		Overall Total as at SAP Table 1			4,070

*Note: Outer NW HMCA: HG2-17 - 19.3ha, 376 total capacity

Former Green Belt housing allocations in the adopted SAP



Page 33

Key

-  Leeds MD Boundary
-  SAP GB Housing allocations
-  N32 Green Belt

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PRODUCED BY CITY DEVELOPMENT, GIS MAPPING & DATA TEAM, LEEDS CITY COUNCIL

Path: L:\FPI\GIS Team\01Policy and Plans Group\Site Allocations Plan\SAP Post EiP Mods\Former GB housing allocation in adopted SAP\Former GB housing allocation in adopted SAP.mxd Produced by: NF

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Appendix 4: Table Showing Outstanding Housing Capacity Pre-Judgement and Post-Judgement

Note: Figures pre-date SHLAA 2020 update and may be subject to change

HMCA	%	Housing requirement 2017-2033	SAP & AVLAAP outstanding capacity at 1 April 2017	Over/Under	SAP & AVLAAP outstanding capacity at 1 April 2017	Over/Under	New sites (not in SAP/AVLAAP)	Balance to 2033
			Pre-Judgement (SAP as adopted)		Post-Judgement (SAP as ordered to be remitted)			Post-Judgement
Aireborough	3%	1,400	800	-600	325	-1,075	100	-975
City Centre	16%	7,400	10,700	3,300	10,700	3,300	2,050	5,350
East Leeds	17%	7,900	8,800	900	8,552	652	100	752
Inner Area	15%	7,000	11,000	4,000	11,000	4,000	750	4,750
North Leeds	9%	4,200	4,200	0	3,625	-575	150	-425
Outer North East	8%	3,700	3,000	-700	2,900	-800	100	-700
Outer North West	3%	1,400	1,400	0	1,313	-87	100	13
Outer South	4%	1,900	1,300	-600	565	-1,335	0	-1,335
Outer South East	7%	3,200	1,500	-1,700	1,417	-1,783	0	-1,783
Outer South West	11%	5,100	4,600	-500	3,463	-1,637	350	-1,287
Outer West	7%	3,200	3,300	100	2,670	-530	50	-480
Total	100%	46,400	50,600	4,200	46,530	130	3,750	3,880

NB: Numbers are rounded for illustration

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Report author: Robin Coghlan and
Adam Harvatt. Tel: 0113 37 87635

Report of Chief Planning Officer

Report to Development Plan Panel

Date: 8th September 2020

Subject: Planning White Paper

Are specific electoral wards affected? If yes, name(s) of ward(s): ALL	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
Has consultation been carried out?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Will the decision be open for call-in?	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, access to information procedure rule number: Appendix number:	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

Summary

1. The Planning White Paper was published on 6th August 2020 for consultation until 29th October 2020. It has been heralded by the Government as the biggest overhaul of the planning system since it was first introduced in 1947.
2. This report is intended to give Members an understanding of the proposals in the White Paper and the potential implications for planning in Leeds. For each of the proposal topics officers raise matters that will require consideration for Members as part of the Council's consultation response. There are also particular comments on the potential implications for the Local Plan Update. The report is also an opportunity for Members to provide their own comments on the proposals.
3. As the White Paper has wide ranging implications not only for the main planning functions of plan making and dealing with planning applications, but also for related services of design, landscape, conservation, contaminated land, regeneration, housing services, asset management and public health, officers have undertaken discussion group sessions to ensure that wider implications and views are captured. This, together with Members comments, will be used

to produce a draft response, with the intention for this to be brought to DPP in October for endorsement.

4. The stated aim of the White Paper is to achieve a modernised and more streamlined planning system. Some of the key ideas include simplification and speeding up of plan making, so that only three land designations are made: growth, renewal and protection (with further details on this discussed within section 3.3 of this Report). There will be a national set of generic development management policies produced so that Local Plans will only include spatially specific policies and designations. The period for preparing plans will be a maximum of 30 months, with 6 months for calls for sites and suggestions, 12 months for evidence collating and plan writing, 3 months for submission and formal public consultation and 9 months for examination. The expectation is that public engagement with planning will be improved through the harnessing of the latest digital technology, standardised processes for planning application validation and making plans more visual and map orientated with less text, and viewing on multiple platforms including smart phones.
5. Some of the key questions arising from the White Paper relate to the current lack of detail on certain issues, an apparent reduction in elected member involvement in planning decisions and whether a front-loaded system will be capable of responding to the varied character of Leeds. Also, there are challenges in meeting the Government's desire for more detailed spatial plans, with increase public engagement, to be produced over a shorter time-frame.
6. At present, the implications for the Local Plan Update are unclear, given some lack of detail surrounding the proposals and uncertainty about when the new system would be in place. Further consideration may be necessary as to the benefits and risks of embarking on a plan update when a full scale plan under the new system may be required in a matter of years. However, there is also no guarantee that the final version of the planning system will fully reflect the current provisions of the White Paper. As such to change the Council's approach on meeting the climate emergency through the Local Plan Update on the basis of draft policy could unnecessarily limit the Council's ability to meet its aspirations for net zero carbon by 2030.

Recommendation

Panel Members are asked to note and comment on the contents of the report.

1. Purpose of this report

- 1.1 The purpose of this report is to give Members an early overview of proposals in the Government's White Paper on reform of the Planning System. For each of the proposal topics officers raise matters that may require consideration for Members as part of the Council's consultation response. There are also particular comments on the potential implications for the Local Plan Update. The report is also an opportunity for Members to provide their own comments on the proposals, in order to aid officers in preparing a draft response to the consultation, to be brought to DPP in October for endorsement.

2. Background information

- 2.1 At the time of writing, officers are still in the process of understanding the implications of the White Paper proposals for different planning functions and other related services of the Council and putting together draft responses to the White Paper consultation questions (see list of question in Appendix 1). In order to better understand views of different services, the Council arranged a number of discussion sessions at the end of August with officers representing the main planning functions of plan making and development management as well as supporting and related services including design, landscape, conservation, contaminated land, regeneration, housing services, asset management and public health. The comments made about White Paper proposals in this report are initial and headline in nature, in order to aid DPP Members in their understanding of the proposals and to enable a discussion so Member comments can be captured, as part of the formal response. The deadline for comments is 29th October 2020.
- 2.2 The White Paper comes in addition to recent extensions to Permitted Development rights and changes to the Use Class Order which are designed to increase flexibility within the planning system by reducing the need for planning permission for certain types of development. Two new broad use classes have been created, one for commercial uses [Class E] that amalgamates retail (formerly A1), food & drink (A3), financial & professional services (A2), Indoor Sport (D2e), medical services (D1a), crèche/childcare (D1b) and office / research / light industry (B1) and another for Local Community & Learning [Class F] which includes a sub-class F1 covering education, museums, exhibition halls and law courts and another sub-class F2 covering small shops selling essentials, meeting places and outdoor sports facilities (including swimming pools). The Government has also continued to support the permitted development right which allows offices and other commercial buildings to be turned into apartments.

3. Main issues

- 3.1 The White Paper "Planning for the Future" was published on 6th August 2020 with the stated intention of streamlining and modernising the planning system. Comments on the White Paper must be made by the 29th October 2020.
- 3.2 The White Paper sets out numbered proposals with explanatory text and a set of numbered consultation questions. It splits into three topic areas (referred to as Pillars):

- Planning for Development
- Beautiful and Sustainable Places
- Infrastructure and Connected Place

There is also a final section “Delivering Change” with suggestions on funding local authority planning services and non-compliance / enforcement. These topics do not have consultation questions.

3.3 Pillar 1: Planning for Development

3.3.1 In summary, this pillar puts forward proposals to front-load decision making toward plan making and design codes, and away from planning applications. Designation of areas for “growth” will mean permission is automatically granted in principle and design codes can provide parameters for scale, design and materials. Proposals are also advanced for speeding up plan making, introducing digital and visual technologies and the role of Neighbourhood Planning.

3.3.2 ***Proposal 1: The role of land use plans should be simplified.*** Plans should designate areas for either *Growth*, *Renewal* or *Protection*. Growth areas would cover land suitable for comprehensive development such as new settlements, urban extensions and urban regeneration sites. Renewal areas would cover existing built up areas where there is potential for densification and smaller scale development. Protection areas would cover areas such as Green Belt, Areas of Outstanding Natural Beauty (AONBs), Conservation Areas, Local Wildlife Sites, and areas of high flood risk. It would also cover domestic gardens. The White Paper also suggests that locally determined sub-areas may be designated within each category.

3.3.3 Development in Growth Areas would get automatic outline approval and planning applications would only need to resolve outstanding issues, not the principle of development. Development in Renewal Areas would be subject to a general presumption in favour of development. Development in Protection Areas would require planning applications, in a similar fashion to the existing system.

3.3.4 *Matters to consider in consultation response:* The sheer variety of communities and urban areas in Leeds means that designations may require a patchwork approach (including sub-areas) to capture the complexity of area needs. How the front loading of decision making into the plan making stage reflects the flexibility and responsiveness to market development interest as the current system, particularly in areas like the city centre, is a key matter for consideration as part of the Council’s consultation response.

3.3.5 In terms of the Local Plan Update, the White Paper proposals may require a comprehensive examination of how area designations for growth, renewal and protection (and possible sub-areas) can be used to advance current policy matters and Council priorities, such as the climate emergency, housing and employment supply, regeneration, town centre health and character of place.

3.3.6 ***Proposal 2: Development Management policies established at a national scale.*** The Government is promising to produce a national set of generic development management policies that should not be repeated in local plans.

Instead local plans should concentrate on site or area specific requirements. Design codes should be prepared in parallel with local plans setting out scales and parameters for development, either for the whole local authority area or sub-areas. The intention is that decisions on development proposals can be taken quickly, potentially in a binary machine readable way.

- 3.3.7 *Matters to consider in consultation response:* This proposal represents a significant shift in decision making towards the plan making stage. How issues of local democracy, community involvement, and how staff resources are used are major areas for consideration. In addition, it will be important to understand how national generic development management policies reflect local differences of circumstance.
- 3.3.8 In terms of the Local Plan Update, it is possible that an update of current plans may be overtaken by a need to adapt to a national set of development management policies. Further consideration may be given to the most effective route to progress policies to address the climate emergency, particularly around energy efficiency, green space, green infrastructure, renewable energy, active travel and sustainable patterns of growth.
- 3.3.9 ***Proposal 3: Replace the tests of soundness for Local Plans with a “sustainable development test” and a slimmed down assessment of “deliverability”.*** This is designed to speed up plan making. Separate consultation on replacement regimes for Sustainability Appraisal, Environmental Impact Assessment are promised for the autumn.
- 3.3.10 *Matters to consider in consultation response:* It will be important to consider how the “sustainable development test” ensures that sufficient consideration is given to environmental and other impacts.
- 3.3.11 ***Proposal 4: Review of the Standard Method for calculating housing requirements.*** It is proposed to retain an updated version of the Standard Method to calculate housing requirements rather than them being set by Local Authorities through local plans. In effect a “top-down” requirement would replace all locally set housing requirements. The updates to the method, which are subject to a separate current consultation (deadline 1st October 2020), include giving regard to the size of the existing housing stock of each local authority and introducing a “change over time” factor into the affordability adjustment). Early indications¹ are that the standard method would produce a lower housing requirement for Leeds than the current Core Strategy requirement of 3,247 dwellings per annum. However, until formal proposals emerge, such indications should be treated with caution.
- 3.3.12 *Matters to consider in consultation response.* Setting housing requirement targets through the Local Plan has previously shown to be costly and time consuming (with regard to examination and evidence base costs). However, it may be considered that a nationally set target has the potential to not take full account of local factors. At present the proposals do not clarify whether the housing requirement figure generated by the standard method is subject to

¹ Litchfield Planning Consultancy has produced standard method figures for all local authorities which includes a figure of 2,387 dwellings per annum for Leeds.

consultation with the Local Authority or whether the nationally generated figures is the final step.

3.3.13 ***Proposal 5: Automatic granting of outline planning permission for the principle of development.*** This proposal ties in with Proposal 1 concerning designation of Growth or Renewal Areas. For development in growth areas, the White Paper considers whether the more detailed approval should be via a reformed reserved matters process or a Local Development Order linked to a master plan or design code. For development in renewal areas automatic approvals will also be available for pre-established development types. LDOs can also be used or otherwise proposals will be considered against policies as is the case now.

3.3.14 *Matters to consider in consultation response:* Issues of timing should be considered; particularly whether detailed design guidance or codes are expected to be in place before development commences.

3.3.15 ***Proposal 6: Decision making should be faster and more certain, with firm deadlines, and make greater use of digital technology.*** Increased national standardisation and modernisation of planning processes is proposed with new digital software to improve efficiency of use and monitoring of outcomes. Documentation to accompany planning applications is to be streamlined and incentives will be investigated for determining applications with statutory time limits. The appeals process should be made more efficient and if appeals are successful, the appellant should be entitled to a rebate of their planning application fee.

3.3.16 *Matters to consider in consultation response:* It may be important to consider the implications and requirements for upskilling planning staff to enable the use of new systems and processes as well as the cost of investment of such systems, in addition to the financial impact the proposal to rebate fees might have.

3.3.17 ***Proposal 7: Local Plans should be visual and map-based, standardised, based on the latest digital technology, and supported by a new template.*** Plans should be more visual and less reliant on text, and capable of being read on different digital platforms including smartphones. The new plans and digital consultation tools should make it easier for people to understand what is being proposed where and how it will affect them, transforming engagement with the public. Pilot studies will be set up between tech companies and local authorities to support more effective plan making and community involvement.

3.3.18 *Matters to consider in consultation response:* The Council already makes good use of digital technology, with the interactive maps for SAP being a significant step forward in embedding digital solutions. As such, it is anticipated that all future Plans in Leeds would make use of such digital technology (where appropriate). However, consideration should be given to how written policies would be expressed under the new system.

3.3.19 ***Proposal 8: Plan Making will be speeded up with a statutory timetable.*** Plan making should be shortened to 30 months with the following :

- 6 months: call for sites and suggestions

- 12 months: the LA draws up its plan with evidence to justify its proposals
- 3 months: submission of Plan for examination & public consultation
- 9 months: examination, subject to the new sustainable development test

3.3.20 Some transition arrangements are proposed for local authorities who have recently finished plans under the current system, suggesting that they would have 42 months to adopt a new local plan. If LAs fail to meet the timescales, sanctions are proposed including issuing of directions.

3.3.21 Matters to consider in consultation response: After the initial 6 months period of seeking sites and suggestions there will be one round of formal public consultation as part of the Plan submission. Consideration should be given to the potential difficulties in producing more detailed plans over a shorter timescale.

3.3.22 In terms of the Local Plan Update, the Council will need to carefully consider any requirements to have a new style plan in place by a particular time and any transition arrangements. Until the requirements and timings of the new system become clear, the Council will need to consider what plan making preparations should be made in the interim.

3.3.23 ***Proposal 9: Neighbourhood Plans should be retained as an important means of community input, and we will support communities to make better use of digital tools.***

3.3.24 Matters to consider in consultation response: Further clarity may be beneficial on how Neighbourhood Plans will be expected to be updated in accordance with the new system. In terms of the making of new Neighbourhood Plans there may be a need to upskill and resource neighbourhood plan makers, particularly in terms of digital tools.

3.3.25 In drafting a plan under the new system, there will be an opportunity for it to be prepared in a collaborative way with neighbourhood planning groups from the outset with roles for Neighbourhood Plans to provide spatially specific policy for their areas, particularly in terms of local design codes.

3.3.26 ***Proposal 10: To help speed up the delivery of development the NPPF will make clear that for areas of substantial development there should be different housebuilders providing a variety of house types so more phases can come forward together.***

3.3.27 Matters to consider in consultation response: This is reflective of previous provisions contained within the Housing White Paper. At present, Leeds already presses for multiple developers to work on major sites. It is considered that without further details of powers given to local authorities, there is the potential for this proposal to not meet its objective. However, if such proposals can be effectively implemented there are positive implications for the delivery of housing in Leeds.

3.4 Pillar 2: Beautiful and Sustainable Places

- 3.4.1 In summary, this pillar provides more detail on how design codes can be used to set out the parameters for development and makes proposals that each local authority should appoint a chief officer to promote good design and for the establishment of a national expert body on good design. There is also discussion about protecting natural and historic environments and promoting the energy efficiency of buildings,
- 3.4.2 ***Proposal 11: Local Design Guidance and Codes.*** The Government sees local design guidance and codes as a way of providing early clarity to prospective developers on the nature of acceptable development. Local design codes can be produced either by the local authority (preferably in parallel with the Local Plan), by groups preparing Neighbourhood Plans or by developers of major sites. They will be subject to local consultation.
- 3.4.3 The Government published the National Design Guide in 2019 and is proposing to refresh the Manual for Streets from 2007 and along with the National Model Design Code that it is promising to consult on this autumn, these three national documents will provide a default position for deciding on the acceptability of development in the absence of local codes.
- 3.4.4 *Matters to consider in consultation response:* This represents a significant shift in planning approach, from giving advice to developers on their planning applications to setting out guidance and codes in advance, potentially through adopted Local Plans. Consideration may be given to how this system will ensure codes will be sufficiently responsive to site circumstances and content, particularly in a city as complex and varied as Leeds.
- 3.4.5 ***Proposal 12: A new expert advisory body will be set up to help local authorities with design guidance and codes, and local authorities will be expected to appoint a chief officer for design and place making.***
- 3.4.6 *Matters to consider in consultation response:* There is the potential for this measure to raise the profile of design and place-making, which may be considered a positive step. However, implications for the Council's budget may also be a further consideration, of the measures.
- 3.4.7 ***Proposal 13: Imbed design for beautiful places into the objectives of Homes England.***
- 3.4.8 *Matters to consider in consultation response:* There is the potential for this measure to raise the importance of design in developments that are funded by Homes England, which may be considered a positive step.
- 3.4.9 ***Proposal 14: Fast Track for Beauty.*** This has three main strands:
- NPPF update to give positive advantage to schemes that comply with local design codes
 - For designated *Growth Areas* there will be legislation to require as a condition of a "permissions in principle" the agreement of a masterplan and site specific code prior to detailed proposals coming forward. These can be prepared by LA or developer
 - Legislate on Permitted Development (PD) to make PD responsive to local codes / policy.

- 3.4.10 Matters to consider in consultation response: Proposal to make PD responsive to local codes may have positive impacts on the quality of development. For example, Leeds may be able to implement local internal space standards for dwellings converted from offices. However, details remain outstanding on how this would be implemented.
- 3.4.11 The White Paper has a section entitled “Natural Environment” with intentions to promote environmental recovery and long term sustainability, mitigate/adapt to climate change, reduce pollution, and make places more liveable with green spaces & trees. It refers to the Environment Bill concerning net gains for biodiversity and anticipates consultation in the autumn on making all new streets tree-lined and a replacement environmental procedure to replace sustainability appraisal, strategic environmental assessment and environmental impact assessment. However, there are only two numbered proposals:
- 3.4.12 **Proposal 15: NPPF to expect new Local Plans to identify growth, renewal & protection areas, and sub-areas in ways that can support climate change adaption & mitigation** (e.g. density to promote active travel).
- 3.4.13 Matters to consider in consultation response: Consideration may want to be given to how climate change adaption and mitigation can be applied to sub-areas, and how this would be captured in local policy.
- 3.4.14 **Proposal 16: The NPPF to make clear the role that local spatially specific policies can play in promoting the natural environment**. Examples are given of protecting views, securing public access, and identifying places for renewable energy / forestry creation.
- 3.4.15 Matters to consider in consultation response: The general thrust of the Government’s proposal is to centralise authority for determining policies on the environment in a set of national generic policies. Proposal 15 offers to clarify in the NPPF what degree of local policy distinctiveness may be allowable. This detail will be important in understanding the role Local Plans (including the Local Plan Update) can have in setting locally responsive policies on natural environment issues.
- 3.4.16 **Proposal 17: Conserving and enhancing our historic buildings and areas in the 21st century**. Proposals include:
- Local plans to identify buildings and areas for protection
 - Recognise the role for historic buildings in settlement renewal, including adaptability to climate change through energy efficiency
 - NPPF update to conserve historic environment but allowing sympathetic changes
 - Give architectural specialists autonomy from routine Listed Building consents
- 3.4.17 Matters to consider in consultation response: Consideration may be given to whether this proposal results in new formal powers for Local Authorities.
- 3.4.18 **Proposal 18: Facilitate ambitious improvements in the energy efficiency standards for buildings to help deliver our world-leading commitment to**

net-zero by 2050. There is a commitment to follow up on the Future Homes Standard consultation 2019. From 2025 new homes should have 75-80% lower CO2 emissions than current and called “Zero Carbon Ready” homes. There is also a commitment to clarify in the autumn what role LAs can play in setting energy efficiency standards for new build developments.

3.4.19 *Matters to consider in consultation response:* As Leeds is committed to net zero carbon by 2030 it may be considered a missed opportunity that the Government is continuing to set 2050 as its target. Consideration may be given to whether standardised national policies for this 2050 aspiration will go far enough to meet Leeds’ climate emergency ambitions. This may have implications for the scope of the Local Plan Update, should national policy prevent Local Authorities from being more ambitious.

3.5 Pillar 3: Planning for Infrastructure and Connected Places

3.5.1 In summary, this pillar views the current system of s106 as uncertain and opaque with reliance on negotiation causing delay. The Community Infrastructure Levy (CIL) is seen as inflexible as it is paid on commencement of development creating cash-flow challenges especially for smaller developers. Instead it proposes a reformed infrastructure levy set nationally based on development value.

3.5.2 ***Proposal 19: CIL reformed and charges as a fixed proportion of the development value above a threshold, with a mandatory nationally-set rate(s) and s106 abolished.*** This would have the following features:

- Flat-rate, value-based charge, set nationally at either a single rate or area-specific rates.
- Applies across all use classes
- Charged on the final value of development
- Levied at the point of occupation
- Kicks in at a value-based minimum threshold to prevent low viability development becoming unviable – reflecting average build costs per sqm, with a small fixed allowance for land costs.
- Local authorities can borrow against CIL revenues to forward fund infrastructure.

3.5.3 *Matters to consider in consultation response:* It is considered that this proposal may benefit from being set as area specific rates; otherwise there is a potential danger that northern authorities will lose out due to lower values.

3.5.4 It is also considered that there may be potential for the levy to be a disincentive to redevelopment of marginal sites, without the scope for flexibility or negotiation.

3.5.5 Finally, additional detail would be beneficial on how local authorities can bridge the gap between need for infrastructure spend at the beginning and levy payments being made at the end. However, it may be the case that a single system would have benefits over the current system, and an effective means of reducing delays associated with long negotiations via s.106 would have positive implications for development, if such a system could be successfully implemented.

- 3.5.6 **Proposal 20: The scope of the levy could be extended to capture changes of use through PD rights, even if there is no additional floorspace.**
- 3.5.7 Matters to consider in consultation response: This may have the potential to level the playing field for PD residential development to make the same contribution as development that is granted by local authorities as at present development through PD does not attract CIL liability.
- 3.5.8 **Proposal 21: The reformed levy should deliver affordable housing provision.** The following details are set out:
- Aim to continue to deliver on-site affordable housing at least at present levels.
 - Affordable housing can be secured through in-kind delivery on-site (could be made mandatory by the local authority)
 - S106 could still secure the delivery, but with the value captured through the levy.
 - LAs can specify forms and tenures of affordable housing
 - Some risk transferred to LPA – in event of market uplift, could allow LPAs to ‘flip’ units back to market units if levy is of lower value than secured through in-kind units, or could give developer no right to claim overpayments
 - LPAs could have options to revert back to cash contributions if no Registered Provider is willing to buy the homes due to their poor quality.
 - LPAs could also accept levy payments in the form of land within or adjacent to a site for them to directly build affordable housing on.
 - Alternatively could introduced a ‘first refusal’ right for local authorities or registered providers to buy up a (nationally set) proportion of on-site units at a discounted price.
- 3.5.9 Matters to consider in consultation response: The proposed arrangements appear to make provision for on-site delivery of affordable housing, but further clarity is needed to understand the full implications. Also, it is currently unknown whether other sorts of in-kind payments will be supported e.g. schools, health centres and green space.
- 3.5.10 **Proposal 22: More freedom could be given to local authorities over how they spend the levy.** The neighbourhood share is to be retained but the White Paper asks how community engagement about spending choices could be improved.
- 3.5.11 The White Paper examines the scope for more flexibility around spending. One option would be for LAs to spend receipts on policy priorities once core infrastructure obligations have been met. This could even include improving services or reducing council tax. It is however recognised that ring fencing may be necessary to ensure that affordable housing continues to be delivered on-site at current levels (or higher).
- 3.5.12 Matters to consider in consultation response: Experience of the CIL in Leeds suggests that there may be concerns that this new levy may not raise enough money to cover all infrastructure requirements. Further details would be beneficial on the role of s.106 in securing delivery of on-site requirements that

are non-financial, for example affordable housing arrangements, travel plans and local employment agreements.

3.6 Delivering Change

3.6.1 ***Proposal 23: As we develop our final proposals for this new planning system, we will develop a comprehensive resources and skills strategy for the planning sector to support the implementation of our reforms.***

Most funding of the planning system should come from the beneficiaries of development rather than the taxpayer, but some local planning activities should be funded through general taxation given the public benefits of good planning. Funding for transition to the new planning system will be made available. But local authorities will be subject to a performance framework to ensure continuous improvement.

3.6.2 Matters to consider in consultation response: At the time of writing the implications of this proposal are not fully understood, however, it is hoped that more information can be provided to Members at the meeting of Development Plan Panel.

3.6.3 ***Proposal 24: We will seek to strengthen enforcement powers and sanctions. More powers and higher fines will be considered, including for unauthorised development and encampments.***

3.6.4 Matters to consider in consultation response: At the time of writing the implications of this proposal are not fully understood, however, it is hoped that more information can be provided to Members at the meeting of Development Plan Panel.

3.7 Matters not covered by the White Paper

3.7.1 There are a number of themes and issues that are not captured within the White Paper, such as planning for other key issues such as employment land, town centres, minerals and waste. Whilst the consultation questions do not give an opportunity to respond on these matters, it may be considered appropriate to include comments on these issues via a covering note.

3.8 **Consultation and engagement**

3.8.1 The consultation on the White Paper runs until 29th October. The consultation is structured around 26 consultation questions (as set out in Appendix 1). If an on-line response is made, it is only possible to respond to the questions which are mainly “do you agree with our proposal for Yes, No, Not Sure” and a space is normally provided for a supporting statement. There is an email address for other comments to be sent.

3.8.2 So far, officers have sought to canvass views from the different planning teams and from related services by holding a number of discussion meetings.

3.9 **Equality and diversity / cohesion and integration**

3.9.1 An EDCl is not required for this report as no policy change is proposed.

3.10 Council policies and the Best Council Plan

3.10.1 There is a clear role for planning in delivering against all of the Council's priorities as established through the Best Council Plan, particularly the Council's key strategies, as follows:

Health and Well-being Strategy – through policies including the design of places, quality of housing and accessibility and the integration of public health infrastructure

Climate Emergency – managing the transition to zero carbon via policies including: the design of places, the location of development, accessibility to public transport, use of brownfield land, energy, supply, generation and the efficiency of buildings

Inclusive Growth Strategy – through policies including the links between homes and jobs, planning for the land use and infrastructure needs of key economic sectors, the location of development, green infrastructure and connectivity

3.10.2 Initial impressions suggest that the White Paper may have a fundamental impact on the Council's ability to set policies for the above priorities. As such, the Council will consider carefully how proposals in the White Paper will impact on ability to plan Leeds to meet Best Council priorities, as part of its formal response to the consultation.

3.11 Resources, procurement and value for money

3.11.1 There are no specific implications arising from the recommendations in this report.

3.12 Legal implications, access to information, and call-in

3.12.1 There are no legal implications arising from the recommendations in this report.

3.13 Risk management

3.13.1 The White Paper proposals pose a number of questions for how the Council deals with a range of planning matters, including the Local Plan Update. If the Council commences work before further details of the White Paper proposals become clear, there is a potential risk that work could be negatively affected by subsequent national policy and law. A key unknown is how long it will take for the new planning system to be enacted and what transitional arrangements will be in place. However, there is also no guarantee that the final version of the planning system will fully reflect the current provisions of the White Paper. As such to change the Council's stated approach to meeting the climate emergency through the Local Plan Update on the basis of draft national policy may limit the Council's ability to meet its aspirations for net zero carbon by 2030.

4. Conclusions

4.1.1 This report sets out the headline changes contained within the Planning White Paper, 'Planning for the Future' which was published on the 6th August 2020. If fully enacted, the proposals within the White Paper may result in a significant

shift in how planning matters are dealt with in Leeds. In order to aid Members' discussions potential implications of the proposals are set out. It is anticipated that a further report with a draft detailed response will be brought to DPP for consideration and endorsement in October in advance of the 29th October deadline for consultation comments.

5. Recommendations

- 5.1 Panel Members are asked to note and comment on the contents of the report.

Appendix 1: Consultation questions as part of the Planning White Paper consultation

Question
Response options are yes/no/not sure + box for supporting statement unless otherwise stated.
Q1. What three words do you associate most with the planning system in England?
Q2. Do you get involved with planning decisions in your local area?
Q3. Our proposals will make it much easier to access plans and contribute your views to planning decisions. How would you like to find out about plans and planning proposals in the future?
Q4. What are your top three priorities for planning in your local area? (Please select only three answers) Building homes for young people / Building homes for the homeless / Protection of green spaces / The environment, biodiversity and action on climate change / Increasing the affordability of housing / The design of new homes and places / Supporting the high street / Supporting the local economy / More or better local infrastructure / Protection of existing heritage buildings or areas / Other
Q5. Do you agree that Local Plans should be simplified in line with our proposals?
Q6. Do you agree with our proposals for streamlining the development management content of Local Plans, and setting out general development management policies nationally?
Q7(a) Do you agree with our proposals to replace existing legal and policy tests for Local Plans with a consolidated test of “sustainable development”, which would include consideration of environmental impact?
Q7.(b) How could strategic, cross-boundary issues be best planned for in the absence of a formal Duty to Cooperate?
Q8.(a) Do you agree that a standard method for establishing housing requirements (that takes into account constraints) should be introduced?
Q8.(b) Do you agree that affordability and the extent of existing urban areas are appropriate indicators of the quantity of development to be accommodated?
Q9(a). Do you agree that there should be automatic permission in principle for areas for substantial development (Growth areas) with faster routes for detailed consent?
Q9(b). Do you agree with our proposals above for the consent arrangements for Renewal and Protected areas?
Q9(c). Do you think there is a case for allowing new settlements to be brought forward under the Nationally Significant Infrastructure Projects regime?
Q10. Do you agree with our proposals to make decision-making faster and more certain?
Q11. Do you agree with our proposals for digitised, web-based Local Plans?
Q12. Do you agree with our proposals for a 30 - month statutory timescale for the production of Local Plans?
Q13. (a) Do you agree that Neighbourhood Plans should be retained in the reformed planning system?
Q13 (b) How can the neighbourhood planning process be developed to meet our objectives, such as in the use of digital tools and reflecting community preferences about design?
Q14. Do you agree there should be a stronger emphasis on the build out of developments? And if so, what further measures would you support?
Q15. What do you think about new development that has happened recently in your area? Not sure or indifferent / Beautiful & well-designed / Ugly & poorly-designed / There hasn't been any / Other (please specify):
Q16. Sustainability is at the heart of our proposals. What is your priority for sustainability in your area? Less reliance on cars / More green or open spaces / Energy efficiency of new buildings / More trees / Other (please specify):

Question
Response options are yes/no/not sure + box for supporting statement unless otherwise stated.
Q17. Do you agree with our proposals for improving the production and use of design guides and codes?
Q18. Do you agree that we should establish a new body to support design coding and building better places, and that each authority should have a chief officer for design and place-making?
Q19. Do you agree with our proposal to consider how design might be given greater emphasis in the strategic objectives for Homes England?
Q20. Do you agree with our proposals for implementing a fast-track for beauty?
Q21. When new development happens in your area, what is your priority for what comes with it? More affordable housing / More or better infrastructure (such as transport, schools, health) / Design of new buildings / More shops and/or employment space / Green space / Don't know / Other (please specify):
Q22. (a) Should the Government replace the Community Infrastructure Levy and Section 106 planning obligations with a new consolidated Infrastructure Levy, which is charged as a fixed proportion of development value above a set threshold?
Q22. (b) Should the Infrastructure Levy rates be set nationally at a single rate, set nationally at an area-specific rate, or set locally? Nationally at a single rate / Nationally at an area-specific rate / Locally
Q22. (c) Should the Infrastructure Levy aim to capture the same amount of value overall, or more value, to support greater investment in infrastructure, affordable housing and local communities? Same amount overall / More value / Less value / Note sure / Please provide supporting statement
Q22. (d) Should we allow local authorities to borrow against the Infrastructure Levy, to support infrastructure delivery in their area?
Q23. Do you agree that the scope of the reformed Infrastructure Levy should capture changes of use through permitted development rights?
Q24. (a) Do you agree that we should aim to secure at least the same amount of affordable housing under the Infrastructure Levy, and as much on-site affordable provision, as at present?
Q24. (b) Should affordable housing be secured as in-kind payment towards the Infrastructure Levy, or as a 'right to purchase' at discounted rates for local authorities?
Q24. (c) If an in-kind delivery approach is taken, should we mitigate against local authority overpayment risk?
Q24. (d) If an in-kind delivery approach is taken, are there additional steps that would need to be taken to support affordable housing quality?
Q25. Should local authorities have fewer restrictions over how they spend the Infrastructure Levy?
Q25 (a) If 'yes', should an affordable housing 'ring-fence' be developed?
Q26. Do you have any views on the potential impact of the proposals raised in this consultation on people with protected characteristics as defined in section 149 of the Equality Act 2010?