

SCRUTINY COMMITTEE

Tuesday, 21st January, 2020
6.30 pm





SCRUTINY COMMITTEE

BURNLEY TOWN HALL

Tuesday, 21st January, 2020 at 6.30 pm

This agenda gives notice of items to be considered in private as required by Regulations (4) and (5) of The Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012.

Members are reminded that if they have detailed questions on individual reports, they are advised to contact the report authors in advance of the meeting.

Members of the public may ask a question, make a statement, or present a petition relating to any agenda item or any matter falling within the remit of the committee.

Notice in writing of the subject matter must be given to the Head of Legal & Democracy by 5.00pm on the day before the meeting. . Forms can be obtained for this purpose from the reception desk at Burnley Town Hall, Manchester Road or at the Contact Centre, Parker Lane, Burnley or from the web at:

<http://burnley.moderngov.co.uk/ecCatDisplay.aspx?sch=doc&cat=13234> . You can also register to speak via the online agenda. Requests will be dealt with in the order in which they are received.

AGENDA

1) *Apologies*

To receive any apologies for absence.

2) *Minutes*

5 - 10

To approve as a correct record the minutes of the previous meeting.

3) *Additional Items of Business*

To determine whether there are any additional items of business which, by reason of special circumstances, the Chair decides should be considered at the meeting as a matter of urgency.

4) *Declarations of Interest*

To receive any declarations of interest from Members relating to any item on the agenda, in accordance with the provisions of the Code of Conduct and/or indicate if S106 of the Local Government Finance Act 1992 applies to them.

5) *Exclusion of the Public*

To determine during which items, if any, the public are to be excluded

from the meeting.

6) Public Question Time

To consider questions, statements or petitions from Members of the Public.

PUBLIC ITEMS

7) Leisure Trust Annual Report

11 - 42

The Chief Executive of the Leisure Trust will make a presentation on the headlines from Burnley Leisure's 2018/19 Annual Report.

8) Contributions Supplementary Planning Document (SPD)

43 - 102

To consult Scrutiny on the draft Developer Contributions Supplementary Planning Document (SPD).

9) Dog Fouling Working Group Recommendations

103 - 108

For Scrutiny to consider the recommendations of the Dog Fouling Working Group.

MEMBERSHIP OF COMMITTEE

Councillor Andrew Tatchell (Chair)
Councillor Marcus Johnstone (Vice-Chair)
Councillor Howard Baker
Councillor Tom Commis
Councillor Dale Ferrier
Councillor Andy Fewings
Councillor Beatrice Foster
Councillor Shbana Khan
Councillor Gordon Lishman

Councillor Sehrish Lone
Councillor Peter McCann
Councillor Lorraine Mehanna
Councillor Andrew Newhouse
Councillor Lian Pate
Councillor Emma Payne
Councillor Ann Royle
Councillor Mark Townsend

PUBLISHED

Monday, 13 January 2020

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SCRUTINY COMMITTEE

BURNLEY TOWN HALL

Monday, 9th December, 2019 at 6.30 pm

PRESENT

MEMBERS

Councillors A Tatchell (Chair), M Johnstone (Vice-Chair), H Baker, D Ferrier, S Khan, G Lishman, S Lone, L Mehanna, A Newhouse, L Pate and M Townsend

OFFICERS

Rob Dobson	– Head of Policy and Engagement
Asad Mushtaq	– Head of Finance and Property
Amy Johnson	– Principal Accountant
Jayne Enright	– Principal Environmental Health Officer - Food Safety
Imelda Grady	– Democracy Officer

35. Apologies

Apologies were received from Councillor Bea Foster.

36. Minutes

The minutes of the meeting held on 28th October 2019 were approved as a correct record and signed by the Chair.

37. Notice of Key Decisions and Private Meetings

Members commented on the length of time that some key decisions had been on the forward plan, in particular the Use of Glyphosate and the Local Development Scheme and asked that the Executive look at this.

In respect of the Dog Fouling Working Group members felt that there should be a process whereby Scrutiny was involved in the final report and recommendations of any Working Group before being taken to the Executive.

IT WAS AGREED

That the Executive be informed of the above comments and the notice of key decisions and private meetings be noted.

38. Leisure Trust Annual Report

The Chief Executive of the Leisure Trust was unable to attend the meeting and the item was deferred to a special meeting of Scrutiny to be held in January 2020.

39. Revenue Budget Q2

The Principal Accountant presented a report on the Council's Revenue Budget 2019-20 Quarter 2 as at 30th September 2019 and highlighted the detailed savings to date and the proactive work being done within service areas to achieve the savings target of £400k.

IT WAS AGREED

That the report be noted.

40. Capital Budget Q2

The Head of Finance and Property presented a report on the Council's Capital Budget 2019-20 Quarter 2 as at 30th September 2019.

Members asked how the revenue contribution of £11k required for the purchase of a new waste vehicle could be reconciled with the overspend of £172k in the revenue budget. Asad Mushtaq explained that this had been factored into the revenue budget report.

IT WAS AGREED

That the report be noted.

41. Treasury Management mid-year update

The Head of Finance and Property reported on the Council's mid-year review and drew members' attention to the economic forecast provided by Link Asset Service and the increase in the cost of borrowing by the Treasury and the Public Works Loan Board (PWLB) which could impact on the viability of the Councils' capital programme and future borrowing.

IT WAS AGREED

That the report be noted.

42. Fees and Charges 2020

The Head of Finance and Property presented a report on the Council's proposed fees and charges for 2020/21 and outlined the key areas of change.

Councillor Townsend agreed that the increase in fines for dog fouling would act as a deterrent but said that increasing the car parking fixed penalty notices by just £1 was not administratively efficient and felt that this would have been better frozen for a period of time and then increased more substantially. The Head of Finance and Property explained that all Heads of Service had been asked to incorporate a 2% increase for services, in line with increased costs, with the exceptions as outlined in the report.

Councillor Pate asked if the freeze on cemeteries and crematoria fees would prevent residents going out of the Borough for these services and asked that the impact of this be monitored.

IT WAS AGREED

That the report be noted.

43. Quarter 2 Performance Report

The Head of Policy and Engagement presented the quarter 2 performance results and focused on those areas that were off target, explaining the reasons for this.

In respect of missed bin collections members asked if there was an underlying trend. The Head of Policy and Engagement said that 75 missed bins out of every 100,000 collection was not significant in real terms and, other than when crews missed whole streets, it would be difficult to identify a reason for a trend in missed collections given the numbers involved.

Members also commented that the information in the report was brief and asked if more indicators could be included in future.

In respect of Liberata and calls answered within target time, a member reported her concerns over the use of answering machines and said that councillors often had sensitive information which they did not feel comfortable leaving on an answer machine, especially where no recipient's name was given. Members suggest that the criteria needed to be looked at rather than the outturn of calls, whether there was customer satisfaction after the call rather than how quickly the call was answered.

The Head of Policy and Engagement said he would pass these comments on to Liberata.

IT WAS AGREED

That the report be noted.

44. Food Safety Delivery Plan Annual Update

The Principal Environmental Health Officer presented the annual update for the Food (Official Controls) Delivery Plan 2019/20 and highlighted some of the the work carried out to date and the plans for the future delivery of Food Safety Services which was a requirement of the Food Standards Agency. She reported that the team had performed well against the inspection programme and compliance levels of food business had been maintained at 97%.

Members asked why there was no requirement for businesses to display the hygiene rating scores and the Officer explained that this was mandatory in Scotland, Wales and Northern Ireland but wasn't a requirement in England and could not be enforced. She did however inform members that businesses could not display a rating that wasn't correct or trading standards would act. She also said that many outlets such as markets and events would only take businesses with a 5 star rating and this helped drive up standards. She also said that food delivery services such as 'Just Eat' and 'Deliveroo' were now only working with outlets of a score of 3 and above.

Members also asked how call outs and complaints were prioritised and the Officer explained that the programme of inspections was audited and monitored centrally by surveillance, some interventions were reactive and some planned to be acted on within 28 days.

Members thanked the officer for the report and the good work being done in keeping the public safe.

IT WAS AGREED

That Full Council be recommended to approve the Food (Official Controls) Plan 2019/20.

45. Health and Safety intervention Plan Annual Update

The Principal Environment Health Officer presented the Health and Safety Intervention Plan 2019/20 and outlined the health and safety regulation duties undertaken by Burnley Council's health and safety team. She gave examples of where interventions had taken place at a sunbed salon and at a nursery school.

Councillor Ferrier asked if wood dust was being monitored at premises and the officer explained that the Health and Safety Executive carried out checks on higher risk premises such as large warehouses and the Council did lower risk businesses but she would check if this was happening and report back.

Councillor Gordon Lishman asked if gas safety checks on catering outlets, especially those with accommodation above, included carbon monoxide emissions. The officer responded that advice was always given on visits to premises in line with that of the Health and Safety Executive.

IT WAS AGREED

That Full Council be recommended to approve the Health and Safety Intervention Plan 2019/20.

46. Scrutiny Review Groups

Members considered the current position in respect of the scrutiny review into Burnley Manchester Road Railway Station and noted that a meeting with representatives from Lancashire County Council and Northern Rail would take place on 16th January 2020.

The second review on Housing needs would also commence on 16th January where members would scope the parameters of the review.

47. Work Programme 2019/20

The work programme was noted with the addition of an additional meeting being held in January to consider the Leisure Trust Accounts.

Members also asked that the Authority's Annual Monitoring Report be added to the work programme

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**REPORT OF THE TRUSTEES AND
AUDITED FINANCIAL STATEMENTS FOR THE YEAR ENDED 31ST MARCH 2019
FOR
BURNLEY LEISURE
(A COMPANY LIMITED BY GUARANTEE)**



**BURNLEY LEISURE
(A COMPANY LIMITED BY GUARANTEE)**

**CONTENTS OF THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31ST MARCH 2019**

	Page
Report of the Trustees	1 to 10
Report of the Independent Auditors	11 to 12
Statement of Financial Activities	13
Balance Sheet	14 to 15
Cash Flow statement	16 to 17
Notes to the Financial Statements	18 to 29

**BURNLEY LEISURE
(A COMPANY LIMITED BY GUARANTEE)**

**REPORT OF THE TRUSTEES
FOR THE YEAR ENDED 31ST MARCH 2019**

The trustees who are also directors of the company for the purposes of the Companies Act 2006, present their report with the financial statements of the charity for the year ended 31st March 2019. The financial statements comply with the Charities Act 2011, the Companies Act 2006, the Memorandum and Articles of Association, and Accounting and Reporting by Charities: Statement of Recommended Practice applicable to charities preparing their accounts in accordance with the Financial Reporting Standard applicable in the UK and Republic of Ireland (FRS 102) (effective 1st January 2015).

REFERENCE AND ADMINISTRATIVE DETAILS

Registered Company number
08737838 (England and Wales)

Registered Charity number
01158520

Registered office
St Peters Centre
Bank Parade
Church Street
Burnley
Lancashire
BB11 2DL

Trustees

Mr A Preston – Chairman
Dr S Minten
Mr T Hephrun
Mr M Heaton
Cllr A Raja (Resigned 19th November 2018)
Mrs J Baldwin
Mrs D Livesey
Mr W Rashid
Mrs J Sharpley
Cllr A Anwar (Appointed 21st May 2018)
Mr N Tranmer (Appointed 21st May 2018)
Mrs S Graham (Resigned on 16th May 2018)
Mrs B Foster (Appointed 19th November 2018)

Key Management Personnel

Mr G Vinton – Chief Executive

Auditors

Ainsworths Limited
Chartered Accountants
and Statutory Auditors
Charter House
Stansfield Street
Nelson
Lancashire
BB9 9XY

**BURNLEY LEISURE
(A COMPANY LIMITED BY GUARANTEE)**

**REPORT OF THE TRUSTEES
FOR THE YEAR ENDED 31ST MARCH 2019**

Bankers

HSBC Bank Plc
12 Manchester Road
Burnley
Lancashire
BB11 1JH

Solicitors

Winckworth Sherwood LLP
Minerva House
5 Montague Close
London
SE1 9BB

**BURNLEY LEISURE
(A COMPANY LIMITED BY GUARANTEE)**

**REPORT OF THE TRUSTEES
FOR THE YEAR ENDED 31ST MARCH 2019**

STRUCTURE, GOVERNANCE AND MANAGEMENT

Governing document

The company was incorporated on 17th October 2013 and registered as a charity on 10th September 2014. The charity is controlled by its governing document, the Memorandum and Articles of Association, and constitutes a company, limited by guarantee, as defined by the Companies Act 2006. In the event of the company being wound up members are required to contribute an amount not exceeding £1.

Recruitment and appointment of new trustees

The Board shall consist of at least three and not more than eleven individuals, comprised as follows:

- two Employee Trustees;
- up to two Local Authority Trustees; and
- up to seven Community Trustees

The Community Trustees shall at all times be in the majority. These trustees shall be elected with necessary expertise co-opted where appropriate by the existing trustees. When considering co-opting trustees, the Board has regard to the requirement for any specialist skills needed.

Risk management

The trustees have examined the major strategic, business and operational risks which the charity faces and confirm that systems have been established to ensure regular reports are produced and that the necessary steps can be taken to address any issues arising.

Burnley Leisure is a registered charity operating within a company limited by guarantee. The board of trustees has the authority to co-opt individuals with relevant expertise where appropriate.

Organisation structure

The Board currently consists of eleven trustees and is responsible for key policy decisions and the effective governance of the organisation overall. The Board has a minimum of six meetings per financial year.

The day to day operations of Burnley Leisure are managed by the charity's senior management team (the Executive) made up of the Chief Executive and four Service Managers. The Executive is given strategic direction by a Board of Trustees (the Board) regarding the provision and operation of the services in accordance with the contracts, leases and funding agreements made with Burnley Borough Council. The Board has ultimate responsibility for the governance of the charity, and directs, supports and challenges the Executive in its work.

Related parties

Trustees are required to declare an interest if they are involved in any activities which may compromise their role as a Trustee and a monitoring mechanism is in place. The related party transactions during the past year have been disclosed below in the notes to the financial statements.

**BURNLEY LEISURE
(A COMPANY LIMITED BY GUARANTEE)**

**REPORT OF THE TRUSTEES
FOR THE YEAR ENDED 31ST MARCH 2019**

OBJECTIVES AND ACTIVITIES

Burnley Leisure has been established for Public Benefit:

- To provide or assist in the provision of both indoor and outdoor facilities in the interests of social welfare for Recreation or other Leisure time occupation of individuals who have need of such by reason of their youth, age, infirmity of disability, financial hardship or social circumstances or to the public at large with the object of improving their conditions of life; and/or
- To promote community participation in Healthy Recreational Activities; and/or
- To provide or assist in the provision of community facilities to be available to all sections of the community without distinction, including the use for meetings, lecture and classes and/or other forms of recreation and leisure time occupation with the object of improving the conditions of life for all those who use the facilities; and/or
- To advance the education of the public in all aspects of dramatic art through the provision of a theatre; and/or
- Such other charitable purposes as the trustees in their absolute discretion may determine

Public benefit

The trustees are confident that the charity offers services of real and practical use to the local population and therefore complies with the responsibility placed on all charities under the Charities Act 2011 to demonstrate a public benefit.

ACHIEVEMENTS AND PERFORMANCE

This year has been an extremely productive year for all parts of the charity. We have successfully managed to produce a surplus, before pension adjustments, which has increased our reserves and has allowed us to invest in an overhaul of our marketing presence.

This report gives a brief outline of our successes and a comprehensive round-up will be included in our main annual report.

Cultural Services

Burnley Mechanics

We believe this season has been our most successful to date, with named key performers enhancing the sales to an average of 4 out of 5 shows selling out with the remaining shows hitting an average of around 400 plus sales therefore only just missing out on the maximum capacity.

The season has featured more household names including Paul Merton, Steve Davies, (Strictly dancers) Giovanni Pernice and Vincent Simone, The Fishermans Friends, touring alongside their biopic box office hit film, Sir Ian McKellen and comedians Cannon and Ball, Reginal D Hunter and Jasper Carrot. Sticking to high profile tributes shows such as Gary Mullen's Queen, Abba, The Eagles and 80's mania resulted in all shows selling out months in advance. Children's shows featuring household names from Milkshake, CBBC and Basil Brush boosted the Easter pantomime sales.

Running alongside our Community programmer's project is the Jazz and Gin event which has grown to a sell-out, so the group are looking at other areas to develop. Dance schools continue to flourish with more new enquiries, so much so we are struggling to fit them in. We are constantly balancing the programme to ensure it is sustainable.

For 2019/20 - Our autumn / winter season is selling very well, including theatre productions, which have proven difficult to sell in the past are selling better than expected at this stage in the year. Open air Alice in Wonderland, The Haunting of Blaine Manor for Halloween, comedy play Right Place Wrong Time, with named actors and The Sound of Music (BLOS).

Heritage lottery was Resubmitted for Burnley Mechanics and got favourable feedback, however only 13% of national entries were successful so sadly we were not awarded the funding. However, we have been encouraged to resubmit once the new applications have been released. All partners are still on board.

Arts Development

Burnley Light Night

A successful second year of this event. Partnering with Handmade Parade meant local artists developed skills and the event scaled up significantly from the previous year. Workshops in schools, including one special needs school, as well as public workshops in the Library and town centre spaces, increased participation and reach. 43 volunteers supported the project, including Burnley College students, and several members of Syrian refugee community. Bespoke large scale lantern artworks produced for the parade were then displayed in the Town Centre for 7 weeks, delighting passer-byers and raising the profile of the event.

ACHIEVEMENTS AND PERFORMANCE (CONTINUED)

Arts Development (continued)

Thompson Park / Generation Change - A project engaging 16 to 25 year olds in regular artist led sessions in Thompson Park Pavillion. Burnley Youth Theatre worked with Blaze to initiate the project in Spring/Summer 2018 and produced a performance event as part of the Fun Day. Super Slow Way have brought added resource to the project, strengthening the outreach and focussing activity

Changing Exhibitions Gallery - Burnley Mechanics continues to provide local artists with gallery space to show and sell their work. Community Projects also make use of the space to celebrate outcomes in exhibitions, such as Calico project Happy and Proud. 6 artists exhibited over the year

Up and Active

A third year of amazing achievements is reflected in the outputs of U&A, which has seen our committed team provide countless opportunities for individuals to become more active and lose weight. Our committed teams reach deep into the heart of communities, workplaces, primary schools, supermarkets, local parks, medical centres and community venues, using their expert knowledge of local areas and experience in physical activity and exercise, and healthy eating.

Year 3 - Up & Active programme has achieved the following outputs:

Referrals / Self referrals	Total
Cardiac Rehabilitation	98
Weight Management	313
Physical Activity	510
Community Engagement	
Community Events	52
Early interventions / service users in attendance in community activities	19,593
Community sessions	867
Weigh In's / Drop In's	497
Press releases	56
Volunteers	18
Schools supported	25
Facebook Reach	35,107

Your Mile Your Way - Your Mile Your Way is a Lancashire-wide initiative to promote active lives and healthy weight. People across Burnley were asked with the whole of Lancashire to get people more active by participating in your mile your way; walk, run, hop, skip, jump or swim a mile during the third week in May. The challenge set by commissioners was to encourage at least 24,901 people in Lancashire to participate/pledge to take part in the Your Mile Your Way initiative, which in cumulative distance terms would equate to going around the world. Pleasingly this target was smashed and 4,230 Burnley residents became more active, which contributed to East Lancashire's fantastic achievement of 22,755.

Healthy Schools Programme - The Healthy Schools programme is an obesity prevention programme that makes specific links to key stage 2 national curriculum subjects. Working with children and young people means we have adapted information to use age appropriate language, utilise interactive resources and tools, look at how information relates to them and make our sessions fun. The programme has proven popular and has been delivered to 13 primary schools showing some very good results, with excellent feedback from all schools and children.

ACHIEVEMENTS AND PERFORMANCE (CONTINUED)

Up and active (continued)

Community Engagement - The success of the U&A early interventions to date has gone above and beyond our expectations. The number of participants at community/health events such as Know Your Numbers, Walk to Work/School, Diabetes, Men's Health Weeks and the weekly 'Weigh In's' has been staggering, demonstrating the willingness of people to make positive behaviour changes when appropriate activities are provided in the communities in which they live or work.

Digital Marketing - More focus has been placed on digital marketing and social media to enhance the awareness of U&A and target specific client groups, which is reflected in the pleasing number of Facebook Reaches. The content is educational, inspirational and promotional, which also includes videos and images of U&A activities.

Leisure Facilities

It's been another extremely busy year in 2018/19 with a continuing increase in usage and income across many areas with staff performing excellently to cope with demand and ensure quality of delivery stays high.

Towneley Golf Courses - Golf continues to thrive and develop against the national average with many golf courses struggling to survive. The course is in excellent condition and has been chosen this year to host two East Lancashire competitions. 7 day Memberships on the 18 hole course continue to increase and now at the highest they have been for years. Throughout the summer the Pitch & Putt and Footgolf has enjoyed increased attendances. This can be attributed to an increase in marketing activity and improvements for booking arrangements. During 2018 we took over the running of the clubhouse and bar which had been trading poorly but a restructure of staffing and a number of building improvements are planned to increase usage and the viability of this area.

In April 2019 we have 313 members which is an increase of 16% in the last 12 months (262 April 18).

Swimming Lesson Provision - Our Swim Academy continues to grow with over 600 swimmers registered in our swimming Schools across St Peters and Padiham Leisure Centres. Demand for one to one lessons are on the increase and is an area we are developing during 2019 along with training and recruiting more qualified coaches to meet demand.

We are pleased to see that our School Swimming programme has also increased with an ever increasing number of schools outside of the borough traveling to our sites for instruction. The team are looking forward to our upcoming Disney themed marketing partnership with Swim England that will also be backed up with our sale of goods at reception desks.

Our Swimming teachers have all completed Disability Awareness, Deaf Friendly, School Water Safety, Visual Impaired Swimming, and Introduction to Para Swimming training.

Gym Membership - St Peters Leisure Centre gym was refurbished in December 2018 and means both facilities now have top of the range equipment with a diverse range of equipment suitable for all levels.

Burnley Leisure gym membership is currently at 3,500, an 11% increase from April 2018 to April 2019. A firm focus on juniors and family has been successful and we continue to build on this whilst ensuring our facilities are up to date and on trend with current equipment standards. Online joining was introduced during 2018 which has greatly improved our joining process and streamlined our administration of direct debits.

FeelGood Factory - Our FeelGood Factory toning table facility has recently been refurbished by Shapemaster and is a great addition allowing deconditioned and infirm users to access exercise. Feelgood membership as a whole has increased by 16% to 178 members over the last four months and well on target over the upcoming months to achieve the target of 200 by the end of the year.

**BURNLEY LEISURE
(A COMPANY LIMITED BY GUARANTEE)**

**REPORT OF THE TRUSTEES
FOR THE YEAR ENDED 31ST MARCH 2019**

ACHIEVEMENTS AND PERFORMANCE (CONTINUED)

Leisure Facilities

Awards / Achievements

Nine staff have successfully renewed and passed their National Pool Lifeguard Qualification and we will be entering the National Pool Lifeguard Championships in 2019.

Finalists in the National Fitness Awards Regional Gym of the year 2018.

Finalists in the UK Active national awards regional gym facility of the north June 2019.

Quest quality award assessed and achieved in April 2019 at the Prairie Sports Village.

Two of our apprentices has now progressed to full time employment with Burnley Leisure.

Leisure Development

External Grant Funding - In an increasingly competitive market we continued to successfully secure external grant funding to support future capital and revenue projects:

Awards for All funding for family fishing project

Awards for All funding for young people's mental health activities in parks

CCG funding for adult learn to ride scheme at Barden track

CCG funding to deliver mental health support pilot in 3 primary schools in partnership with New Era

Active Streets contract was extended for a third year by Gannow Big Local.

We secured Sport England funding for the Family Hub project in Thompson Park – a 4 year scheme to be delivered in partnership with Action for Children to start in spring 2019.

We secured funding from Football Foundation to build a second 3G pitch at Prairie Sports Village

We also supported 4 community groups/clubs to access grant funding for project work.

Projects - We delivered the first year of Heritage Lottery funded activities in Thompson Park, which included kayaking and cycling. We concluded the successful 3 year Girls Up and Active project with partners Calico with a celebration event at the Mechanics. The project lead from Girls Up and Active was seconded to the Pennine Lancashire Sport England Pilot: Together an Active Future.

Schools - We continued to develop our relationship with Burnley schools through the School Sport Partnership, with a contract to supply a support worker for 2 days per week to Barden Primary School until July 2019.

Events - We launched a new event – the Brun Valley Trail 10k which sold out in its first year with 300 entries.

**BURNLEY LEISURE
(A COMPANY LIMITED BY GUARANTEE)**

**REPORT OF THE TRUSTEES
FOR THE YEAR ENDED 31ST MARCH 2019**

The Future

As the Company becomes stable and sustainable, we need to look at building on our strengths, developing complimentary activities and diversifying the business into new income streams to assist the Council in being able to reduce its grant to us and re-direct its reducing funds into other priorities. This can only be achieved through the support of the Council in providing capital, which is paid for through the new and additional revenue income we generate.

Our areas of potential growth are through hospitality and cultural services. We see both of these areas improving our sustainability and adding further to our USP which distinguishes us from other local providers in the charity sector.

FINANCIAL REVIEW

The attached statement of financial activities shows how our funds were raised and applied during the year.

This statement separates funds, which the charity itself controls – unrestricted funds, from funds which have to be spent in a manner determined by the donor – restricted funds. In this year restricted funds have been received from various grant making bodies.

Looking to the future we will continue to maintain a tight control over costs, monitor income closely, and strive to identify future funding streams. We aim to ensure that we are well placed to react to any further negative or indeed positive impact of the economy.

Investment policy

The Trustees regularly monitor the available cash reserves of the charity and seek to maximise the interest earned on such funds.

Reserves policy

The charity has insufficient reserves to ensure that it can deal with major unexpected adverse developments without direct support from Burnley Borough Council. The trustees maintain a regular dialogue with the Council to ensure that, should major unexpected adverse developments arise, any difficulties that require attention are addressed in a mutually agreeable manner.

The trustees are confident that the charity has established diversity of operations, sufficient versatility and control of expenditures of such nature that it is able to adapt to changing circumstances that will arise from time to time under normal business circumstances.

The trustees have considered the current adverse economic climate when reviewing their reserves policy and are confident, in light of the changes planned that the charity is sufficiently robust and able to continue operating normally whilst it seeks to achieve these targets.

At the year end the charity had unrestricted reserves of £316,158 and restricted reserves of £198,439. In addition to these reserves the pension scheme was in deficit by £2,647,000.

**BURNLEY LEISURE
(A COMPANY LIMITED BY GUARANTEE)**

**REPORT OF THE TRUSTEES
FOR THE YEAR ENDED 31ST MARCH 2019**

STATEMENT OF TRUSTEES RESPONSIBILITIES

The trustees are responsible for preparing the financial statements in accordance with applicable law and United Kingdom Generally Accepted Accounting Practice.

Company law requires the trustees to prepare financial statements for each financial year. Under that law the trustees have elected to prepare the financial statements in accordance with the United Kingdom Generally Accepted Accounting Practice (United Kingdom Accounting Standards and applicable law), including FRS 102 the Financial Reporting Standard applicable in the UK and Republic of Ireland. The financial statements are required by law to give a true and fair view of the state of affairs of the charitable company and of the surplus or deficit of the charitable company for that period. In preparing those financial statements, the trustees are required to

- select suitable accounting policies and then apply them consistently;
- observe the methods and principles in the Charities SORP and FRS 102;
- make judgements and estimates that are reasonable and prudent;
- state whether applicable UK accounting standards have been followed, subject to any material departures disclosed and explained in the financial statements;
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the charitable company will continue in business.

The trustees are responsible for keeping proper accounting records which disclose with reasonable accuracy at any time the financial position of the charitable company and to enable them to ensure that the financial statements comply with the Companies Act 2006. They are also responsible for safeguarding the assets of the charitable company and hence for taking reasonable steps for the prevention and detection of fraud and other irregularities.

The trustees are responsible for the maintenance and integrity of the corporate and financial information included on the charitable company's website. Legislation in the United Kingdom governing the preparation and dissemination of financial statements may differ from legislation in other jurisdictions.

STATEMENT AS TO DISCLOSURE OF INFORMATION TO AUDITORS

So far as the trustees are aware, there is no relevant information (as defined by Section 418 of the Companies Act 2006) of which the charitable company's auditors are unaware, and each trustee has taken all the steps that they ought to have taken as a trustee in order to make them aware of any audit information and to establish that the charitable company's auditors are aware of that information.

AUDITORS

The auditors, Ainsworths Limited, will be proposed for re-appointment at the forthcoming Annual General Meeting.

This report has been prepared in accordance with the special provisions of Part 15 of the Companies Act 2006 relating to small companies.

ON BEHALF OF THE BOARD:



.....
Mr A Preston
Trustee

Date: 5th August 2019

**REPORT OF THE INDEPENDENT AUDITORS TO THE MEMBERS OF
BURNLEY LEISURE
(A COMPANY LIMITED BY GUARANTEE)**

Opinion

We have audited the financial statements of Burnley Leisure (the 'charity') for the year ended 31st March 2019 which comprise the Statement of Financial Activities, Balance Sheet, Cash Flow and Notes to the Financial Statements, including a summary of significant accounting policies. The financial reporting framework that has been applied in their preparation is applicable law and United Kingdom Accounting Standards, including Financial Reporting Standard 102 'The Financial Reporting Standard applicable in the UK and Republic of Ireland' (United Kingdom Generally Accepted Accounting Practice).

In our opinion the financial statements:

- give a true and fair view of the state of the charity's affairs as at 31st March 2019 and of its incoming resources and application of resources, including its income and expenditure, for the year then ended;
- have been properly prepared in accordance with United Kingdom Generally Accepted Accounting Practice; and
- have been prepared in accordance with the requirements of the Companies Act 2006.

Basis for opinion

We conducted our audit in accordance with International Standards on Auditing (UK) (ISAs (UK)) and applicable law. Our responsibilities under those standards are further described in the Auditors' responsibilities for the audit of the financial statements section of our report. We are independent of the charity in accordance with the ethical requirements that are relevant to our audit of the financial statements in the UK, including the FRC's Ethical Standard, and we have fulfilled our other ethical responsibilities in accordance with these requirements. We believe that the audit evidence we have obtained is sufficient and appropriate to provide a basis for our opinion.

Conclusions relating to going concern

We have nothing to report in respect of the following matters in relation to which the ISAs (UK) require us to report to you where:

- the trustees' use of the going concern basis of accounting in the preparation of the financial statements is not appropriate; or
- the trustees have not disclosed in the financial statements any identified material uncertainties that may cast significant doubt about the charity's ability to continue to adopt the going concern basis of accounting for a period of at least twelve months from the date when the financial statements are authorised for issue.

Other information

The trustees are responsible for the other information. The other information comprises the information in the Report of the Trustees, but does not include the financial statements and our Report of the Auditors thereon.

Our opinion on the financial statements does not cover the other information and we do not express any form of assurance conclusion thereon.

In connection with our audit of the financial statements, our responsibility is to read the other information and, in doing so, consider whether the other information is materially inconsistent with the financial statements or our knowledge obtained in the audit or otherwise appears to be materially misstated. If, based on the work we have performed, we conclude that there is a material misstatement of this other information, we are required to report that fact. We have nothing to report in this regard.

Opinion on other matters prescribed by the Companies Act 2006

In our opinion, based on the work undertaken in the course of the audit:

- the information given in the Report of the Trustees for the financial year for which the financial statements are prepared is consistent with the financial statements; and
- the Report of the Trustees has been prepared in accordance with applicable legal requirements.

**REPORT OF THE INDEPENDENT AUDITORS TO THE MEMBERS OF
BURNLEY LEISURE
(A COMPANY LIMITED BY GUARANTEE)**

Matters on which we are required to report by exception

In the light of the knowledge and understanding of the company and its environment obtained in the course of the audit, we have not identified material misstatements in the Report of the Trustees.

We have nothing to report in respect of the following matters where the Companies Act 2006 requires us to report to you if, in our opinion:

- adequate accounting records have not been kept, or returns adequate for our audit have not been received from branches not visited by us; or
- the financial statements are not in agreement with the accounting records and returns; or
- certain disclosures of trustees' remuneration specified by law are not made; or
- we have not received all the information and explanations we require for our audit; or
- the trustees were not entitled to prepare the financial statements in accordance with the small companies regime and take advantage of the small companies' exemption from the requirement to prepare a Strategic Report or in preparing the Report of the Trustees.

Responsibilities of trustees

As explained more fully in the Statement of Trustees' Responsibilities set out on page ten, the trustees (who are also the directors of the charitable company for the purposes of company law) are responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view, and for such internal control as the trustees determine necessary to enable the preparation of financial statements that are free from material misstatement, whether due to fraud or error.

In preparing the financial statements, the trustees are responsible for assessing the charity's ability to continue as a going concern, disclosing, as applicable, matters related to going concern and using the going concern basis of accounting unless the trustees either intend to liquidate the charity or to cease operations, or have no realistic alternative but to do so.

Our responsibilities for the audit of the financial statements

Our objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue a Report of the Auditors that includes our opinion. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISAs (UK) will always detect a material misstatement when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

A further description of our responsibilities for the audit of the financial statements is located on the Financial Reporting Council's website at www.frc.org.uk/auditorsresponsibilities. This description forms part of our Report of the Auditors.

Use of our report

This report is made solely to the charity's members, as a body, in accordance with Chapter 3 of Part 16 of the Companies Act 2006. Our audit work has been undertaken so that we might state to the charitable company's trustees those matters we are required to state to them in a Report of the Auditors and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the charitable company and the charitable company's trustees as a body, for our audit work, for this report, or for the opinions we have formed.



Mark Sunter (Senior Statutory Auditor)
for and on behalf of Ainsworths Limited
Chartered Accountants
and Statutory Auditors
Charter House
Stansfield Street
Nelson
Lancashire
BB9 9XY
Date: 5th August 2019

BURNLEY LEISURE
(A COMPANY LIMITED BY GUARANTEE)

STATEMENT OF FINANCIAL ACTIVITIES (INCLUDING INCOME AND EXPENDITURE ACCOUNT)
FOR THE YEAR ENDED 31ST MARCH 2019

	Notes	Unrestricted funds £	Restricted funds £	31.3.19 Total funds £	31.3.18 Total Funds £
INCOME					
Income from charitable activities					
Grant income	2	44,178	583,125	627,303	653,675
Operation of leisure and arts facilities	3	<u>3,859,120</u>	-	<u>3,859,120</u>	<u>3,510,489</u>
Total income		3,903,298	583,125	4,486,423	4,164,164
EXPENDITURE					
Raising funds	4	386,422	-	386,422	343,894
Charitable activities					
Operation of leisure and arts facilities	5	3,483,651	496,176	3,979,827	3,697,562
Other					
Balance of pension scheme operating charge	19	333,000	-	333,000	339,000
Net interest on pension scheme liability	19	<u>53,000</u>	-	<u>53,000</u>	<u>52,000</u>
Total expenditure		4,256,073	496,176	4,752,249	4,432,456
NET EXPENDITURE		(352,775)	86,949	(265,826)	(268,292)
Other recognised gains and losses					
Pension scheme actuarial gain/(loss)	19	<u>(151,000)</u>	-	<u>(151,000)</u>	<u>383,000</u>
NET MOVEMENT IN FUNDS		(503,775)	86,949	(416,826)	114,708
RECONCILIATION OF FUNDS					
Total funds brought forward		(1,827,067)	111,490	(1,715,577)	(1,830,285)
TOTAL FUNDS CARRIED FORWARD		<u>(2,330,842)</u>	<u>198,439</u>	<u>(2,132,403)</u>	<u>(1,715,577)</u>

The statement of financial activities includes all gains and losses recognised in the year.

All income and expenditure derives from continuing activities.

BURNLEY LEISURE
(A COMPANY LIMITED BY GUARANTEE)

BALANCE SHEET
AT 31ST MARCH 2019

	Notes	31.3.19 £	31.3.18 £
FIXED ASSETS			
Tangible assets	10	10,000	20,000
Investments	11	<u>2</u>	<u>2</u>
		10,002	20,002
CURRENT ASSETS			
Stock	12	61,302	48,134
Debtors	13	178,082	172,304
Cash at bank and in hand		<u>766,161</u>	<u>542,495</u>
		1,005,545	762,933
CURRENT LIABILITIES			
Amounts falling due within one year	14	<u>(500,950)</u>	<u>(378,512)</u>
		504,595	384,421
NET CURRENT ASSETS			
		514,597	404,423
TOTAL ASSETS LESS CURRENT LIABILITIES			
		514,597	404,423
LONG TERM LIABILITIES			
Amounts falling due after one year	15	-	(10,000)
		514,597	394,423
NET ASSETS EXCLUDING PENSION DEFICIT			
		514,597	394,423
PENSION SCHEME DEFICIT			
	20	<u>(2,647,000)</u>	<u>(2,110,000)</u>
		(2,132,403)	(1,715,577)
NET LIABILITIES INCLUDING PENSION DEFICIT			
		(2,132,403)	(1,715,577)
FUNDS			
Unrestricted funds	18	316,158	282,933
Restricted funds	19	198,439	111,490
Pension scheme deficit		<u>(2,647,000)</u>	<u>(2,110,000)</u>
		(2,132,403)	(1,715,577)
TOTAL FUNDS			
		(2,132,403)	(1,715,577)

**BURNLEY LEISURE
(A COMPANY LIMITED BY GUARANTEE)**

**BALANCE SHEET
FOR THE YEAR ENDED 31ST MARCH 2019**

The trustees have prepared the accounts in accordance with section 398 of the Companies Act 2006 and section 138 of the Charities Act 2011. These financial statements have been prepared in accordance with the special provisions of Part 15 of the Companies Act 2006 relating to small charitable companies and with the Financial Reporting Standard 102 (effective 1st January 2015).

The financial statements were approved by the Board of Trustees on 5th August 2019 and were signed on its behalf by:



.....
Mr A Preston
Chairman

**BURNLEY LEISURE
(A COMPANY LIMITED BY GUARANTEE)**

**CASH FLOW STATEMENT
FOR THE YEAR ENDED 31ST MARCH 2019**

	Notes	31.3.19 £	31.3.18 £
Cash flows from charitable activities			
Cash generated from activities	1	<u>243,666</u>	<u>167,282</u>
Net cash from charitable activities		<u>243,666</u>	<u>167,282</u>
Cash flows from investing activities			
Interest received		<u>-</u>	<u>-</u>
Net cash from investing activities		<u>-</u>	<u>-</u>
Cash flows from financing activities			
Capital repayments in the year		<u>(20,000)</u>	<u>(35,000)</u>
Net cash from financing activities		<u>(20,000)</u>	<u>(35,000)</u>
Increase/(decrease) in cash and cash equivalents		<u>223,666</u>	<u>132,282</u>
Cash and cash equivalents at the beginning of the year	2	<u>542,495</u>	<u>410,213</u>
Cash generated from charitable activities	2	<u><u>766,161</u></u>	<u><u>542,495</u></u>

BURNLEY LEISURE
(A COMPANY LIMITED BY GUARANTEE)

CASH FLOW STATEMENT
FOR THE YEAR ENDED 31ST MARCH 2019

1. RECONCILIATION OF DEFICIT TO CASH GENERATED FROM ACTIVITIES

	31.3.19	31.3.18
	£	£
Surplus/(deficit) for the year	(416,826)	114,708
Depreciation charges	10,000	10,000
	(406,826)	124,708
(Increase)/decrease in stocks	(13,168)	(3,244)
(Increase)/decrease in trade and other debtors	(5,778)	(70,083)
Increase/(decrease) in trade and other creditors	132,438	107,901
Increase/(decrease) in pension scheme	537,000	8,000
	243,666	167,282
Cash generated from charitable activities	243,666	167,282

2. CASH AND CASH EQUIVALENTS

The amounts disclosed on the Cash Flow Statement in respect of cash and cash equivalents are in respect of these Balance Sheet amounts:

Year ended 31st March 2019

	31.3.19	1.4.18
	£	£
Cash and cash equivalents	766,161	542,495

Year ended 31st March 2018

	31.3.18	1.4.17
	£	£
Cash and cash equivalents	542,495	410,213

1. ACCOUNTING POLICIES

Company information

Burnley Leisure is a charitable company, limited by guarantee, registered in England and Wales. The charity's registered number and registered office address can be found on the Company Information page. Each member's personal liability is limited to an amount not exceeding £1.

Basis of preparing the financial statements

The financial statements have been prepared in accordance with applicable accounting standards.

The financial statements have been prepared on a going concern basis which assumes that the company will be able to meet its liabilities as they fall due.

Basis of consolidation

The financial statements include the results of Burnley Leisure only. The company's subsidiary was dormant throughout this accounting period and has therefore been excluded from consolidation.

Accounting convention

The financial statements have been prepared under the historical cost convention, and in accordance with Accounting and Reporting by Charities: Statement of Recommended Practice applicable to charities preparing their accounts in accordance with the Financial Reporting Standard applicable in the UK and Republic of Ireland (FRS 102) (effective 1st January 2015) – (Charities SORP (FRS102)), the Financial Reporting Standard applicable in the UK and Republic of Ireland (FRS 102), the Companies Act 2006 and the Charities Act 2011.

Burnley Leisure meets the definition of a public benefit entity under FRS 102. Assets and liabilities are initially recognised at historical cost or transaction value unless otherwise stated in the relevant accounting policy note.

Incoming resources

All incoming resources are included on the Statement of Financial Activities when the charity is legally entitled to the income and the amount can be quantified with reasonable accuracy. Income is the amount derived from ordinary activities, and stated after trade discounts, other sales taxes and net of VAT.

Grants receivable are accounted for when due. Income is deferred when it is received in advance of the period to which it relates.

Investment income is recognised on a receivable basis.

Resources expended

Expenditure is accounted for on an accruals basis and has been classified under headings that aggregate all cost related to the category. Where costs cannot be directly attributed to particular headings they have been allocated to activities on a basis consistent with the use of resources.

Charitable expenditure comprises those costs incurred by the charity in the delivery of its activities and services for its beneficiaries. It includes both costs that can be allocated directly to such activities and those costs of an indirect nature necessary to support them.

Governance costs include those costs associated with meeting the constitutional and statutory requirements of the charity and include audit fees and costs linked to the strategic management and administration of the charity.

All support costs are allocated between the activity expenditure categories on a basis designed to reflect the use of the resource. Support costs are apportioned on an appropriate basis e.g. time spent, floor areas, or estimated usage.

**BURNLEY LEISURE
(A COMPANY LIMITED BY GUARANTEE)**

**NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31ST MARCH 2019**

1. ACCOUNTING POLICIES (CONTINUED)

Tangible fixed assets and depreciation

Depreciation is provided at the following annual rates in order to write off each asset over its estimated useful life or, if held under a finance lease, over the lease term, whichever is the shorter.

Fixtures and Fittings - 20% on cost

Fixed assets

The financial statements do not include the cost of land, buildings and equipment used at nominal rent by Burnley Leisure Trust, whose title rests with Burnley Borough Council. It is not practicably possible to attribute a value to this benefit.

Taxation

The charity is exempt from corporation tax on its charitable activities.

Fund accounting

Unrestricted funds can be used in accordance with the charitable objectives at the discretion of the trustees.

Restricted funds can only be used for particular restricted purposes within the objects of the charity. Restrictions arise when specified by the donor or when funds are raised for particular restricted purposes.

Further explanation of the nature and purpose of each fund is included in the notes to the financial statements

Pension costs and other post-retirement benefits

The charity participates in a defined benefit scheme. Although the scheme is a multi-employer scheme it is possible to allocate a share of the assets and liabilities to the charity and hence contributions are accounted for as a defined benefit scheme in accordance with FRS 102.

Stock

Stock is valued at the lower of cost and net realisable value, after making due allowances for slow and obsolete items.

Leasing

Rentals payable under operating leases are charged against income on a straight line basis over the lease term.

Debtors

Short term debtors are measured at transaction price, less any impairment.

Creditors

Short term creditors are measured at transaction price.

Significant judgements and estimates

Preparation of the financial statements requires management to make significant judgements and estimates. The major item in the financial statements where these judgements and estimates must be made is in relation to the pension scheme. Management consult with experts to provide appropriate assumptions on which to calculate projected funding position for the scheme.

**BURNLEY LEISURE
(A COMPANY LIMITED BY GUARANTEE)**

**NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31ST MARCH 2019**

2. GRANT INCOME

	31.3.19	31.3.18
	£	£
Restricted:		
LCC Public Health	374,920	367,704
Burnley, Pendle and Rossendale CVS	63,880	45,000
Blackburn with Darwen	30,000	-
Sport England	25,370	50,740
Mechanics Heritage	25,000	-
Arts Council	24,955	13,048
Big Lottery	20,000	40,000
Curious Minds	8,000	-
Stocks Massey	6,000	8,000
Lancashire County Council	5,000	7,990
Burnley Borough Council	-	20,000
Street Games	-	11,420
Lancashire Care	-	5,735
Total restricted	<u>583,125</u>	<u>569,637</u>
Unrestricted:		
Sponsorship	25,431	21,558
Up & active	12,105	4,359
Partner contributions	6,642	58,121
Total unrestricted	<u>44,178</u>	<u>84,038</u>
Total	<u><u>627,303</u></u>	<u><u>653,675</u></u>

3. CHARITABLE ACTIVITIES – OPERATION OF FACILITIES

	31.3.19	31.3.18
	£	£
Burnley Borough Council annual contract fee	443,664	423,272
Income from the operation of leisure and arts facilities	<u>3,415,456</u>	<u>3,087,217</u>
	<u><u>3,859,120</u></u>	<u><u>3,510,489</u></u>

In 2018, of the total charitable activities income, £nil was restricted and £3,510,489 was unrestricted funds.

**BURNLEY LEISURE
(A COMPANY LIMITED BY GUARANTEE)**

**NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31ST MARCH 2019**

4. RAISING FUNDS

	Unrestricted Funds £	Restricted Funds £	Total 31.3.19 £	Total 31.3.18 £
Staff costs and allowances	222,409	-	222,409	196,566
Premises expenses	9,757	-	9,757	11,925
Services and supplies	97,988	-	97,988	85,535
Transport expenses	1,616	-	1,616	1,225
Agency and contracted services	29,558	-	29,558	24,535
Business and technical support (see note 6)	25,094	-	25,094	24,107
	<u>386,422</u>	<u>-</u>	<u>386,422</u>	<u>343,893</u>

In 2018, of the total costs raising funds, £nil was restricted and £343,893 was unrestricted funds.

5. COSTS OF CHARITABLE ACTIVITIES

	Unrestricted Funds £	Restricted Funds £	Total 31.3.19 £	Total 31.3.18 £
Staff costs and allowances	2,001,677	400,513	2,402,190	2,311,053
Premises expenses	87,809	9,609	97,418	117,109
Supplies and services	881,895	30,693	912,588	799,590
Transport expenses	14,547	3,226	17,773	14,903
Agency and contracted services	266,025	30,030	296,055	222,717
Business and technical support (see note 6)	225,848	22,105	247,953	226,340
Governance costs (see note 6)	5,850	-	5,850	5,850
	<u>3,483,651</u>	<u>496,176</u>	<u>3,979,827</u>	<u>3,697,562</u>

In 2018, of the total costs of charitable activities, £596,663 was restricted and £3,100,899 was unrestricted funds.

Included in the above are governance and support costs. These costs have been allocated using an element of judgement as the charity has had to consider the cost/benefit of detailed calculations and record keeping. Therefore, support costs have been allocated accordingly to proportion of direct costs incurred within each charitable activity.

6. GOVERNANCE AND SUPPORT COSTS

	Unrestricted funds £	Restricted funds £	31.3.19 Total funds £	31.3.18 Total Funds £
Business and technical support	250,942	22,105	273,047	250,447
Audit services	5,000	-	5,000	5,000
Non-audit services	850	-	850	850
	<u>256,792</u>	<u>22,105</u>	<u>278,897</u>	<u>256,297</u>

In 2018, of the total governance and support costs, £9,373 was restricted and £246,924 was unrestricted funds.

**BURNLEY LEISURE
(A COMPANY LIMITED BY GUARANTEE)**

**NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31ST MARCH 2019**

7. NET INCOMING RESOURCES

Net resources are stated after charging:

	31.3.19	31.3.18
	£	£
Auditors remuneration	5,850	5,850
Depreciation	<u>10,000</u>	<u>10,000</u>

8. TRUSTEES' REMUNERATION AND BENEFITS

Trustees' Remuneration

During the year remuneration of £76,802 (2018: £26,706) was paid to Mr W Rashid and Mrs J Sharpley, employee trustees, in relation to their employment duties. These payments are authorised by the Articles of Association. No trustees received remuneration for their roles as trustees for the year ended 31st March 2019 nor for the year ended 31st March 2018.

Trustees' Expenses

There were no trustees' expenses paid for the year ended 31st March 2019 nor for the year ended 31st March 2018.

9. STAFF COSTS

	31.3.19	31.3.18
	£	£
Wages and salaries	2,226,752	2,128,917
Social security costs	152,333	142,774
Other pension costs	<u>208,837</u>	<u>197,554</u>
	<u>2,587,922</u>	<u>2,469,245</u>

The average monthly number of employees during the year was as follows:

	31.3.19	31.3.18
Employees	<u>160</u>	<u>154</u>

Employees earning more than £60,000 during the year:

	31.3.19	31.3.18
£60,001 - £70,000	<u>1</u>	<u>1</u>

The above staff member participated in the defined benefit pension scheme. Contributions of £7,325 (2018: £7,182) were made in relation to this individual.

The above staff member represents the key management personnel for the charity.

**BURNLEY LEISURE
(A COMPANY LIMITED BY GUARANTEE)**

**NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31ST MARCH 2019**

10. TANGIBLE FIXED ASSETS

	Fixtures and fittings £
COST	
At 1st April 2018	50,000
Additions	-
At 31st March 2019	<u>50,000</u>
DEPRECIATION	
At 1st April 2018	30,000
Charge for year	<u>10,000</u>
At 31st March 2019	<u>40,000</u>
NET BOOK VALUE	
At 31st March 2019	<u>10,000</u>
At 31st March 2018	<u>20,000</u>

11. FIXED ASSET INVESTMENTS

Investments comprise the cost of the investment in the subsidiary undertaking. Details of the subsidiary undertaking are as follows:

<u>Name of company</u>	<u>Proportion of nominal Value of issued shares held</u>	<u>Principal Activity</u>
Burnley Leisure Trading Limited	100% Ordinary shares	Dormant

12. STOCK

	31.3.19	31.3.18
	£	£
Leisure centre stock	7,384	5,067
Bar and catering	<u>53,918</u>	<u>43,067</u>
	<u>61,302</u>	<u>48,134</u>

13. DEBTORS: AMOUNTS FALLING DUE WITHIN ONE YEAR

	31.3.19	31.3.18
	£	£
Trade debtors	115,965	88,834
Prepayments and accrued income	11,957	58,393
Other debtors	<u>50,160</u>	<u>25,077</u>
	<u>178,082</u>	<u>172,304</u>

Debtors include £nil in respect of grants receivable at the year end. All amounts shown under debtors fall due for payment within one year.

BURNLEY LEISURE
(A COMPANY LIMITED BY GUARANTEE)

NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31ST MARCH 2019

14. CREDITORS: AMOUNTS FALLING DUE WITHIN ONE YEAR

	31.3.19	31.3.18
	£	£
Trade creditors	176,235	139,650
Taxation and social security	91,608	54,410
Accruals and deferred income	233,107	174,452
Other creditors	-	10,000
	<u>500,950</u>	<u>378,512</u>

15. CREDITORS: AMOUNTS FALLING DUE AFTER ONE YEAR

	31.3.19	31.3.18
	£	£
Other creditors	-	10,000
	<u>-</u>	<u>10,000</u>

16. OPERATING LEASE COMMITMENTS

The following operating lease payments are committed to be paid within one year:

	31.3.19	31.3.18
	£	£
Expiry date:		
Within 1 year	23,253	3,196
Between one and five years	73,223	4,940
	<u>96,476</u>	<u>8,136</u>

17. ANALYSIS OF NET LIABILITIES BETWEEN FUNDS

	Unrestricted funds £	Restricted funds £	31.3.19 Total funds £	31.3.18 Total Funds £
Fixed assets	10,002	-	10,002	20,002
Current assets	807,106	198,439	1,005,545	762,933
Current liabilities	(500,950)	-	(500,950)	(378,512)
Long term liabilities	-	-	-	(10,000)
Pension scheme deficit	(2,647,000)	-	(2,647,000)	(2,110,000)
	<u>(2,330,842)</u>	<u>198,439</u>	<u>(2,132,403)</u>	<u>(1,715,577)</u>

BURNLEY LEISURE
(A COMPANY LIMITED BY GUARANTEE)

NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31ST MARCH 2019

18. UNRESTRICTED FUNDS

	Pension deficit £	General funds £	Designated funds £	Total funds £
Balance at 1 st April 2018	(2,110,000)	226,081	56,852	(1,827,067)
Net income / (expenditure)	(537,000)	15,077	18,148	(503,775)
	<u>(2,647,000)</u>	<u>241,158</u>	<u>75,000</u>	<u>(2,330,842)</u>

Purposes of designated funds

The trustees have designated funds to assist in the future development of the charity. The funds set aside are for Business development, Arts development and a fund for a Minibus.

General fund

The general fund consists of the total of free reserves available to spend on the objectives of the charity.

19. RESTRICTED FUNDS

	At 1 st April 2018 £	Incoming resources £	Outgoing resources £	At 31 st March 2019 £
Project fund				
Active streets – Big Lottery	56,952	77,000	51,670	82,282
Arts development	-	35,000	-	35,000
Awards for All	-	10,000	1,947	8,053
Burnley lights festival	-	14,900	14,900	-
Creative alliance	-	1,450	1,450	-
Curious Minds	-	18,000	7,245	10,755
Cycling project	2,061	11,880	1,693	12,248
MAPS	4,657	8,605	3,786	9,476
Sports development	3,205	-	3,205	-
Stock Massey	-	6,000	6,000	-
Up and active	40,625	374,920	374,920	40,625
Up and active: Girls	-	25,370	25,370	-
Young Mechanics	3,990	-	3,990	-
	<u>111,490</u>	<u>583,125</u>	<u>496,176</u>	<u>198,439</u>

The restricted grants received in the year have been categorised above.

20. PENSION ARRANGEMENTS

The charity participates in the Lancashire County Pension Fund which is a funded defined benefit scheme providing benefits based on final remuneration. The assets of the scheme are held separately from those of the charity. Whilst this is a multi-employer scheme, the actuary is able to segregate the assets and liabilities relating to the charity. During the year, normal employer pension contributions of £208,837 (2018: £197,554) were paid to the scheme.

BURNLEY LEISURE
(A COMPANY LIMITED BY GUARANTEE)

NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31ST MARCH 2019

20. PENSION ARRANGEMENTS (CONTINUED)

The following calculations as at 31st March 2019 have been provided by the actuaries, Mercer Limited, using the projected unit actuarial costs method. Principal actuarial assumptions used by the actuary were as follows:

	31.3.19	31.3.18
	%	%
Rate of CPI inflation	2.20	2.10
Rate of increase in salaries	3.70	3.60
Rate of increase in pensions	2.30	2.20
Discount rate	2.50	2.70
Life expectancy of a male future pensioner aged 65 in 20 years' time	25.10	25.00
Life expectancy of a female future pensioner aged 65 in 20 years' time	28.20	28.00
Life expectancy of a male current pensioner aged 65	22.80	22.70
Life expectancy of a female current pensioner aged 65	25.50	25.40

The amounts recognised in the balance sheet are as follows:

	31.3.19	31.3.18
	£	£
Present value of funded obligations	(10,329,000)	(8,792,000)
Fair value of plan assets	<u>7,682,000</u>	<u>6,682,000</u>
Net pension deficit	<u>(2,647,000)</u>	<u>(2,110,000)</u>

Analysis of amounts charged to the Statement of Financial Activities:

	31.3.19	31.3.18
	£	£
Operating charge		
Current service cost	528,000	522,000
Administration expenses	<u>9,000</u>	<u>8,000</u>
Total operating charge	<u>537,000</u>	<u>530,000</u>
	31.3.19	31.3.18
	£	£
Other finance costs		
Expected return on pension scheme assets	(184,000)	(165,000)
Interest on pension scheme liabilities	<u>237,000</u>	<u>217,000</u>
Net charge	<u>53,000</u>	<u>52,000</u>
	31.3.19	31.3.18
	£	£
Total charge to resources expended in Statement of Financial Activities	<u>590,000</u>	<u>582,000</u>

BURNLEY LEISURE
(A COMPANY LIMITED BY GUARANTEE)

NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31ST MARCH 2019

20. PENSION ARRANGEMENTS (CONTINUED)

Analysis of the actuarial gains and losses shown in the Statement of Financial Activities:

	31.3.19	31.3.18
	£	£
Actuarial gains / (losses) on assets	592,000	63,000
Actuarial gains / (losses) on liabilities	(743,000)	<u>320,000</u>
Actuarial gain / (loss) recognised	<u>(151,000)</u>	<u>383,000</u>

Changes in the fair value of the defined benefit obligation are as follows:

	31.3.19	31.3.18
	£	£
Opening defined benefit obligation	8,792,000	8,336,000
Current service cost	528,000	522,000
Interest on pension scheme liabilities	237,000	217,000
Employee contributions	107,000	100,000
Actuarial (gains)/losses	743,000	(320,000)
Benefits paid / transfers	(78,000)	(63,000)
Closing defined benefit obligations	<u>10,329,000</u>	<u>8,792,000</u>

Changes in the fair value of plan assets are as follows:

	31.3.19	31.3.18
	£	£
Opening fair value of plan assets	6,682,000	6,234,000
Expected return on plan assets	184,000	165,000
Actuarial gains/(losses)	592,000	63,000
Employer contributions	204,000	191,000
Employee contributions	107,000	100,000
Administration expenses	(9,000)	(8,000)
Benefits paid / transfers	(78,000)	(63,000)
Closing fair value of plan assets	<u>7,682,000</u>	<u>6,682,000</u>

The split of assets between investment categories is as follows:

	2019	2019	2018	2018
	£	%	£	%
Equities	3,389,000	44.10	2,968,000	44.40
Government bonds	269,000	3.50	167,000	2.50
Other bonds	92,000	1.20	120,000	1.80
Property	714,000	9.30	628,000	9.40
Cash/liquidity	38,000	0.50	(27,000)	(0.40)
Other	<u>3,180,000</u>	<u>41.40</u>	<u>2,826,000</u>	<u>42.30</u>
	<u>7,682,000</u>	<u>100.00</u>	<u>6,682,000</u>	<u>100.00</u>

BURNLEY LEISURE
(A COMPANY LIMITED BY GUARANTEE)

NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31ST MARCH 2019

20. PENSION ARRANGEMENTS (CONTINUED)

Amounts for the current and previous periods are as follows:

	2019	2018	2017
	£	£	£
Defined benefit obligation	(10,329,000)	(8,792,000)	(8,336,000)
Plan assets	<u>7,682,000</u>	<u>6,682,000</u>	<u>6,234,000</u>
	<u>(2,647,000)</u>	<u>(2,110,000)</u>	<u>(2,102,000)</u>

A full actuarial review of the scheme was undertaken as at 31st March 2019.

Following the full actuarial valuation at 31st March 2019, employer contributions were agreed to stay at a rate of 11.60% with effect from 1st April 2019.

The current estimate of employer contributions for the year ended 31st March 2020 is £204,000. Implied service cost is estimated at £584,000 and a net interest and administration cost at £73,000 resulting in the deficit increasing by an estimated £453,000 to £3,100,000.

21. RELATED PARTY TRANSACTIONS

Under an agreement dated 25th March 2014, the charity acquired the use of the community arts and leisure facilities in the Burnley area from the Burnley Borough Council, a related party by virtue of its grant funding to the charity. The community arts and leisure facilities include all the equipment at each site and enable the society to operate under its principal activity. The value of the equipment and the potential liability for the consideration are not included in the accounts in order to reflect the substance of the arrangement.

The charity operates from premises owned by the Burnley Borough Council.

During the period, the charity received grant funding from Burnley Borough Council of £443,664 (2018: £423,272).

Burnley Borough Council also provides professional services to the charity under a service agreement which amounted to £246,793 (2018: £239,681) in the period.

During the period sales of £40,084 (2018: £45,617) were charged to and expenditure of £30,357 (2018: £49,892) was charged by Burnley Borough Council.

In the year to 31st March 2016 Burnley Leisure borrowed £50,000 from Burnley Borough Council to cover fixed asset purchases. The loan agreement states Burnley Leisure are to repay the loan amount over five years at £10,000 per year. At the year end Burnley Leisure owed Burnley Borough Council £nil (2018: £20,000) in respect of this loan.

During the year the charity received income of £63,880 (2018: £47,275) from Burnley Pendle and Rossendale Council for Voluntary Services, a related party that shares a Trustee with Burnley Leisure.

**BURNLEY LEISURE
(A COMPANY LIMITED BY GUARANTEE)**

**NOTES TO THE FINANCIAL STATEMENTS
FOR THE YEAR ENDED 31ST MARCH 2019**

22. GOING CONCERN AND POST BALANCE SHEET EVENTS

In preparing this Annual Report and Accounts, the trustees have considered their statement made regarding preparation of the financial statements on a going-concern basis. The financial statements have been produced on a going concern basis, despite the existence of net total liabilities (including the pension scheme deficit) as at 31st March 2019 because the trustees are satisfied that the charity will meet all its obligations as and when they fall due over the foreseeable future. In forming this opinion, the trustees have paid particular regard to:

- a) The nature of and future prospects for the economic climate in which the charity operates;
- b) The adequacy of the liquidity in the business demonstrated through the current 12 month forecast;
- c) The continued support of the council;
- d) The remaining term to March 2029 of the management agreement with Burnley Borough Council;
- e) The competencies of the executive staff employed by the charity;
- f) The actual performance to date for the financial year ending 31st March 2020.

The trustees are not aware of any other reportable post balance sheet events at the time of this report.

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DEVELOPER CONTRIBUTIONS SUPPLEMENTARY PLANNING DOCUMENT (SPD)

REPORT TO THE EXECUTIVE



DATE	10 December 2019
PORTFOLIO	Economy and Growth
REPORT AUTHOR	Kate Ingram/Elizabeth Murphy
TEL NO	Ext 7286
EMAIL	kingram@burnley.gov.uk emurphy@burnley.gov.uk

PURPOSE

1. The purpose of this report is to seek approval to undertake formal public consultation on a draft Developer Contributions Supplementary Planning Document (SPD).
2. The draft SPD (attached at Appendix A) has been prepared to support the implementation of Burnley's Local Plan. Once adopted, it will be a material consideration to be used in the determination of relevant applications.

RECOMMENDATION

3.
 - (1) That Executive approve the draft Developer Contributions SPD for public consultation for an eight-week consultation period commencing in January 2020.
 - (2) That, up to the start of the consultation period, the Strategic Head of Economy and Growth be authorised by the Executive to make minor changes to the wording or layout of the draft SPD, provided that the changes do not materially change the meaning of the consultation document.

REASONS FOR RECOMMENDATION

4. To meet the Council's commitment to prepare a Developer Contributions SPD as set out in Burnley's Local Plan and the Council's Local Development Scheme (LDS); and to seek comments on a draft of the document in accordance with the relevant legislation and commitments in the Council's Statement of Community Involvement (SCI).

SUMMARY OF KEY POINTS

Early Consultation

5. During the preparation of the draft SPD, early and informal consultation took place on its scope and content with internal officers, specifically those whose work relates to the issues within the document e.g. open spaces; and also with Lancashire County Council Schools Planning Team. Whilst the document was refined to take into account the internal comments/advice received, effective engagement with the County Council Schools Planning team was difficult. The County Council will of course be formally consulted on the draft SPD. It is understood that the County Council is to review its own non-statutory policy on developer contributions “Infrastructure and Planning” to take into account legislative and national policy changes, and will no doubt will consult the borough council on a revised draft in due course. Informal discussion has also taken place with the East Lancashire Clinic Commissioning Group (CCG). Both the CCG and the East Lancashire Hospitals Trust (ELHT) are looking at developing a policy on developer contributions which may then be requested towards the cost of additional health infrastructure, including e.g. the expansion of primary care (GP) services. The current position is set out in section 11.4 of the draft SPD.

Strategic Environmental Assessment

6. SPDs no longer require Sustainability Appraisal (SA) but can require Strategic Environmental Assessment under Directive 2001/42/EC on the assessment of the effects of certain plans and programmes on the environment (‘the SEA Directive’) and through UK legislation through the Environmental Assessment of Plans and Programmes Regulations 2004 (‘the SEA Regulations’).
7. Councils must carry out a screening process to determine whether relevant plans or programmes are likely to have significant environmental effects, and hence whether SEA is required. Where the Council determines that SEA is not required, it must prepare a statement setting out the reasons for this determination. Before coming to a conclusion on this matter, the Council is required to consult with three specific consultation bodies, namely: Historic England, Natural England and the Environment Agency. The three bodies have confirmed their agreement with the Council’s conclusion and the Council made a formal determination on 11 December 2018 that SEA is not required for this SPD.

Overview of the SPD

8. The SPD covers contributions towards:
 - Infrastructure;
 - Affordable Housing; and
 - Other matters.
9. Policy HS2 of the Local Plan sets out the policy on affordable housing provision for sites of over 10 dwellings. The SPD is intended to provide supplementary guidance on this policy, including indicative percentages of affordable housing required for mainstream housing sites by type and location.
10. Policy IC5 of the Local Plan requires the provision of new social and community infrastructure where a development would increase demand for it beyond its current capacity, or generate a newly arising need. Policy IC5 sets out the policy for seeking planning contributions. It lists a number of matters for which contributions may be sought, but makes clear that the list is not exhaustive. It requires development to provide or

contribute towards the provision of the infrastructure needed to support it. It sets out that planning contributions will be sought where development creates a requirement for additional or improved services and infrastructure and/or to address the off-site impact of development so as to satisfy other policy requirements. It sets out that contributions may be sought to fund a single item of infrastructure or to fund part of an infrastructure item or service; and that contributions may be sought for the initial provision and/or ongoing running and maintenance costs of services and facilities. It sets out that viability may be considered.

11. The draft SPD is underpinned by the Local Plan Viability Assessment of March 2017 which has been used to set both the percentages of affordable housing and a series of contribution 'ceilings' above the levels of which schemes would generally not be viable. The ceilings would only take effect where the requests for appropriate contributions exceeded the ceiling. Should an applicant wish to demonstrate that a particular scheme could not make provide affordable housing at the level set and/or make contributions (if required) up to the ceiling, they would need to submit their own viability assessment in line with Policy IC4 clause 7.
12. The SPD divides contributions into the categorises:
 - **Necessary and critical** - these are contributions which must be provided for a scheme to be approved. Viability cannot be taken into account.
 - **Necessary and important** (including affordable housing and education contributions) - these are contributions which must be provided for a scheme to be approved if viable. Viability can be taken into account.
 - **Desirable** - these are contributions which can weigh in favour of a scheme in the planning balance but are not essential in terms of specific Local Plan policy requirements. Viability can be taken into account.

(For fuller explanation see Table 1, page 15 of the draft SPD)

13. The SPD also takes account of recent changes to legislation and national policy including a key change which means that Section 106 Agreement contributions from any number of schemes may once again be 'pooled' towards the cost of a piece of infrastructure; subject still to the requirement for each contribution to satisfy the relevant statutory and national policy tests (as set out in the SPD - Section 4) and reflected in the Local Plan.

Proposed Consultation

14. Under the Town and Country Planning (England) Regulations 2012 there is a requirement for a minimum of four weeks public consultation on all SPDs. The Council's adopted Statement of Community Involvement (SCI) however, extends this period to six weeks. Due to the complexity of the issues within the SPD it is proposed to extend this to an 8 week period on this occasion.
15. The consultation will include notification to all those required to be notified by legislation and all others on the Local Plan consultation database, together with advertisement on social media and the Council's website. The document will also be made available at the Contact Centre and main libraries.
16. A revised SPD will then be prepared taking into account the consultation responses received and will be presented to Executive for formal adoption in Spring/Summer 2020.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

17. The work will be completed within existing officer resources and the costs associated with consultation and production will be met within existing budgets. The SPD is presented as a draft for consultation. As such there are no financial implications directly associated with this report.

POLICY IMPLICATIONS

18. Once adopted, the SPD will be a material consideration when considering relevant applications. Its production fulfils existing commitments in Burnley's Local Plan and the Council's LDS.

DETAILS OF CONSULTATION

19. As outlined in the Report.

BACKGROUND PAPERS

20. [Burnley's Local Plan 2012-2032 \(Adopted 31 July 2018\)](#)

FURTHER INFORMATION

PLEASE CONTACT:

Kate Ingram

ALSO:

Elizabeth Murphy



Developer Contributions:

Supplementary Planning Document (SPD)

Consultation Draft: January 2020

Policy & Environment Team
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Contents

1.	Introduction.....	5
1.1	The Purpose and Scope of the SPD	5
1.2	What is Infrastructure?	5
1.3	What are Planning Contributions?.....	6
2.	Policy Context Overview	7
3.	Infrastructure Requirements.....	9
3.1	Identifying Infrastructure Requirements	9
3.2	The Infrastructure Delivery Plan (IDP)	9
3.3	Lancashire County Council’s ‘Infrastructure and Planning’ document.....	9
3.4	Burnley Green Spaces Strategy	10
4.	Types of Contribution Explained.....	11
4.1	Conditions	11
4.2	Obligations	11
4.3	Section 278 Highway Agreements	13
5.	How will contributions be determined?.....	14
5.1	Are contributions required?.....	14
5.2	How will contributions be determined and prioritised?.....	14
5.3	How will viability be assessed?	16
5.4	How will contributions be secured?.....	22
5.5	Can an agreed planning obligation be changed?	22
6.	Spending and Monitoring.....	23
6.1	Is information on planning obligation contributions publicly available?.....	23
6.2	Indexation	23
6.3	Payment of monies	25
7.	Affordable Housing	26
7.1	Types of Affordable Housing.....	26
7.2	National policy for Affordable Housing.....	26
7.3	Local Plan Policy HS2.....	28
8.	Open Space, GI, Allotments and Social/Community Infrastructure.....	36
8.1	Green Infrastructure	36
8.2	Open Space for housing developments	36
8.3	Social/Community Infrastructure.....	37

9. Highways and Transport Infrastructure	39
9.1 Lancashire County Council’s role	39
9.2 Highways Contributions	39
10. Education Provision	41
10.1 Lancashire County Council’s role	41
10.2 Education Contributions	41
11. Other Matters.....	43
11.1 Drainage and Flood Risk Management	43
11.2 Biodiversity Matters.....	44
11.3 Heritage Matters.....	44
11.4 Health Infrastructure.....	45
12. Monitoring and Review.....	47
Appendix A: Key Local Plan Policies	51
Appendix B: NPPF Definition of Affordable Housing.....	53
Appendix C: References.....	54
Figure 1: Burnley Planning Policy Framework	8
Table 1: Prioritisation Categories	15
Table 2: Indicative Contribution Ceilings and Affordable Housing %.....	19
Figure 3: Offsite Affordable Housing Contributions Calculator	33
Table 3: Table 10.5 from Local Plan Viability Study of March 2017	34

1. Introduction

1.1 The Purpose and Scope of the SPD

1.1.1 This Supplementary Planning Document (SPD) has been prepared by Burnley Council as part of its planning policy framework. It supplements the policies of the Burnley's Local Plan 2012-2032 which was adopted on 31 July 2018. The text of the most relevant policies can be seen in Appendix A.

1.1.2 SPDs elaborate upon the policy and proposals in Local Plans but do not have their formal statutory 'Development Plan' status. They are, however, material considerations in the consideration of relevant development proposals.

1.1.3 The SPD was adopted by the Council on *(to be added)*.

1.1.4 Policy IC4 of the Local Plan sets out the policy for seeking planning contributions and this SPD is intended to provide information on how this Policy and other policies requiring affordable housing or specific infrastructure will be interpreted and applied.

1.1.5 The SPD covers contributions towards:

- Infrastructure;
- Affordable Housing; and
- Other matters.

1.1.6 The Local Plan in Policy IC4 lists a number of matters for which contributions may be sought; but makes clear that the list is not exhaustive:

- Affordable housing
- Public realm improvements and creation, including public art
- Improvements to Heritage Assets
- Flood defence and alleviation schemes, including SuDS
- Biodiversity enhancements
- Open space, including green infrastructure and allotments
- Transport improvements, including walking and cycling facilities
- Police infrastructure
- Education provision
- Utilities
- Waste management
- Health infrastructure
- Sport, leisure, recreational, cultural and other social and community facilities

1.2 What is Infrastructure?

1.2.1 Section 216 of the Planning Act 2008 describes the types of infrastructure that can be supported through the Community Infrastructure Levy and this description can be used as a basis for the definition of infrastructure generally.

1.2.2 Affordable housing is not considered to be 'infrastructure' within this statutory definition and the CIL levy cannot be used to fund affordable housing.

1.2.3 For the ease of reference, the term ‘infrastructure’ in this SPD is used (unless stated otherwise) to include all matters for which contributions may be sought, including affordable housing.

1.2.4 New development as set out and supported by the Local Plan can place a strain on existing infrastructure, but also has the potential to provide or help provide new infrastructure or improve existing infrastructure and services. Planning law and policy recognises that it is reasonable to expect that developers should contribute towards the costs of services, infrastructure or resources that would not have been necessary but for their development.

1.2.5 Infrastructure can be provided directly by developers or via financial sums paid to other bodies to pay for or contribute towards the cost of new or improved infrastructure.

1.2.6 Where appropriate (i.e. where it is necessary to make the development acceptable in planning terms - including by mitigating impacts), the Local Plan policies state that developers will be required to provide the necessary infrastructure or contribute to its provision through Section 106 contributions and/or the Community Infrastructure Levy (CIL) should the Council introduce it.

1.3 What are Planning Contributions?

1.3.1 This term refers to any form of contribution made by a developer to directly deliver or pay towards (via sums of money or contributions in kind) new or improved affordable housing, infrastructure or services. There are several mechanisms that the Council can use to secure planning contributions from developers and these fall into three broad categories:

- Conditions
- Obligations
- CIL

1.3.2 The most common mechanisms is via [conditions](#) attached to a planning permission.

1.3.3 [Planning Obligations](#) are a specific type of planning contribution secured via a legally enforceable agreement such as a [Section 106 Agreement](#)¹, a Unilateral Undertaking, [S.111 Agreement](#)² or [Section 278 highway Agreement](#)³.

1.3.4 Contributions can also be secured by way of the [Community Infrastructure Levy](#) (CIL) - a legally binding tariff style set of standardised charges. Burnley Council has not yet resolved to pursue CIL.

1.3.5 The Council will use the most suitable mechanism for each type of contribution, which may vary depending on the specifics of each planning application.

1.3.6 For further explanation see Section 5.

¹ Town and Country Planning Act 1990

² Local Government Act 1972

³ Highways Act 1980

2. Policy Context Overview

2.1.1 National planning policy exists in the form of the National Planning Policy Framework (NPPF) and a small number of other policy documents and written ministerial statements, supported by an online practice guidance covering a series of themes (NPPG). It also exists in the provisions of relevant legislation.

2.1.2 Local Plans are prepared to be consistent with national policy. Burnley's current Local Plan was adopted on 31 July 2018. This Supplementary Planning Document provides detailed guidance on the application of the Local Plan policies in respect of developer contributions.

2.1.3 The Local Plan requires development to provide or contribute towards the provision of the infrastructure needed to support it. It sets out that planning contributions will be sought where development creates a requirement for additional or improved services and infrastructure and/or to address the off-site impact of development so as to satisfy other policy requirements.

2.1.4 It sets out that contributions may be sought to fund a single item of infrastructure or to fund part of an infrastructure item or service; and that contributions may be sought for the initial provision and/or ongoing running and maintenance costs of services and facilities.

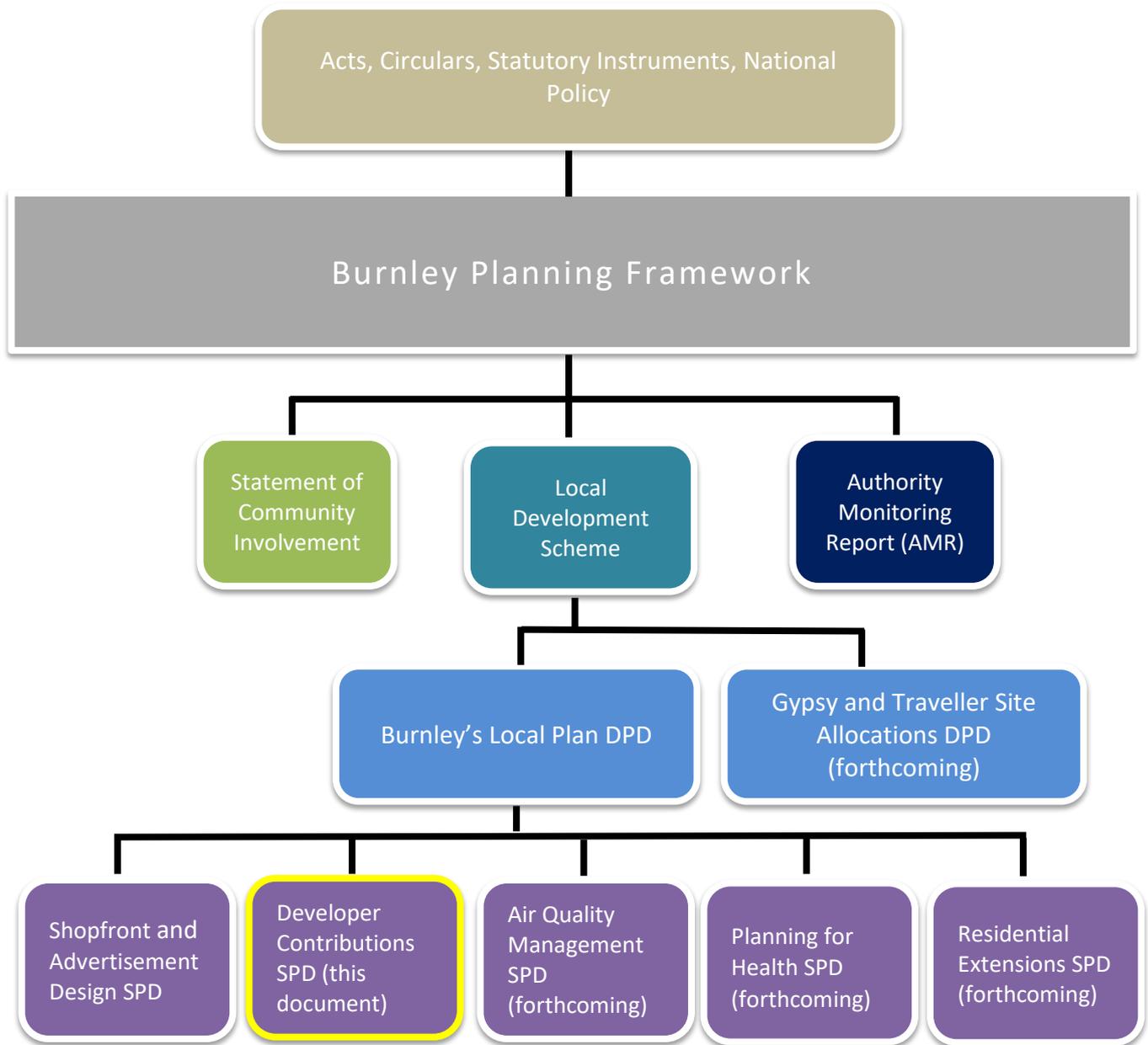
2.1.5 Contributions will be negotiated on a site-by-site basis. They will only be sought where they are:

- necessary to make the development acceptable in planning terms;
- directly related to the development; and
- fairly and reasonably related in scale and kind to the development.

2.1.6 Planning obligations assist in mitigating the impact of unacceptable development to make it acceptable in planning terms. Planning obligations may only constitute a reason for granting planning permission if they meet the above tests.⁴

⁴ These tests are set out as statutory tests in the Community Infrastructure Levy Regulations 2010 (reg 122(2)) and as policy tests in the National Planning Policy Framework, paragraph 56.

Figure 1: Burnley Planning Policy Framework



3. Infrastructure Requirements

3.1 Identifying Infrastructure Requirements

3.1.1 The known infrastructure requirements to support the specific allocations in the adopted Local Plan (at the time of its preparation) are identified both within the individual site allocation policies and in other policies which set out specific provision standards e.g. public open space standards for new housing developments. Revised infrastructure requirements may result as the detail of schemes is developed over time.

3.1.2 For windfall development proposals that are supported by the Local Plan, infrastructure requirements and any associated contributions required will need to be assessed as schemes are drawn up on a site-by-site basis.

3.1.3 There are a number of strategies and policy documents studies that identify and inform infrastructure requirements and standards in relation to planning contributions. The key documents are outlined below.

3.2 The Infrastructure Delivery Plan (IDP)

3.2.1 An IDP was prepared to support the Local Plan. The IDP reviews and evaluates the social, environmental and economic infrastructure that will be required to support the development and growth set out in the Plan. The IDP is a 'living document' which will be updated from time to time. The most recent version is Version 2 of July 2017.⁵

3.3 Lancashire County Council's 'Infrastructure and Planning' document

3.3.1 Burnley Borough has a two-tier local authority structure. Lancashire County Council provides services such as highway maintenance, education, minerals and waste planning and social care. Burnley Borough Council provides services such as local planning and building control, environmental health and domestic waste collection.

3.3.2 Lancashire County Council (LCC) has produced a non-statutory [Infrastructure and Planning](#) policy document setting out and its approach to seeking planning contributions and how it will engage with the planning process to ensure the impacts of proposed developments on the infrastructure and services that it provides are recognised.

3.3.3 The current document of September 2017 can be downloaded from LCC's website:

[Planning and infrastructure](#)

[Annex 1 Highways](#)

[Annex 2 Education contribution methodology](#)

[Annex 3 Drainage and Flood Risk Management](#)

⁵ <https://www.burnley.gov.uk/residents/planning/planning-policy/burnleys-local-plan/burnleys-infrastructure-delivery-plan>

3.3.4 Further information to support Annex 2 setting out how Lancashire County Council calculates its pupil projections, please see the [pupil projections methodology](#).

3.3.5 The County Council provides the borough Council with a full response to any relevant planning application relating to the impact of the development and with any consequential requirement for developer contributions; but acknowledges that it for the Borough Council to consider the site viability and the overall benefits brought by the proposed development in reaching a decision.

3.4 Burnley Green Spaces Strategy

3.4.1 Burnley Borough Council's [Green Spaces Strategy 2015-2025](#) recommends standards for open space provision. These informed the development of the Local Plan and in particular Policy HS4. It also identifies priorities for improvements for:

- Parks and Gardens;
- Natural and Semi-Natural Greenspaces;
- Amenity Green Spaces;
- Provision for children and young people;
- Outdoor sport;
- Allotments;
- Cemeteries, and;
- Greenways.

3.4.2 The Council, where appropriate may seek contributions from developers towards the provision, maintenance or enhancement of green spaces in line Policy HS4 of the Local; Plan and the Green Spaces. This is discussed further in section 8 of this SPD.

4. Types of Contribution Explained

4.1 Conditions

4.1.1 Planning conditions are the most commonly used and simplest mechanism for securing the provision of on-site infrastructure e.g. roads, sewers, play areas; and ensuring a site is well-designed and appropriate for its intended use. They can also be used to secure the delivery of on-or off-site affordable housing.

4.1.2 The long-term maintenance of on-site infrastructure is usually secured through adoption agreements between the developer and a suitable organisation; for example roads and street lighting with the highway authority (LCC); sewers with the utility provider (United Utilities); communal areas and open spaces with a residents' management company or the local council (Burnley Borough Council).

4.1.3 [Section 70\(1\)\(a\) of the Town and Country Planning Act 1990](#) enables the local planning authority in granting planning permission to impose "such conditions as they think fit". [Paragraph 54](#) of the National Planning Policy Framework states "Local planning authorities should consider whether otherwise unacceptable development could be made acceptable through the use of conditions".

4.1.4 [Paragraph 55](#) of the National Planning Policy Framework states that planning conditions should only be imposed where they are:

- necessary;
- relevant to planning and
- to the development to be permitted;
- enforceable;
- precise; and
- reasonable in all other respects.

4.1.5 No payment of money or other consideration can be positively required by a condition when granting planning permission. However, where the 6 tests above are met, it may be possible use a [negatively worded](#) condition to prohibit development or occupation until a specified action has been taken, for example, the entering into an agreement to secure a financial contribution towards the provision of supporting infrastructure or the delivery of a specify infrastructure project.

4.1.6 Conditions requiring works on land that is not controlled by the applicant, or that requires the consent or authorisation of another person or body will normally fail the tests of reasonableness and enforceability, unless the land or specified action in question is within the control of a local authority and there is clear evidence that it is enforceable within the time-limit imposed by the permission..

4.2 Obligations

4.2.1 Planning obligations can be secured through a Section 106 Unilateral Undertaking or Agreement. For more complex applications, an Agreement is normally required.⁶

⁶ Section 106 of The Town and Country Planning Act 1990 and Section 111 of the Local Government Act 1972

Section 106 Agreements

4.2.2 S106 Agreements are made under the provisions of [Section 106 \(S106\)](#) of the Town and Country Planning Act 1990.

4.2.3 The NPPF and the NPPG set out national planning policy and guidance and define planning obligations as being “A legally enforceable obligation entered into under section 106 of the Town and Country Planning Act 1990 to mitigate the impacts of a development proposal.”

4.2.4 S106 Agreements can require a developer to provide affordable housing or other specific item(s) of infrastructure or on or off-site e.g. a new school or road improvement; or they can secure ‘tariff style’ contributions towards the provision of affordable housing or other infrastructure off-site by others. The latter is normally done by ‘pooling’ contributions from a number of developments intended to provide common types of infrastructure for the wider area.

4.2.5 Section 106 Agreements or Unilateral Undertaking are normally signed before the grant of planning permission and are legally binding. They can be signed afterwards where a negatively-worded condition requiring them to be signed e.g. “before development commences” forms part of the planning permission.

4.2.6 Planning contributions can only be sought where they are necessary to make a development acceptable in planning terms. A local planning authority must ensure that the obligation meets the relevant tests for planning obligations, i.e. they are:

- necessary to make the development acceptable in planning terms;
- directly related to the development, and;
- fairly and reasonably related in scale and kind to the development.

4.2.7 The NPPG states that policy for seeking planning obligations should be grounded in an understanding of development [viability](#) through the plan making process. Local Plan Policy IC4 relates to infrastructure and planning contributions. A Viability Assessment was commissioned to inform the production of the Local Plan and this should be used as a starting point when determining viability.

4.2.8 Applicants do not have to agree to a proposed planning obligation. However, this may lead to a refusal of planning permission. An appeal may be made against the refusal or non-determination or of an application.

4.2.9 The Act provides that a planning obligation may:

- Be unconditional or subject to conditions;
- Impose any restriction or requirement for an indefinite or specified period; and
- Provide for payments of money to be made, either of a specific amount or by reference to a formula, and require periodical payments to be paid indefinitely or for a specified period.

4.2.10 Legal agreements and any planning contributions they require run with the land in the same way that a planning permission does. This means that, once the permission is implemented, they are enforceable against the developer who originally entered into the agreement and any subsequent person acquiring an interest in that land. These legal agreements must be registered as a land charge and will form part of the planning register, available for public inspection. Where a planning permission expires, the planning obligation can be removed.

4.3 Section 278 Highway Agreements

4.3.1 Lancashire County Council (LCC) as the local highway authority may, if it is satisfied it will be of benefit to the public, enter into a legal agreement under [Section 278 of the Highways Act 1980](#) with a developer where a development requires works to be carried out on or to the highway.

4.3.2 This agreement can be either for the County Council to carry out the works at the developer's expense, or allow the developer to provide the works directly, subject to an approval and inspection process.

4.3.3 These agreements will normally be prepared separately from any Section 106 Agreement and the funding arrangements be agreed directly between the developer and LCC.

4.3.4 Works associated with any planning proposal are not permitted within the limits of the publicly maintained highway until the agreement is completed and the bond (if applicable) is secured.

4.3.5 See Section 9 for further information.

5. How will contributions be determined?

5.1 Are contributions required?

5.1.1 Where appropriate i.e. where it is necessary to make the development acceptable in planning terms, including by mitigating impacts, the Local Plan policies state that developers will be required to provide the necessary infrastructure or contribute to its provision through Section 106 contributions and/or the Community Infrastructure Levy (CIL) should the Council introduce it.

5.1.2 For contributions secured through conditions, the conditions must pass tests of being:

- necessary;
- relevant to planning and
- to the development to be permitted;
- enforceable;
- precise; and
- reasonable in all other respects.

5.1.3 Conditions will normally relate to affordable housing or other infrastructure provision by the developer on-site.

5.1.4 However, for contributions towards off-site affordable housing or other infrastructure, and in complex cases; a Section 106 Agreement will normally be required.

5.1.5 Section 106 Agreements must meet the three tests that are set out as statutory tests in the [Community Infrastructure Levy Regulations 2010](#) and as policy tests in the [National Planning Policy Framework](#). Contributions must be:

- necessary to make the development acceptable in planning terms,
- directly related to the development, and
- fairly and reasonably related in scale and kind to the development

5.1.6 The Council will only seek contributions where a genuine need arising from the proposed development is generated.

5.2 How will contributions be determined and prioritised?

Prioritisation

5.2.1 All contributions required by or to achieve compliance with local or national policies will be assessed during the consideration of the application. There may be instances where due to viability considerations, all contributions sought cannot be afforded if the otherwise plan-compliant development is to go ahead. For certain matters, the adopted Plan specifically allows flexibility in its requirements to recognise viability challenges. In such cases, contributions may be prioritised and/or waived. The waiving of certain contributions on viability grounds would not necessarily be considered to make the development unsustainable in planning terms.

5.2.2 However, where contributions are considered entirely necessary to make the scheme acceptable in planning terms such that its absence the scheme would be wholly unsatisfactory, and the applicants is unwilling to agree to these, **viability will not be relevant and applications will be**

refused. In this SPD, such infrastructure is described as **‘necessary and critical’** e.g. infrastructure to secure highway and pedestrian safety.

5.2.3 In cases of **‘necessary and important’** on and off-site other infrastructure required by local or national policy, viability can be factored in and failure to provide or contribute to certain infrastructure may or may not result in the refusal of the scheme based on the consideration of the scheme against the Local Plan read as whole, and whether material considerations indicate otherwise.

5.2.4 In recognition of the known viability constraints⁷ and to aid the interpretation of Local Plan policies HS2 and IC5 in decision making, a prioritising of different types of contributions is proposed.

Table 1: Prioritisation Categories

Priority Category	Category Description	Subject to Viability Considerations?	Examples
Priority 1	Necessary and Critical on and off-site infrastructure	No	On Site = Roads, sewers, required recreational open space by HS4, playing pitches Off Site = Junction/highway safety measures, pedestrian crossings, mitigation or compensatory habitat for protected species
Priority 2a	Necessary and Important on or off-site Affordable Housing (mainstream market residential developments only)	Yes	Affordable housing
Priority 2b	Necessary and Important on and off-site infrastructure (mainstream market and affordable residential developments only)	Yes	Necessary contributions for education provision
Priority 2c	Necessary and Important on and off-site infrastructure	Yes, insofar as it does not compromise achieving an acceptable form of development	On Site = Other Green Infrastructure Off Site = Contributions for pedestrian and cycleway provision/improvement, other open space, biodiversity offsetting, heritage assets
Priority 3	Desirable on and off-site infrastructure	Yes	Other specialist housing or infrastructure not specifically required by the Local Plan but reasonably requested by and infrastructure provider/consultee

Please note - the examples set out above are illustrative not definite or exhaustive, as in each case a piece of infrastructure may not be relevant to the scheme or may be more or less important to its acceptability. These are described in more detail in the themed sections 7-11.

⁷ See Section 5.3 of this SPD

Negotiation

5.2.5 Discussions about contributions and their prioritisation will take place as early as possible in the planning process, including at the [pre-application stage](#), and where relevant will involve infrastructure providers such as Lancashire County Council in its role as highways and education authority.

5.2.6 Where prioritisation has to take place due to likely impacts on viability, there may be a proportioning of the contributions across priorities 2a b and c with weighting in favour of 'a', 'b', then then 'c'. Priority 3 will only be relevant where Priorities 1-2 have been satisfied.

5.2.7 The adopted Local Plan and accompanying Infrastructure Delivery Plan (IDP) identifies a number of infrastructure requirements and standards and these will form the starting point in determining and prioritising the infrastructure required.

5.3 How will viability be assessed?

5.3.1 In order to inform the Local Plan, a Plan Viability Assessment was undertaken.⁸ The purpose of the assessment was to ensure that the cumulative impact of the plan policies together with affordable housing and other planning obligation requirements would not compromise the viability of a typical scheme. It assessed viability across the borough and used a number of development typologies.

5.3.2 Not all of the emerging requirements tested in the Assessment were ultimately included in the adopted Local Plan.

Housing Development

5.3.3 For residential schemes, the Assessment concluded that whilst the delivery of affordable housing was likely to be challenging, the cumulative impact of the policies would not put development at serious risk. It noted that when considering brownfield sites, the Council should continue to work with developers to have the best possible understanding of activity on the ground and specific sites, and as appropriate, continue their flexible approach to the specific policy requirements.

5.3.4 It further noted that the Assessment was based on then current values and costs and whilst it would have been inappropriate (and contrary to national planning practice guidance) to take a different approach, it was notable that the borough of Burnley was a relatively low value area lying amongst some rather higher value areas and was well located in relation to Manchester and Preston. The price evidence used was informed by then recent sales, many of which were from sites that are distinctly different to those that are now identified for development in the 2018 Local Plan. It noted that if the Council can facilitate development that is of a high quality and different to the then currently available housing stock, this would be likely to generate higher values and thus improve viability. It recommended that viability be kept under review.

5.3.5 The Viability Assessment included in its residential base appraisals an assumed £500 contribution for each housing unit to allow for limited education contributions and other infrastructure. It did not factor in large-scale pooled contributions towards education provision in excess of this amount, partly in view of the limitations imposed by the pooling restrictions in place at the time, and the fact that this position will fluctuate across the plan period and can suddenly change,

⁸ <https://www.burnley.gov.uk/residents/planning/planning-policy/burnleys-local-plan/evidence-base/local-plan-viability-assessment>

for example, with the planned closure of a Hameldon Community College – a secondary school with spare capacity - and of course with the exercise of parental choice. It is not therefore possible to predict with any certainty in advance at the plan-making stage, precisely where and how much education contributions would be sought or expected for each scheme, and thus the impact on viability.

5.3.6 The outputs of the Local Plan Viability Assessment have been used to set the thresholds, formulas, contribution ceilings and wider policies in this SPD and it will be used to inform any viability discussions with applicants. Where an applicant wishes to challenge local plan policy requirements or the thresholds, formulas, contribution ceilings and wider policies in this SPD on the grounds of viability, be that on an allocated or windfall site, Policy IC4 in the Local Plan requires applicants to provide viability evidence through an ‘open book’ approach to allow for the proper review of evidence submitted and for reasons of transparency. Where this is done, the indicative ceilings set out in Table 2 will not apply.

5.3.7 Each planning application is determined on its merits, and there may therefore be some variation to contributions required for similar developments taking into account the specifics of the site and the situation at the time the planning application is considered.

Non-residential schemes

5.3.8 The same principles and prioritisation will apply to non-residential schemes and specialist housing schemes, but contributions towards affordable housing, education contributions and the contributions ceilings will not be relevant.

5.3.9 The Local Plan Viability Assessment noted that *“It is clear that non-residential development is challenging in the current market, but it is improving. We would urge caution in relation to setting policy requirements for employment uses that would unduly impact on viability.”* (para 12.32) and that *“Whilst some non-residential uses are not viable, they are not rendered unviable by the cumulative impact of the Council’s policies, rather by the general market conditions. The employment uses (office and industrial), town centre retail and hotel uses are unlikely to be able to bear additional developer contributions, however retail development is generally able to make significant contributions.”* (Para 12.42)

5.3.10 Schemes would still have to fund any **necessary and critical infrastructure – priority 1**, but for **necessary and important – priority 2c**, where the viability of otherwise plan-complaint development is in question, applicants should provide their own open book viability assessment to enable the Council to determine the upper limit of any contributions.

Contribution Ceilings

5.3.11 As stated above, the Local Plan Viability Assessment included in its residential base appraisals an assumed £500 contribution for each housing unit to include limited contributions for education and other infrastructure.

5.3.12 The results of the Viability Assessment have been used to determine both the affordable housing percentages (see also section 7.3) and contribution ceilings⁹ for mainstream housing developments, so that developers in designing schemes can be aware in advance of the likely maximum level of contributions that could be requested.

⁹ indexed to 2019 using CIL indexation

5.3.13 The ceilings are not a CIL-type levy that is automatically payable; rather, contributions will only be required where justified to meet Local Plan policies and the statutory and national policy tests. The ceilings will only be triggered where the cumulative requests would exceed the ceiling amount. In many cases, contributions will be significantly less than the ceiling amounts.

5.3.14 The ceilings draw their assumptions from the Plan Viability Assessment and have been calculated based on a set of 'finer grained' standardised assumptions about policy compliant housing sites, mixes and densities, sales values and affordable housing tenure mixes. Individual sites and schemes will of course vary from these the standard mixes and values etc and viability can be improved through policy compliant adjustments to the housing mix or changes to affordable housing tenure mix e.g. to add a greater proportion of intermediate tenure or discounted sales. The ceilings are supplementary guidance not development plan policy and as such there may be instances where the circumstances of a particular site or development are such that a lower ceiling or higher ceiling should apply. Where infrastructure is necessary and critical, a higher ceiling will be required).

5.3.15 Where contribution requests include priority 2 necessary and important infrastructure and the cumulative requests would be above the viability ceiling, plan-compliant adjustments to the scheme may be negotiated to improve viability and thus allow a higher ceiling. This could be achieved in a number of ways e.g. where affordable housing is required, by allowing this to be off-site or if on-site by adjusting the affordable housing tenure; or by allowing an appropriate increase in the number of units. See also paragraphs 5.2.3 and 7.3.28.

5.3.16 In order to agree a lower ceiling, in the first instance the applicant will be expected to explain why the assumptions used to set the ceiling would not apply in their case and where there is no agreement on this, undertake their own open book viability assessment - which any applicant is entitled to do in any event.

Table 2: Indicative Contribution Ceilings and Affordable Housing %

SPD Site code	Site Type	Location*	Value per m2	Assumed Gross Density - dph	Allocations (where applicable)	Site Size Category	Affordable Housing % assuming standard tenure split (See Section 7)	Affordable Housing on or offsite	Contribution Ceilings at 2019 prices (£ per unit)
A1	Greenfield Type 1	Village/Urban fringe	2250	25	n/a	200 or more units	5%	On-site	2000
A2								Off-site	6500
B	Greenfield Type 1	Within Development Boundary B&P	2150	30	HS1/1	200 or more units	0%	n/a	2000
C1	Greenfield Type 1	Village/Urban fringe (higher value area)	2310	25	HS1/8	100 to 199 units	10%	On-site	500
C2								Off-site	9000
D1	Greenfield Type 1	Village/Urban fringe allocation	2250	25	HS1/2 HS1/4 HS1/9	100 to 199 units	10%	On-site	500
D2								Off-site	6000
E	Greenfield Type 1	Within Development Boundary B&P	2150	30	n/a	100 to 199 units	0%	n/a	1500
F1	Greenfield Type 1	Village/Urban fringe	2250	25	n/a	50 to 99 units	10%	On-site	500
F2								Off-site	6500
G	Greenfield Type 1	Within Development Boundary B&P	2150	30	n/a	50 to 99 units	0%	n/a	2500
H1	Greenfield Type 1	Village/Urban fringe	2250	30	HS1/23 HS1/25 HS1/26 HS1/30 HS1/32	11 to 49 units	15%	On-site	3000
H2								Off-site	16500
I1	Greenfield Type 1	Within Development Boundary B&P	2150	35	HS1/15 HS1/20 HS1/21 HS1/27	11 to 49 units	10%	On-site	3000
I2								Off-site	12000
J	Greenfield Type 1	Anywhere	2310	32		1 to 10 units	0%	n/a	23000

K1	Greenfield Type 2	Village/Urban fringe allocation	2250	25	n/a	200 or more units	5%	On-site	500
K2								Off-site	2500
L	Greenfield Type 2	Within Development Boundary B&P	2150	30	n/a	200 or more units	0%	Off-site	500
M1	Greenfield Type 2	Village/Urban fringe allocation	2250	25	n/a	100 to 199 units	5%	On-site	500
M2								Off-site	3000
N	Greenfield Type 2	Within Development Boundary B&P	2150	30	n/a	100 to 199 units	0%	N/A	500
O1	Greenfield Type 2	Village/Urban fringe allocation	2250	25		50 to 99 units	5%	On-site	500
O2								Off-site	2500
P	Greenfield Type 2	Within Development Boundary B&P	2150	30		50 to 99 units	0%	N/A	500
Q1	Greenfield Type 2	Village/Urban fringe allocation	2250	30	HS1/12 HS1/16	11 to 49 units	10%	On-site	3500
Q2								Off-site	13000
R1	Greenfield Type 2	Within Development Boundary B&P	2150	35	HS1/7	11 to 49 units	5%	On-site	4500
R2								Off-site	8500
S	Greenfield Type 2	Anywhere	2310	32	N/A	Up to 10	0%	n/a	19500
T1	Brownfield	Village/Urban fringe allocation	2250	40	HS1/3 HS1/5	200 or more units	5% (subject to the vacant building credit)	On-site	500
T2								Off-site	3500
U	Brownfield	Within Development Boundary B&P	1850	45	n/a	200 or more units	0%	Off-site	Not viable for housing without subsidy/mix of uses**
V1	Brownfield	Village/Urban fringe allocation	2250	40		100 to 199 units	5% (subject to the vacant building credit)	On-site	500
V2								Off-site	3500
W	Brownfield	Within Development Boundary B&P	1850	45	HS1/28 HS1/6	100 to 199 units	0%	N/A	Not viable for housing without subsidy/mix of uses**

X1	Brownfield	Village/Urban fringe allocation	2250	40	HS1/29 HS1/31	11 to 99 units	5% (subject to the vacant building credit)	On-site	500
X2								Off-site	4000
Y	Brownfield	Within Development Boundary B&P	1850	45	HS1/10 HS1/11 HS1/13 HS1/14 HS1/17 HS1/18 HS1/19 HS1/22 HS1/24	11 to 99 units	0%	N/A	Not viable for housing without subsidy/mix of uses**
Z	Brownfield	Anywhere	1900	45		Up to 10	0%	n/a	250

*Note: Village/Urban fringe in this context means a windfall site within and close to any development boundary and also includes allocations HS1/2, HS1/3, HS1/4, HS1/5, HS1/8, HS1/9, HS1/12, HS1/16, HS1/23, HS1/25, HS1/26, HS1/29, HS1/30, HS1/31 and HS1/32

** See para 5.3.10 – a bespoke viability assessment may be required

For the purposes of the proposed % and ceilings set out in Table 2, the definition of the site types is based on the predominant character/use of the site and is:

- Greenfield Type 1 – As per the NPPF Definition
- Greenfield Type 2 - As per the NPPF Definition but where it can be clearly shown that the site is partly developed for or was previously developed in the past for a non-domestic or non-agricultural use and the nature of the past use affects a large proportion of the site and is likely increase development costs and risks as for brownfield sites e.g. tipping, quarrying, mining.
- Brownfield – Previously developed land as per the NPPF definition

5.4 How will contributions be secured?

5.4.1 Likely conditions that deal with matters relating to contributions will be discussed with applicants before a decision is made. For pre-commencement type conditions, legislation now requires formal notification to applicants.¹⁰

5.4.2 S106 Agreements will normally be expected to be signed before the grant of planning permission. This is to ensure that impacts can properly be assessed and the development approved can actually be delivered and done so in a satisfactory manner.

5.4.3 Although legally such agreements can be signed after the grant of planning permission by the use of a negatively-worded condition attached to the planning permission e.g. requiring an agreement to be signed before development commences; this route is less satisfactory as it makes the delivery of the development less certain and this can be critical in for example maintaining a 5-year housing land supply.

5.4.4 For Section 106 Agreements, negatively-worded conditions requiring agreements to be signed after development commences e.g. before occupation will not normally be allowed¹¹ as failure to subsequently sign or agree on terms could result in uncompleted or unsaleable developments.

5.4.5 Any payments due will normally be commuted until after commencement or completion of specific phases or units within the development. Agreements will include clauses stating when the local planning authority should be notified of specific relevant milestones e.g. commencement or completion and when the funds should be paid.

5.4.6 Where the proposed development triggers a County Council requirement in terms of infrastructure, the County Council will likely request and will normally be allowed to be a signatory to the agreement so that relevant obligations on the developer are directly enforceable by the County Council and similarly, obligations on the County Council are directly enforceable by the signatories of the agreement.

5.5 Can an agreed planning obligation be changed?

5.5.1 Planning obligations can be renegotiated at any point where the local planning authority and persons against whom the obligation is enforceable agree to do so.¹²

5.5.2 Where there is no agreement to voluntarily renegotiate, and the planning obligation predates April 2010 or is over 5 years old, an application may be made to the local planning authority to modify or discharge the obligation where it “no longer serves a useful purpose” or would continue to serve a useful purpose in a modified way.¹³

5.5.3 An appeal may be made against any refusal or non-determination or an application to discharge or modify (Section 106B).

¹⁰ Notice under Town and Country Planning (Pre-Commencement Conditions) Regulations 2018

¹¹ There be instances where this could be considered e.g. retrospective applications, or changes of use where occupation is the start of development

¹² 106A of the Town and Country Planning Act 1990

¹³ 106A of the Town and Country Planning Act 1990

6. Spending and Monitoring

6.1 Is information on planning obligation contributions publicly available?

6.1.1 Regulations introduced from 1 September 2019¹⁴ require that from December 2020 information on planning contributions received and spent by the Borough and County Council is to be published through an annual 'infrastructure funding statement'. The data specifications for the proposed statements are still under development. The information required will be included and/or cross referenced in future Authority Monitoring Reports (AMRs).

6.1.2 Local planning authorities are already required to keep a copy of any planning obligation together with details of any modification or discharge of the planning obligation and make these publicly available on their [planning register](#). Copies of Section 106 Agreement are made available the Council's website.

6.2 Indexation

6.2.1 Whilst the contribution amounts set out in this SPD are not governed by the CIL Regulations, the indexation that will be used both to calculate the initial agreement amounts and any post-agreement changes prior to payment, will reflect the approach contained within the CIL regulations to ensure that obligations provide for the actual costs of the infrastructure for which they are levied.

6.2.2 Regulation 40 of the Community Infrastructure Regulations 2010 required Local Authorities to obtain the All-in-Tender Price Index, as published by the Building Cost Information Service (BCIS) of the Royal Chartered Surveyors (RICS) on the 1st November each year to calculate the proportionate increase in contribution rates for the following year.

6.2.3 The Government has asked the Royal Institution of Chartered Surveyors to produce a bespoke index for the Levy, based on the Building Cost Information Service's (BCIS) All-in Tender Prices Index, to be known as the 'RICS CIL index'.

6.2.4 This new index will be produced annually, be made publicly available and will not change through the year.

6.2.5 The September 2019 amendments to the Regulations require that the BCIS index applies to planning permissions granted before 1 January 2020. From 1 January 2020 the RICS CIL index that is to be published at the end of this year will be used for planning permissions granted on or after that date.

6.2.6 The BCIS index will reapply if for any reason the RICS CIL index is not produced in November of any preceding year.

6.2.7 Contributions for affordable housing will be calculated by using the rates set out in this SPD adjusted as follows:

¹⁴ The Community Infrastructure Levy (Amendment) (England)(No2) Regulations 2019

- Index linked for inflation/deflation between the year of adoption of this SPD (Anticipated to be 2019/20 = the base year) and the year an obligation relating to an application granted planning permission is signed; and
- Index linked for inflation/deflation between the date the agreement is signed and the payment is made towards the actual delivery.

6.2.8 For open space contributions, the amounts set out in this SPD will be:

- Index linked for inflation/deflation between the year of adoption of this SPD (Anticipated to be 2019/20 = the base year) and the year an obligation relating to an application granted planning permission is signed; and
- Index linked appropriately to reflect increases in costs between the date the agreement is signed and the payment is made towards the actual delivery date of the service or facility.

6.2.9 For other types of infrastructure where there is no rate or amount pre-set in this SPD, contribution amounts will be set out in the Agreement and clauses will be included to the effect that these will be:

- Index linked appropriately to reflect increases in build costs between the date the agreement is signed and the payment is made towards the actual delivery date of the service or facility.

Legal Fees

6.2.10 The Council will recharge the developer its reasonable legal costs incurred in agreeing planning obligations. The legal fee costs are payable for work done regardless of whether agreements are ultimately completed. These are reviewed annually and are currently set at:

- Legal Fee (minimum)= £540¹⁵
- Sealing Fee = £65

6.2.11 Agreements with or which include the County Council will also incur separate costs to cover any legal costs the County Council incurs entering into the agreement.

6.2.12 These costs can be counted against the ceilings set out in Table 2.

Monitoring

6.2.13 As stated earlier, local planning authorities are already required to keep a copy of any planning obligation on their planning register.

6.2.14 From 31 December 2020 Burnley Council and Lancashire County Council will have to produce their first annual infrastructure funding statement which will set out in a prescribed form, information on contributions. To help fund these new areas of work, local authorities will be able to use section 106 contributions to monitor and report on the planning obligations contained within those agreements. The Government proposes provide detailed guidance on this issue but the relevant regulation states that the sums must fairly and reasonable relate in scale and kind to the development and not exceed the estimated cost of said monitoring.¹⁶

¹⁵ To rise to £550 on 1st Jan 2020

¹⁶ Regulation 121A

6.2.15 These are proposed to be set at 0.25% of the total sum agreed. These costs can be counted against the ceilings set out in Table 2.

6.3 Payment of monies

6.3.1 By agreement, funds payable in relation to the County Council's requirements can be paid directly by the developers to the County Council. In other cases, the sums will be forwarded by the Borough Council to the County Council.

6.3.2 In certain cases, in particular relating to education contributions, there may be occasions where S106 monies will need to be transferred to other bodies.

Do local planning authorities have to pay back unspent planning obligations?

6.3.3 Local planning authorities are expected to use all of the funding received by way of planning obligation within a reasonable time frame. Agreements will normally include clauses stating when and how the funds will be used by and allow for their return, after an agreed period of time, where they are not. This period is usually five years but may be longer if deemed appropriate. If the money is not spent within the agreed period, the developer will be reimbursed with the outstanding amount, together with any interest accrued; unless the agreement is varied.

7. Affordable Housing

7.1 Types of Affordable Housing

7.1.1 A revised version of the NPPF was issued shortly before the adoption of the Local Plan in July 2018 which updated national planning policy in respect of affordable housing provision, and widened its definition.

7.1.2 The NPPF¹⁷ now defines affordable housing widely as being housing for sale or rent, for those whose needs are not met by the market, and other than where marked*, includes provisions for the housing to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision.

7.1.3 The types of affordable housing now include: (See Appendix B for full definition)

Social Rent	From a Registered Provider (RP) e.g. Council or Housing Association
Affordable Rent	From a RP at least 20% below local market value
Discounted market sales housing	Sold at a discount of at least 20% below local market value
Starter Homes	As per any statutory definition to be introduced
Build to Rent	By anyone, at least 20% below local market value
Shared ownership	Part ownership/part rent
Shared equity	Ownership with third party loan for a deposit in addition to your mortgage e.g. Help to Buy
Other low cost homes for sale	At a price equivalent to at least 20% below local market value*
Rent to buy	Which includes a period of intermediate rent

7.1.4 Clearly, a 20% discount on market sale or rents may not actually be affordable to those whose needs are not met by the market who may instead rely on Social or Affordable Rented housing.

7.2 National policy for Affordable Housing

7.2.1 The NPPF paras 62-64 states that:

“62. Where a need for affordable housing is identified, planning policies should specify the type of affordable housing required and expect it to be met on-site unless:

*a) off-site provision or an appropriate financial contribution in lieu can be robustly justified;
and*

¹⁷ Both the 2018 and current 2019 versions

b) the agreed approach contributes to the objective of creating mixed and balanced communities.

63. Provision of affordable housing should not be sought for residential developments that are not major developments, other than in designated rural areas (where policies may set out a lower threshold of 5 units or fewer). To support the re-use of brownfield land, where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount.

64. Where major development involving the provision of housing is proposed, planning policies and decisions should expect at least 10% of the homes to be available for affordable home ownership unless this would exceed the level of affordable housing required in the area, or significantly prejudice the ability to meet the identified affordable housing needs of specific groups. Exemptions to this 10% requirement should also be made where the site or proposed development:

a) provides solely for Build to Rent homes;

b) provides specialist accommodation for a group of people with specific needs (such as purpose-built accommodation for the elderly or students);

c) is proposed to be developed by people who wish to build or commission their own homes; or

d) is exclusively for affordable housing, an entry-level exception site or a rural exception site.”

7.2.2 The NPPF approach assumes that sites are generally viable and sufficiently profitable to enable developers to provide affordable housing in addition to market housing and at a greater rate than 10%; and that securing affordable housing through the development of market housing is the sole or main method for its provision. This is not necessarily the case and is not the case in Burnley.

7.2.3 The NPPF does not now support requiring affordable housing through residential development schemes that are not major i.e. schemes of less than 10 (up to 9) units¹⁸. Policy HS2 of the adopted Local Plan does not require affordable housing for schemes of up to and including 10 units. It is the Local Plan higher threshold that will be used by the Council. The Local Plan policy was written before the revised NPPF was introduced and was consistent the then national policy set out in the [written ministerial statement](#) of 28 November 2014 which stated that contributions should not be sought from developments of 10-units or less and which have a maximum combined gross floorspace of no more than 1,000 square metres (gross internal area).

7.2.4 Local Plan Policy HS2 still supports provision for smaller sites, and any provision or contribution unilaterally proposed could weigh in favour of a scheme where a need for affordable housing or a specific type of affordable housing exists.

7.2.5 The restriction on seeking planning obligations contributions does not apply to development on ‘Rural Exception Sites’.¹⁹

¹⁸ NPPF Para 63 - [major development is defined in Article 2 of the Town and Country Planning \(Development Management Procedure\) \(England\) Order 2015](#)

¹⁹ Small sites used for affordable housing in perpetuity where sites would not normally be used for housing. Rural exception sites seek to address the needs of the local community by accommodating households who are either current residents or have an existing family or employment connection. A proportion of market homes may be allowed on the site at the local planning authority’s discretion, for example where essential to enable the delivery of affordable units without grant funding.

Starter Homes

7.2.6 The Government's new 'Starter Homes' were introduced in the Housing and Planning Act of May 2016, although the relevant provisions of the act are not yet in force. Starter Homes are 'affordable housing' according to the revised NPPF; and are, according to the Act text, homes for purchase for first time buyers, 23-39 years old, and sold at a 20% discounted rate - subject to a £250,000 price cap.

7.2.7 Whilst the Council's Local Plan Viability Study concluded that starter home provision in lieu of more traditional types of affordable housing would generally aid viability, it also concluded this could still be an issue on brownfield sites.

7.3 Local Plan Policy HS2

Background

7.3.1 Influenced by the types of sites that were allocated in and supported by the 2006 Local Plan and by the concentration of housing market renewal activity, the NPPF approach of requiring private sector developers to provide a proportion of affordable housing on site or contribute monies through a section 106 Agreement for off-site provision was rarely successful in Burnley without public sector subsidy.

7.3.2 An alternative and successful approach for the delivery of affordable housing in Burnley has been to work directly with Registered Providers to build houses on sites made available by the Council from its landholdings, or through compulsory purchase. Affordable housing can also be acquired by Registered Providers (funded from central government via Homes England) to be upgraded or adapted and this method of provision has made a significant contribution to affordable housing delivery in the borough in recent years.

7.3.3 The 2017 Local Plan Viability Assessment shows that a number of sites of the types allocated and supported by the 2018 Local Plan, could now viably support modest affordable housing delivery/contributions without compromising other important policy requirements.

7.3.4 The 2016 Strategic Housing Market Assessment (SHMA) suggested an affordable housing split by tenure of: 80% Affordable Rent or Social Rent, and 20% Intermediate tenure. This reflected the national definition of affordable housing at that time. The recommendations on the split of affordable housing by type and size are discussed in Policy HS3.

General Interpretation of Policy HS2

7.3.5 Local Plan Policy HS2: Affordable Housing Provision, sets out the development plan policy in relation to seeking and supporting affordable housing. Policy HS2 is therefore the starting point for determining the requirement for affordable housing.

7.3.6 It requires that any housing development of over 10 units (i.e. 11 units or more) provides for affordable housing, unless it could be demonstrated that the site, which would otherwise be supported by the policies in the Local Plan and meets the requirements of policies SP4 and SP5, would not be viable with affordable housing provision on-site or off-site by way of a contribution.

7.3.7 Local Plan Policy HS2 clauses 1) to 5) were drafted to be sufficiently flexible to apply with or without the then planned change in the government's definition of affordable housing. Clause 5)

however, needs to be read alongside the now confirmed (and any future) changes to national policy or legislation.

7.3.8 Burnley's circumstances are such that flexibility continues to be required in terms of the overall requirements, the requirement for on or off-site provision and the types and tenure of affordable housing provided. Policy HS2 therefore allows for affordable housing provision to be waived/varied where justified. This approach is consistent with the then and current national policy.

7.3.9 The Government has now confirmed its policy intention for a minimum of 10% of housing on major sites to be to its new definition of 'affordable home ownership'. This appears to equate to the definition of affordable housing at in the revised NPPF glossary at d) which includes shared ownership and discounted homes for sale at 20% below market value.

7.3.10 Whilst the NPPF sees this minimum as part of the overall affordable housing %, in Burnley in most cases, 'affordable home ownership' provision could preclude the delivery of any affordable housing to rent or part rent/part buy. The NPPF does state that this policy applies unless amongst other things it would "significantly prejudice the ability to meet the identified affordable housing needs of specific groups." Specific groups are not defined but could arguably include those unable to purchase housing by virtue of their income or the lack of mortgage availability.

7.3.11 Local Plan Policy HS2 deliberately seeks to avoid a rigid approach to the provision of affordable housing, in part due to the stage of flux of national policy at its time of drafting, but also as such an approach would not recognise the viability challenges present and could be at odds both with efforts to prioritise the development of brownfield sites and efforts to ensure the delivery of modern adaptable affordable homes to rent.

7.3.12 Provision of and contributions towards affordable housing will be prioritised as **Priority 2 a – necessary and important**.

Findings of the Plan Viability Assessment

7.3.13 The Plan Viability Assessment modelled a number of scenarios with variable % of on-site affordable housing. It first modelled the affordable housing to be provided split at 80% Social Rent and 20% Intermediate to part rent/part buy. When the affordable housing type is Affordable Rent rather than Social Rent, viability reduces (See table 10.6 of Viability Study). The delivery of a greater proportion of intermediate housing or starter homes as all or part of the required mix, improves viability.

7.3.14 The Assessment appraisals also assumed certain mixes of housing types, which if adjusted, can improve or reduce viability significantly.

7.3.15 All the brownfield sites types modelled were in low value 'industrial urban areas' and were shown to be unlikely to support any affordable housing provision without public sector support - such as direct provision by registered providers or through other government funding initiatives. However, the low density medium and larger brownfield sites were found to remain profitable, although not to a level above the viability threshold which took into account a £400,000 per hectare alternative use value.

7.3.16 Not all brownfield sites are in low value industrial urban areas and given the ability of the housing mix to be varied to improve viability, it is considered that larger brownfield sites, which can create their own sense of place and thus attract good sales values, can and should make a modest contribution to affordable housing provision with or without public sector support. These sites may also be able to take account of the vacant building credit (see section overleaf).

7.3.17 A number of other (then emerging) plan requirements were also costed in the 2017 Viability Assessment, but e.g. the policy clauses requiring higher environmental and/or design standards on certain greenfield sites were removed by the Examination Inspector. Higher design standards are now clearly supported by the revised NPPF and where schemes propose such standards, the negative effect on viability can be considered in the planning balance.

7.3.18 Given the guide tenure split set out in Policy HS2 and the delivery model/record for affordable housing providers in Burnley, an assumed split of 70% Affordable Rent, 10% Social Rent and 20% Intermediate is used in the SPD to calculate the affordable housing %, off-site affordable housing contributions and contribution ceilings. This does not necessarily mean this will be the required split on any given site. (See para 7.3.28)

Proposed Affordable Housing Percentages

7.3.19 To satisfy the requirements of Policy HS2 Clause 1) c) is expected that the housing sites types set out earlier in Table 2 (page 18) will provide at least the indicated minimum percentage of units.

7.3.20 The units shall either:

- be constructed by the developer on-site; or
- be constructed by the developer off-site (where agreed to appropriate under Policy HS2 clause 3) i); or
- be provided for by an equivalent commuted sum towards off-site provision where agreed to appropriate under Policy HS2 clause 3) i).

7.3.21 Where provision is proposed to off-site under Policy HS2 clause 1) c), this should be set out in an Affordable Housing Statement to accompany any relevant planning application. An affordable housing statement is a local validation requirement for all major housing applications.²⁰

7.3.22 The required provision or contribution specified will only be waived/reduced under Policy HS2 clause 1) c) where

- i. a Viability Assessment is submitted by the applicant via an 'open book' approach clearly shows the scheme, which meets other policy requirements e.g. design and provides for all priority 1 contributions, to be unviable with the required affordable housing contributions; and/or
- ii. requests for other contributions in addition to affordable housing (on or off site as applicable) exceed the per unit ceilings set out in Table 2 of this SPD.

7.3.23 Where ii) applies, the Council will determine the proportioning of contributions as set out in section 5.2.

Off-Site Contributions

7.3.24 Where the provision of affordable housing is proposed or required and a contribution towards off-site provision in lieu is agreed to be appropriate under Policy HS2, the amount of contribution will be calculated using the Offsite Affordable Housing Calculator (example overleaf).

7.3.25 The calculator assumes the following standard tenure split:

²⁰ <https://www.burnley.gov.uk/residents/planning/how-make-application/what-makes-valid-application>

- 70% Affordable Rent
- 20% Intermediate
- 10% Social Rent

7.3.26 It uses the estimated open market value (OMV) of a typical three bedrooms semi-detached house on site of the size and specification required for a typical Affordable Rent product. As this would may not be actually provided on site, this figure will need to be agreed.

7.3.27 The type and tenure or the actual units subsequently provided or supported through acquisition and refurbishment by the off-site contribution, unless specified in the Agreement, will be determined by the Council in discussion with relevant Registered Providers having regard to the matters set below and the Council's Housing and or Empty Homes Strategy.

Location, Type and Tenure Mix

On-Site Provision

7.3.28 Where on-site provision of affordable housing is proposed or required, (or off-site direct provision by the developer is proposed), the mix of units will be assessed as part of:

- the overall mix sought across the plan area and plan period as set out in Policy HS3;
- any specific requirements set out in any relevant site allocation policy;
- the policy set out in HS3 clause 4) including its location;
- the policy set out in HS2 clauses 2 and 3); and
- it will also be informed by the affordable housing suggested mix set out in the 2016 SHMA (repeated as Table 3, page 85 of the Local Plan) and ongoing monitoring of types and tenures as set out in the AMR.

The vacant building credit

7.3.29 National policy states that where vacant buildings are being reused or redeveloped, any affordable housing contribution due should be reduced by a proportionate amount.²¹ The accompanying planning practice guidance states that where a vacant building is brought back into any lawful use, or is demolished to be replaced by a new building, the developer should be offered a financial credit equivalent to the existing gross floorspace of relevant vacant buildings when the local planning authority calculates any affordable housing contribution which will be sought.

7.3.30 This will apply in calculating either the number of affordable housing units to be provided within the development or where an equivalent financial contribution for off-site provision is being provided.

7.3.31 The vacant building credit applies where the building still exists and its use has not been 'abandoned'.²²

7.3.32 The policy is intended to incentivise brownfield development, including the reuse or redevelopment of empty and redundant buildings. In considering how the vacant building credit

²¹ NPPF 2019 Para 63

²² <https://www.gov.uk/guidance/planning-obligations>

should apply to a particular development, local planning authorities are advised to have regard to the intention of national policy.

7.3.33 In doing so, it may be appropriate for authorities to consider:

- Whether the building has been made vacant for the sole purposes of re-development.
- Whether the building is covered by an extant or recently expired planning permission for the same or substantially the same development.

Figure 3: Offsite Affordable Housing Contributions Calculator

Burnley Borough Council Version: Consultation Draft 2019 - Rounded
Affordable Housing Contribution Calculator

Site Name Date

Number of Units Percentage of Affordable Housing Number of Affordable Units

Affordable Housing Type	Mix	Units	Onsite Units Provided	Offsite Units Required
Affordable Rented	70%	9.80	0	9.80
Intermediate	20%	2.80	0	2.80
Social Rented	10%	1.40	0	1.40
Check:	100%	14.00	0	14.00

Offsite Contribution Calculations

Affordable Rented									
Housing Mix/Type	Number of Units	OMV if on site (£)	Profit (%)	Net Total Cost (£)	Weekly Rent (£)	Mgt Charge	Yield	Capitalised Rent (£)	Contribution (£)
			20.00%			10.00%	6.00%		
1 Bed Flat			0	0		0	6.00%	0	0
2 Bed Flat			0	0		0	6.00%	0	0
3 Bed Flat			0	0		0	6.00%	0	0
2 Bed Hse			0	0		0	6.00%	0	0
3 Bed Hse	10.00	180,000	36,000	144,000	99.34	517	6.00%	77,485	665,148
4 Bed Hse			0	0		0	6.00%	0	0
5 Bed Hse			0	0		0	6.00%	0	0
Total	10							Total	665,148

Social Rented									
Housing Mix/Type	Number of Units	OMV if on site (£)	Profit (%)	Net Total Cost (£)	Weekly Rent (£)	Mgt Charge	Yield	Capitalised Rent (£)	Contribution (£)
			20.00%			10.00%	5.50%		
1 Bed Flat			0	0		0	5.50%	0	0
2 Bed Flat			0	0		0	5.50%	0	0
3 Bed Flat			0	0		0	5.50%	0	0
2 Bed Hse			0	0		0	5.50%	0	0
3 Bed Hse	3	180,000	36,000	144,000	87.39	454	5.50%	74,361	208,917
4 Bed Hse			0	0		0	5.50%	0	0
5 Bed Hse			0	0		0	5.50%	0	0
Total	3							Total	208,917

Intermediate - Shared Ownership										
Housing Mix/Type	Number of Units	OMV if on site (£)	Profit (%)	Net Total Cost (£)	Equity Rent	Mgt Charge	Yield	Capitalised Rent (£)	1st Tranche	Contribution (£)
			20.00%		2.75%	10.00%	5.00%		50.00%	
1 Bed Flat			0	0	0	0	5.00%	0	0	0
2 Bed Flat			0	0	0	0	5.00%	0	0	0
3 Bed Flat			0	0	0	0	5.00%	0	0	0
2 Bed Hse			0	0	0	0	5.00%	0	0	0
3 Bed Hse	1	180,000	36,000	144,000	2,475	248	5.00%	44,550	90,000	9,450
4 Bed Hse			0	0	0	0	5.00%	0	0	0
5 Bed Hse			0	0	0	0	5.00%	0	0	0
Total	1								Total	9,450

Total Units	14	Total Contributions	883,515
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Table 3: Table 10.5 from Local Plan Viability Study of March 2017

Table showing various affordable housing contributions (plus £500 S106 contributions, all open space requirements of Policy HS4) and 1.5% construction costs uplift for energy efficiency above the building regs, based on the affordable housing being made up of 80% social rent and 20% intermediate			Alternative Use Value	Viability Threshold	Residual Value						
				Affordable %	0%	5%	10%	15%	20%	25%	30%
Site 1	Large Green 200	Urban Fringe	20,000	274,000	284,247	205,390	126,514	47,624	-34,359	-117,136	-200,451
Site 2	Large Green 100B&P	Urban Fringe	20,000	274,000	283,664	201,240	118,816	35,081	-51,403	-137,888	-225,622
Site 3	LD Large Green 100B&P	Urban Fringe	20,000	274,000	414,127	337,501	260,876	184,251	107,626	29,941	-50,459
Site 4	Large Green 100e	Urban Fringe	20,000	274,000	539,609	445,754	351,898	258,043	164,187	70,197	-27,786
Site 5	Large Green 50B&P	Urban Fringe	20,000	274,000	274,548	192,287	108,868	22,927	-63,386	-149,698	-237,215
Site 6	LD Large Green 50B&P	Urban Fringe	20,000	274,000	447,382	369,152	290,922	212,693	134,463	53,831	-28,252
Site 7	Large Green 50e	Elsewhere	20,000	274,000	536,858	442,982	349,107	255,231	161,356	64,597	-33,903
Site 8	Medium Green 24B&P	Urban Fringe	20,000	274,000	712,576	613,814	515,052	416,289	317,527	216,047	112,982
Site 9	Medium Green 24e	Urban Fringe	20,000	274,000	712,576	613,814	515,052	416,289	317,527	216,047	112,982
Site 10	Medium Green 12B&P	Urban Fringe	20,000	274,000	582,195	491,720	401,244	309,503	217,245	124,987	32,728
Site 11	Medium Green 12e	Urban Fringe	20,000	274,000	606,350	515,874	425,399	334,134	241,875	149,617	57,359
Site 12	Large Brown 100	Urban Area	400,000	480,000	-476,433	-575,902	-675,476	-776,304	-877,132	-978,184	-1,080,429
Site 13	LD Large Brown 100	Urban Area	400,000	480,000	290,536	173,346	54,785	-68,178	-191,141	-315,845	-442,041
Site 14	Medium Brown 60	Urban Area	400,000	480,000	-443,653	-540,106	-636,559	-733,112	-830,912	-928,711	-1,026,511
Site 15	Medium Brown 60	Urban Area	400,000	480,000	427,154	308,211	189,268	66,893	-57,909	-182,711	-309,418
Site 16	Medium Brown 20	Urban Area	400,000	480,000	-252,900	-361,099	-470,677	-580,255	-689,833	-799,411	-908,989
Site 17	Medium Brown 14	Urban Area	400,000	480,000	-248,859	-336,329	-425,609	-514,889	-604,169	-693,449	-782,908
Site 18	Urban Flats 35	Urban Area	400,000	480,000	-1,313,414	-1,457,005	-1,600,596	-1,744,186	-1,887,777	-2,031,368	-2,174,959
Site 19	Small Green 7	Generally	50,000	310,000	792,153	792,153	792,153	792,153	792,153	792,153	792,153
Site 20	Small Green 4	Generally	50,000	310,000	859,972	859,972	859,972	859,972	859,972	859,972	859,972

Site 21	Green Plot	Generally	50,000	310,000	-75,398	-75,398	-75,398	-75,398	-75,398	-75,398	-75,398
Site 22	Small Brown 6	Generally	400,000	480,000	-448,742	-448,742	-448,742	-448,742	-448,742	-448,742	-448,742
Site 23	Small Brown Flats 5	Generally	400,000	480,000	-1,347,505	-1,347,505	-1,347,505	-1,347,505	-1,347,505	-1,347,505	-1,347,505
Site 24	Small Brown 3	Generally	400,000	480,000	-891,195	-891,195	-891,195	-891,195	-891,195	-891,195	-891,195
Site 25	Brown Plot	Generally	400,000	480,000	-2,349,106	-2,349,106	-2,349,106	-2,349,106	-2,349,106	-2,349,106	-234,910

Colour Key:

Green = Viable – where the Residual Value per hectare exceeds the indicative Viability Threshold Value per hectare (being the Existing Use Value plus the appropriate uplift to provide a competitive return for the landowner).

Amber = Marginal – where the Residual Value per hectare exceeds the Existing Use Value or Alternative Use Value, but not Viability Threshold Value per hectare. These sites should not be considered as viable when measured against the test set out – however, depending on the nature of the site and the owner, they may come forward.

Red = Non-viable – where the Residual Value does not exceed the Existing Use Value or Alternative Use Value.

8. Open Space, GI, Allotments and Social/Community Infrastructure

8.1 Green Infrastructure

8.1.1 Green Infrastructure (GI) refers to the network of multi-functional green space, urban and rural, which is capable of delivering a wide range of environmental and quality of life benefits for local communities.

8.1.2 Burnley's Green Infrastructure and its importance in the borough is referenced throughout the Local Plan, but particularly in Policy SP6 which seeks to protect, enhance and extend the multifunctional green infrastructure network. The Council's Green Infrastructure Strategy (2013) informed the development of the policies within the Local Plan and will be used alongside the Local Plan and the Council's Green Spaces Strategy when determining the type of open space to be provided to meet the requirements of Policy HS4, and the requirements of Policies SP6 and IC5.

8.1.3 The Council's Green Space Strategy 2015 – 2025 identifies the Borough's public greens spaces, sets local quantity, quality and accessibility standards for each type of open space and use these local standards to identify surpluses or deficiencies and was used to inform the requirements for housing developments in Local Plan Policy HS4.

8.1.4 The [Burnley Play Area Strategy 2017-2026](#) identifies the borough's existing play facilities, those to be maintained and where new provision may be required. This strategy will inform the requirement for and location of new or enhanced/safeguarded play space provision required under Policy HS4.

8.2 Open Space for housing developments

Policy HS4: Housing Developments

8.2.1 Policy HS4 of the Local Plan sets out the standards for open space provision in new housing developments, including equipped children's play space. The Policy also sets out when this should be provided on-site or when contributions towards off-site provision may be acceptable.

8.2.2 Whilst each scheme will be judged on its merits against the Local Plan as a whole, where contributions for open space are required under Policy HS4, this will normally be prioritised as being **necessary and critical** and thus **priority 1** such that lack of adequate provision will normally result in a scheme's refusal.

8.2.3 The cost of open space provision on site was partly factored into the Plan Viability Study's base appraisals (accounted for in the site density and in the £500 per dwelling base contribution).

8.2.4 All relevant greenfield site types were found to be viable with such contributions/provision and as such provision/contributions being 'necessary and critical' will not normally be waived on the grounds of viability.

8.2.5 Whilst the study found that such provision/contributions would be more challenging for brownfield sites, provision/contributions will still be regarded as 'necessary and critical'.

8.2.6 Where an applicant does wish to challenge open space contributions/provision or part thereof on the grounds of viability, be that on an allocated or windfall site, Policy IC4 in the Local Plan requires applicants to provide viability evidence through an 'open book' approach to allow for the proper review of evidence submitted and for reasons of transparency.

8.2.7 Any new open space created in relation to Policy HS4 will, going forward, be protected under Policy NE2.

Off-site Provision in lieu

8.2.8 Contributions for off-site provision in lieu, where agreed to be appropriate under Policy HS4, will be calculated as follows:

- **£350 per bedroom**

On-site provision and maintenance

8.2.9 Where open space is being provided on-site by a developer, the developer may wish to set up a management company to meet the ongoing costs of maintenance.

8.2.10 Alternatively, the Council will consider the adoption of suitable, well designed on-site open space for which contributions of commuted sums for maintenance will be calculated on a 15-year basis at guide cost of **£8 per m2**, which will be calculated and agreed for each development.

8.2.11 Sums will be index linked as set out in Section 6.

Policy SP6

8.2.12 Contributions for wider GI required under Policy SP6 will normally be prioritised as **priority 2c**.

8.3 Social/Community Infrastructure

Policy IC5

8.3.1 Policy IC5 of the Local Plan identifies the importance of social and community infrastructure²³ and seeks to safeguard it where possible and appropriate, and provide new provisions where a development would increase demand for it beyond its current capacity or generate a newly arising need. It is envisaged that any such requirements would be identified on a site-by-site basis and measures (other than education contributions – see section 10) will normally be prioritised for contributions as **priority 2c**, but may be **priority 1**.

Playing Pitches

8.3.2 The Rossendale, Pendle and Burnley Playing Pitch Strategy identifies where protection, enhancement and the provision of new sites for football (both adult and junior football), cricket, rugby union, rugby league, hockey, tennis, bowls and rounders should occur up to 2026. Full details of the

²³ This includes public, private or community facilities including: community/meeting halls and rooms; health facilities; libraries; places of worship; bespoke premises for the voluntary sector; schools and other educational establishments; theatres, art galleries, museums, sport and leisure facilities; parks and other publicly accessible open spaces, public houses, cemeteries and youth facilities. This policy does not apply to specific sites or open spaces protected in situ by other policies e.g. NE1 and NE2.

recommendations can be found in the [Playing Pitch Strategy](#). Where Sport England raise an objection to the loss of any playing pitch of field or requires its provision and this is in accordance with its published policy/standards contributions and national planning policy, this will be prioritised as being **necessary and critical** and thus **priority 1**.

Loss of Unprotected Open Space

8.3.3 Where a development proposal would result in the loss of existing unprotected open space.²⁴ The need for replacement provision will be assessed against the strategy and standards set out in the Green Spaces Strategy 2015 and the [Burnley Play Area Strategy 2017-2026](#) or [Playing Pitch Strategy](#). Contributions towards replacement provision may then be prioritised as **priority 1** or **priority 2c**.

²⁴ Not including Policy NE1 2) 3) and 4) or NE2 which are required to remain in situ

9. Highways and Transport Infrastructure

9.1 Lancashire County Council's role

9.1.1 Management of the transport network in Burnley, including bus provision, is a function of Lancashire County Council in its role as Highway Authority. It is responsible for all adopted roads in Lancashire other than 'trunk roads' which are the responsibility of Highways England (these include most motorways). It is responsible for the safety, maintenance, management and development of the highway network, and determines whether to adopt a road (i.e. take responsibility for its ongoing maintenance).²⁵

9.1.2 Public funding for transport infrastructure comes from local and central government from various funding streams, including the Local Transport Plan capital programme and the Local Growth Fund. This funding will not usually address the specific impacts of new development on specific sites, but may address the wider borough impacts resulting from the overall growth set out in the Local Plan or specific large scale projects designed to deliver economic growth.

9.1.3 Other than for 'County Matters'²⁶ and its own development on its own land, the County Council is not the determining authority for planning applications in the borough and their advice and any requests for contributions must be weighed as a material consideration by the Council in determining an application and any contributions to be made. The County Council cannot insist upon or enforce requests for contributions to its services where it is not the determining authority.

9.1.4 In order for the County Council to agree to adopt any new road, however, this will be required to be designed and constructed to its published standards.²⁷

9.2 Highways Contributions

9.2.1 The County Council can, where it deems necessary, request a Section 106 Agreement or Section 278 Agreement be put in place in respect of a planning application. These will apply to residential and non-residential schemes. In such instances, the County Council will need to provide Burnley Council with a reasoned and consistent response based on the adopted Local Plan. Responses will also be informed by the Local Transport Plan 2011-2021, the Highways and Transport Masterplan, 'Creating civilised streets' document and 'Specification for construction of estate roads'²¹ and will also have regard to the County Council's own non-statutory Infrastructure and Planning document (see Section 3.3).

Section 278 Agreements

9.2.2 The County Council normally requests S278 Agreements for works that are required to be carried out on or to a highway. These agreements can be either for the County Council to carry out the works at the developer's expense, or allow the developer to provide the works directly, subject to an approval and inspection process.

²⁵ <https://www.lancashire.gov.uk/roads-parking-and-travel/roads/road-adoption/estate-road-adoption/>

²⁶ 'County matters' are primarily defined within schedule 1 of the Town and Country Planning Act 1990 as being, amongst other things, those associated with mineral working and related development, and waste management and disposal developments.

²⁷ <https://www.lancashire.gov.uk/roads-parking-and-travel/roads/road-adoption/estate-road-adoption/>

9.2.3 They are normally secured by a condition attached to a planning permission granted by the borough Council which will require the agreement of the design of the works by the borough Council in consultation with the County Council, but also the signing of s278 Agreement setting out the funding arrangements directly between the County Council and developer. The condition will normally require the design of the works to be agreed and Agreement signed before any of the development approved commences. In any event, works associated with any planning proposal will not be permitted by the County Council within the limits of the publicly maintained highway until the Agreement is completed and the bond (if applicable) is secured.

9.2.4 The County Council sets its own fees for Section 278 Agreements.

Section 106 Highways Contributions

9.2.5 Contributions to other transport related projects and infrastructure and Travel Plans would normally be requested to included in a S106 Agreement to which the County council would normally then be a co-signatory together with the borough council and developer.

Prioritisation

9.2.6 Contributions or measures necessary to achieve highway and pedestrian safety in the immediate vicinity of the site, including ensuring safe access and egress, and the adoption of highways (where appropriate) will be prioritised by Burnley Council for contributions as **necessary and critical - priority 1**.

9.2.7 Contributions necessary to achieve greater connectivity such as new or upgraded pedestrian or cycle routes or public transport access to services, or towards minimising development-related impacts such as traffic congestion²⁸ or providing or contributing towards capacity enhancement measures will normally be prioritised for contributions as **priority 2c – necessary and important** but can be **priority 1** e.g. to avoid development-related impacts from new development which have the potential to contribute to the declaration of a new Air Quality Management Area (AQMA). Contributions for a number of schemes which impact on the same matter e.g. a particular road junction, may need to be 'pooled'.

9.2.8 Where Travel Plans are required under Policy IC2, Lancashire County Council can provide advice and guidance on their development, promotion and monitoring. The is likely to be a charge for this assistance through a developer contribution or a through a normal service commissioning process.

²⁸ Both in terms of public health benefits and congestion reduction effects

10. Education Provision

10.1 Lancashire County Council's role

10.1.1 Lancashire County Council is the Education Authority (LEA) responsible for primary and secondary education provision in the borough.

10.1.2 Under Section 14 of the Education Act 1996, Lancashire County Council has a statutory obligation to ensure that every child living in Lancashire is able to access a mainstream school place in Lancashire if they want one.

10.1.3 Other than for 'County Matters' and its own development on its own land e.g. for a new school, the County Council is not the determining authority for planning applications in the borough and their advice on education provision matters and any request for contributions towards education provision must be weighed as a material consideration by Burnley Council in deciding on an application and determining any contributions to be made. The County Council cannot insist upon or enforce requests for contributions to its services other than where it is the determining authority.

10.2 Education Contributions

10.2.1 In respect of housing developments, the County Council may request education provision be made, or more likely, may request that a tariff style contribution be made towards new provision through the expansion of existing schools where there is a projected shortfall of primary and secondary places at schools within a reasonable distance.²⁹ The number of additional places required is then calculated by the County Council according to its [pupil projection methodology](#).³⁰

10.2.2 The costs per additional place are based on DfE Formulas for the construction of accommodation to provide for additional pupil places with a Lancashire location factor taken into account. These costs are updated on the 1st April each year.

10.2.3 The cost per place from the 1st April 2019 is:

Primary - £16,050.54

Secondary - £24,185.16

10.2.4 Any contribution sought would be used to pay for additional places to be made available - in or by expanding existing schools within the reasonable distance³¹ - and the contribution must be spent within a specified timeframe.

10.2.5 For all requests, the County Council will need to provide Burnley Council with a calculation and supporting justifying statement informed by its own non-statutory Infrastructure and Planning policy (see section 3).

10.2.6 Where for any reason an alternative to the standard 'reasonable distance' is used to calculate the projected shortfall and this is justified, the Agreement will then require the contribution to be spent within the same distance used.

²⁹ 2 mile radius for primary schools; 3 mile radius for secondary schools

³⁰ <https://www.lancashire.gov.uk/council/planning/planning-obligations-for-developers/>

³¹ 2 mile radius for primary schools; 3 mile radius for secondary schools

10.2.7 Any requirement for a new school (or school site) should have been identified at the Local Plan stage and no such requirement was identified, but this matter will need to be kept under review over the Plan period.

10.2.8 As set out in Section 5.3, the Local Plan Viability Assessment did not factor in large-scale pooled contributions towards education, partly in view of the limitations imposed by the pooling restrictions in place at the time, and as this position will fluctuate across the plan period and can suddenly change, for example, closure of school with spare capacity or opening of a free school - and of course with the exercise of parental choice. It is not therefore possible to predict with any certainty in advance at the plan-making stage, precisely where and how much education contributions would be sought or expected for each scheme, and thus the impact on viability.

10.2.9 Requests for education contributions, where robustly made, will normally be prioritised by Burnley Council as **priority 2b – necessary and important**.

10.2.10 National planning practice guidance introduced in March 2019 made significant changes to the guidance in respect of education contributions. It confirms that central government funding for schools via the LEA will be reduced to take account of developer contributions. The guidance allows for viability to be taken into consideration to the effect that for otherwise acceptable schemes, education contributions that would prejudice viability can be reduced or waived as not being critical and necessary (being instead funded by the government).

10.2.11 Whilst it is clear therefore, that the required education provision will still be delivered in the absence of developer contributions, it is not clear at the time of drafting this SPD how the reductions in Central Government funding to take account of developer contributions will work in practice, and attempts to seek clarification from the County Council to understand any planning (including sustainability) impacts of the alternative funding sources have been unsuccessful. This will be again pursued through formal consultation on the draft SPD with the County Council and also with Department for Education (DfE).

10.2.12 In April 2019 the DfE also issued further non statutory guidance “Securing developer contributions for education” aimed at local education authorities – in this case LCC. This document states that “We are working on a detailed methodology for calculating pupil yields from housing development, to be published in due course.”

10.2.13 It is understood that in the light of the changes to guidance referred to above and wider legislative changes on pooling and monitoring contributions, the County Council are to review their own policy and its is hoped to work constructively with the County Council on aligning the county and borough approaches.

10.2.14 Contextual information regarding Lancashire schools and the policy for expanding schools can be found within the County Council’s ‘School Place Provision Strategy’ and ‘Capital Strategy for Schools’.

<https://www.lancashire.gov.uk/council/strategies-policies-plans/children-education-and-families/school-place-provision-strategy>

11. Other Matters

11.1 Drainage and Flood Risk Management

Flood Risk Assessment

11.1.1 The Council's Strategic Flood Risk Assessment (SFRA) 2017 draws on Environment Agency Flood Zone and Surface Water mapping data and data on local sources of flood risk supplied by the Council's Streetscene unit, Lancashire County Council and United Utilities.

11.1.2 The Level 1 SFRA assessed all the plan allocations and their reasonable alternatives against risks from all sources of flooding. A small number of sites that lie partly within Flood Zones 2 and 3 or identified as being at a significant risk of surface water flooding in the Level 1 SFRA, were subject to a more detailed Level 2 SFRA. This provides advice as to how flood risk can be mitigated through design, layout and sustainable drainage and informs the overall assessment of the Sequential Test and where necessary the Exception Test required.

11.1.3 Applicants are required to undertake site specific Flood Risk Assessments (FRAs) for proposals on sites of 1 hectare or greater in Flood Zone 1; all proposals for new development (including minor development and change of use) in Flood Zones 2 and 3 or in an area within Flood Zone 1 which has critical drainage problems (as notified to the local planning authority by the Environment Agency); and where proposed development or a change of use to a more vulnerable class may be subject to other sources of flooding. These FRAs should, if necessary, apply the Sequential and Exception Tests. For minor development and for sites allocated in a Local Plan however, applicants do not need to apply the Sequential Test as, in effect, the Council has done this through their SFRA to support the allocation.

11.1.4 Local Plan Policy CC4: Development and Flood Risk requires that new development does not result in increased flood risk from any source or other drainage problems, either on the development site or elsewhere, and that where mitigation is required to make any identified impacts acceptable, these will be secured through conditions and/or legal agreement, including where necessary through planning contributions.

Lancashire County Council's role

11.1.5 Management of 'local' flood risk³² and land drainage is a function of Lancashire County Council (LCC) in its role as Lead Local Flood Authority (LLFA). The LLFA investigates and publishes the results of incidents of significant flooding; it designates assets which have a significant effect on flood risk; it maintains a register of flood risk assets; it provides consent for works on ordinary watercourses and is a statutory consultee in the planning application process.

11.1.6 When consulted on planning applications, LCC will provide an assessment of the proposed developments potential impacts on the drainage network with regard to surface water discharge rates and volume, design standards and the continued safe operation and maintenance of the surface water drainage network to ensure that flood risk is appropriately managed.

³² Local flood risk refers to the risk of flooding from surface water, groundwater and flooding from ordinary watercourses

11.1.7 Central government funding for flood risk management comes from various sources, including DEFRA Support Grant, conventional capital settlements and the Local Growth Fund (Growth Deal). Typically, these funding sources do not address the specific impacts of individual new development. Instead, funds are directed at inherited drainage problems resulting from economic progress and previous development activity, or at large scale projects designed to deliver growth.

Conditions or developer contributions may therefore be requested by LCC or exceptionally the Environment Agency or United Utilities, to address flooding, drainage or water quality issues. Further information is set out in LCCs non-statutory policy on [Planning and Infrastructure](#) in particular, [Annex 3 Drainage and Flood Risk Management](#).

11.1.8 It is envisaged that any such requirements would be identified on a site-by-site and scheme specific basis and works critical to the principle of the scheme being granted consent will be categorised as **necessary and critical - priority 1**. Other **necessary and important** contributions where these reflect the more generalised policy requirements of the Local Plan will be prioritised as **priority 2c**.

11.1.9 For schemes where major on or off-site flood defence works are required, requirements would normally be factored in the Plan making stage e.g. Hs1.5 /5 Former Baxi Site and contributions for schemes reliant on such works may need to be pooled.

11.2 Biodiversity Matters

11.2.1 Many of the potential impacts of development on biodiversity to address the requirements of legislation the Local Plan and in particular Policy NE1, can be addressed through scheme design and by conditions attached to a planning permission. Occasionally contributions in the form of off-site mitigations (e.g. providing land for off-setting or funding enhancement works or the translocation of species) may be required via a Section 106 Agreement.

11.2.2 Works critical to the principal of the scheme being granted consent e.g. to address impacts on protected sites or species will be categorised as **necessary and critical - priority 1**. Other **necessary and important** contributions where these reflect the more generalised policy requirements of the Local Plan will be prioritised as **priority 2c**.

11.3 Heritage Matters

11.3.1 Many of the potential impacts of development on heritage assets can be addressed through scheme design and by conditions attached to a planning permission, for example the need to carry out surveys or excavation and recording.

11.3.2 In circumstances where the objectives of heritage protection may not be satisfactorily controlled by a condition, for example where impacts or public benefits are off-site, or involve a particularly sensitive or complex programme of works, involving phasing, the Council may require implementation of these measures through a Section 106 Agreement. By way of example these could include, but would not be limited to, the following:

- securing the investigation and protection of archaeological remains in advance of development;
- recording, removing, storing, displaying and maintaining specifically identified artefacts or remnants from demolition as part of a new development or in another location;

- drawing up of a conservation management plan;
- providing and implementing a restoration scheme for historic buildings and features to a set timescale and an agreed specification;
- reinstating and/or repairing historic features in the public realm (such as streetlights, bollards and surfaces) directly affected by the development and its construction impacts;
- undertaking and completing specified works to a heritage asset at risk prior to the construction or occupation of any enabling development.
- enabling development to secure the repair, restoration and maintenance of a heritage asset.
- Repairing, restoring or maintaining a heritage asset identified as being at risk
- Increased public access and improved signage;
- Measures for preservation or investigation, recovery and interpretation of archaeological remains and sites.

11.3.3 Works critical to the principal of the scheme being granted consent e.g. to securing the investigation and protection of archaeological remains, secure the public benefits which justify harm or in the case of enabling development works, to secure the repair, restoration and maintenance of a heritage asset will be categorised as **priority 1**. Other **necessary and important** contributions where these reflect the more generalised policy requirements of the Local Plan will be prioritised as **priority 2c**.

11.4 Health Infrastructure

11.4.1 The East Lancashire Clinical Commission Group (CCG) commissions local health services for Burnley, Hyndburn, Pendle, Ribble Valley (excluding Longridge) and Rossendale. CCG's are responsible for commissioning planned hospital care, rehabilitative care, urgent and emergency care, most community health services, and mental health and learning disability services. The CCG do not manage local NHS hospitals, however they commission many of the services they offer.

11.4.2 The East Lancashire CCG is split into five distinct localities, one of which is Burnley, and within Burnley there are two Primary Care Networks; Burnley East and Burnley West which are made up of approximately 50,000 patients each.

11.4.3 The East Lancashire Hospitals NHS Trust (ELHT) was established in 2003 and provides acute secondary healthcare for the people of East Lancashire and Blackburn with Darwen across five hospital sites and various community sites; including Burnley General Teaching Hospital.

11.4.4 In drawing up the Local Plan, there was consultation with the NHS, ELHT and CCG at all stages; and specific discussion with the CCG about the planned level of growth and proposed housing allocations and the impacts on the health services the CCG provide and the capacity to accommodate the sites and growth planned. The CCG accepted that the Borough cannot stand still and that the development of better-quality homes would have a positive health impact on residents. In addition, the CCG felt that the development of more attractive aspirational homes might assist in workforce recruitment within the health sector.

11.4.5 At that time, the CCG estimated that the growth proposed in the Local Plan may require an additional four whole-time equivalent GPs, with associated nursing and administrative staff. It was

anticipated that this growth could be accommodated within existing practices and would not be required until later in the plan period.

11.4.6 The East Lancashire Hospitals Trust (ELHT) and the East Lancashire Clinic Commissioning Group are now both looking at developing a policy for requesting developer contributions towards the cost of necessary additional health infrastructure, including the expansion of primary care (GP) services. Such contributions, where justified by a robust policy and evidence, would be considered **priority 2 – necessary and important**. Whether these would be priority 2b or 2c would depend on the policy ultimately developed and the availability of alternative funding.

12. Monitoring and Review

12.1.1 A monitoring framework has been established to assess the performance of the policies in the Local Plan to see if they are performing as intended towards delivering the Vision and Objectives set out and to trigger a local plan review, new or updated SPDs, or other interventions. The monitoring framework is reported on in the Council's annual Monitoring Report (AMR). A number of these monitoring indicators are relevant to this SPD e.g. overall housing delivery, house prices, affordable housing completions by tenure, housing completions by type and the amount of contributions received and spent.

12.1.2 As set out in Section 6.1, from December 2020 Burnley Council and Lancashire County Council will also have to produce their first annual 'infrastructure funding statements' which will set out in a prescribed form, information on contributions.

12.1.3 Monitoring may also indicate a need to update the Local Plan evidence base and the Infrastructure Delivery Plan (IDP). New evidence may also signal the need for a review of this SPD. For example, as noted in paragraph 12.1.4, the 2017 Local Plan Viability Assessment upon which this SPD draws, was based on then current values and costs and this needs to be kept under review. Paragraph 10.2.7 also notes that the requirement for any new schools needs to be kept under review.

12.1.4 As noted in paragraph 10.2.13, the County Council are to review their own contributions policy and at paragraph 11.4.6, that the East Lancashire CCG and ELHT are both looking at developing a policy on developer contributions for health infrastructure and this work may trigger a need for this SPD to be updated.

Appendices

Appendix A: Key Local Plan Policies

Policy IC4: Infrastructure and Planning Contributions

- 1) Development will be required to provide or contribute towards the provision of the infrastructure needed to support it.
- 2) The Council will seek planning contributions where development creates a requirement for additional or improved services and infrastructure and/or to address the off-site impact of development so as to satisfy other policy requirements. Planning contributions may be sought to fund a single item of infrastructure or to fund part of an infrastructure item or service.
- 3) Where new infrastructure is needed to support development, the infrastructure must be operational no later than the appropriate phase of development for which it is needed.
- 4) Contributions may be sought for the initial provision and/or ongoing running and maintenance costs of services and facilities.
- 5) Contributions will be negotiated on a site-by-site basis and will only be sought where these are:
 - a) necessary to make the development acceptable in planning terms;
 - b) directly related to the development; and
 - c) fairly and reasonably related in scale and kind to the development.
- 6) Appropriate matters to be funded by planning contributions include, but are not limited to:
 - Affordable housing
 - Public realm improvements and creation, including public art
 - Improvements to Heritage Assets
 - Flood defence and alleviation schemes, including SuDS
 - Biodiversity enhancements
 - Open space, including green infrastructure and allotments
 - Transport improvements, including walking and cycling facilities
 - Police infrastructure
 - Education provision
 - Utilities
 - Waste management
 - Health infrastructure
 - Sport, leisure, recreational, cultural and other social and community facilities
- 7) Where contributions are requested or unilaterally proposed and the viability of development proposals is in question, applicants should provide viability evidence through an 'open book' approach to allow for the proper review of evidence submitted and for reasons of transparency.

Policy HS2: Affordable Housing Provision

- 1) The Council will work with public and private sector partners to seek to ensure that there is a sufficient supply of good quality affordable housing, particularly in the areas of highest need by:
 - a) Supporting and facilitating the acquisition and adaptation of existing housing by registered providers;
 - b) Working proactively with registered providers to identify sites and deliver schemes to provide affordable housing; and
 - c) Requiring the provision of affordable housing through all housing developments of over 10 units, unless the applicant can demonstrate that a site, which would otherwise be supported by the policies in the Plan and meets the requirements of Policies SP4 and SP5, would not be viable with affordable housing provision on-site or off-site by way of a contribution.
- 2) The exact amount of financial contribution/number and tenure of affordable units will be determined by economic viability having regard to individual site and market conditions.
- 3) Any affordable housing required should be provided:
 - i) on-site where this can be achieved without compromising other important policy considerations⁴² or viability; or
 - ii) off-site where on-site provision has been satisfactorily demonstrated not to be justified under i) and where it can be demonstrated that the contribution would facilitate the delivery of affordable housing of an appropriate type at a suitable policy-compliant site.
- 4) All new affordable housing should be designed to minimise indications of its tenure in order to facilitate inclusive communities.
- 5) Where affordable housing is being delivered, the Council will seek to ensure an appropriate tenure mix using the following percentages as a guide (and sizes and types as set out in Policy HS3).
 - Affordable Rent or Social Rent: 80%
 - Intermediate tenure: 20%

Appendix B: NPPF Definition of Affordable Housing

NPPF 2019:

Affordable housing: housing for sale or rent, for those whose needs are not met by the market (including housing that provides a subsidised route to home ownership and/or is for essential local workers); and which complies with one or more of the following definitions:

a) **Affordable housing for rent:** meets all of the following conditions: (a) the rent is set in accordance with the Government's rent policy for Social Rent or Affordable Rent, or is at least 20% below local market rents (including service charges where applicable); (b) the landlord is a registered provider, except where it is included as part of a Build to Rent scheme (in which case the landlord need not be a registered provider); and (c) it includes provisions to remain at an affordable price for future eligible households, or for the subsidy to be recycled for alternative affordable housing provision. For Build to Rent schemes affordable housing for rent is expected to be the normal form of affordable housing provision (and, in this context, is known as Affordable Private Rent).

b) **Starter homes:** is as specified in Sections 2 and 3 of the Housing and Planning Act 2016 and any secondary legislation made under these sections. The definition of a starter home should reflect the meaning set out in statute and any such secondary legislation at the time of plan-preparation or decision-making. Where secondary legislation has the effect of limiting a household's eligibility to purchase a starter home to those with a particular maximum level of household income, those restrictions should be used.

c) **Discounted market sales housing:** is that sold at a discount of at least 20% below local market value. Eligibility is determined with regard to local incomes and local house prices. Provisions should be in place to ensure housing remains at a discount for future eligible households.

d) **Other affordable routes to home ownership:** is housing provided for sale that provides a route to ownership for those who could not achieve home ownership through the market. It includes shared ownership, relevant equity loans, other low cost homes for sale (at a price equivalent to at least 20% below local market value) and rent to buy (which includes a period of intermediate rent). Where public grant funding is provided, there should be provisions for the homes to remain at an affordable price for future eligible households, or for any receipts to be recycled for alternative affordable housing provision, or refunded to Government or the relevant authority specified in the funding agreement.

Appendix C: References

Legislation

Available at: <http://legislation.gov.uk>

National Planning Policy

National Planning Policy Framework:

<https://www.gov.uk/government/publications/national-planning-policy-framework--2>

National Planning Practice Guidance

<https://www.gov.uk/government/collections/planning-practice-guidance>

Infrastructure

The Burnley Infrastructure Delivery Plan (IDP):

<https://www.burnley.gov.uk/residents/planning/planning-policy/burnleys-local-plan/burnleys-infrastructure-delivery-plan>

Lancashire County Council non-statutory policy on planning obligations:

<https://www.lancashire.gov.uk/council/planning/planning-obligations-for-developers/>

Lancashire County Council Infrastructure and Planning – including

Annex 1: Highways

Annex 2: Education

Annex 3: Drainage and Flood Risk Management

<https://www.lancashire.gov.uk/media/909459/combined-document.pdf>

Viability

Burnley's Local Plan Viability Assessment 2017:

<https://www.burnley.gov.uk/residents/planning/planning-policy/burnleys-local-plan/evidence-base/local-plan-viability-assessment>

Green Spaces, Sport and other Community Facilities

Burnley's Green Space Strategy 2015 – 2025 and Appendices:

<https://www.burnley.gov.uk/sites/default/files/Green%20Spaces%20Strategy%20%202015%20-%202025.pdf>

<https://www.burnley.gov.uk/sites/default/files/Appendices%20for%20GSS%20Exec%20Report%2015.09.14.pdf>

Burnley Play Area Strategy 2017 – 2026:

<https://www.burnley.gov.uk/sites/default/files/Burnley%27s%20Play%20Provision%20Strategy%20%202017%20-%202026.pdf>

Rossendale, Pendle and Burnley Playing Pitch Strategy 2016 – 2026:

<https://www.burnley.gov.uk/sites/default/files/Rossendale%20Burnley%20Pendle%20Playing%20Pitch%20Strategy%202016%20-%202026%28published%29.pdf>

Burnley Green Infrastructure Strategy:

<https://www.burnley.gov.uk/residents/planning/planning-policy/burnleys-local-plan/evidence-base/burnley-green-infrastructure-strategy>

Indoor Sports Facility Review (2015) Burnley Borough Council:

<http://www.burnley.gov.uk/residents/planning/planning-policy/burnleys-emerging-local-plan/evidence-base/sports-studies>

Transport

Lancashire County Council Local Transport Plan 2011 – 2021

https://www.lancashire.gov.uk/media/191267/LTP3_through_full_council.pdf

East Lancashire Highways and Transport Masterplan (2014) Lancashire County Council and Blackburn with Darwen Borough Council:

<http://www.lancashire.gov.uk/council/strategies-policies-plans/roads-parking-and-travel/highways-and-transport-masterplans/east-lancashire-highways-and-transport-masterplan>

Burnley Highways Impact Assessment Jacobs for Lancashire County Council and Burnley Borough Council March 2017

www.burnley.gov.uk/residents/planning/planning-policies/burnleys-emerging-local-plan/evidence-base/transport-studies

Flood Risk

Strategic Flood Risk Assessment

<https://www.burnley.gov.uk/residents/planning/planning-policy/burnleys-local-plan/evidence-base/strategic-flood-risk-assessment>

Playing Fields Policy and Guidance (2018) Sport England

<https://www.sportengland.org/media/12940/final-playing-fields-policy-and-guidance-document.pdf>



REPORT TO THE EXECUTIVE



DATE	10th December 2019
PORTFOLIO	Community & Environmental Services
REPORT AUTHOR	Joanne Swift
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Dog Fouling Working Group

PURPOSE

1. To consider the recommendations of the Dog Fouling Working Group.

RECOMMENDATION

2. To agree to implement the following recommendations of the Working Group as part of the Council's operational response to dog fouling;
 - Implement a resident hotline and promote to encourage reportage
 - Extend enforcement patrols
 - Ensure dog fouling functionality is reviewed for Member reporting
 - Provide quarterly ward performance updates to support resident groups, parish Councils and drop ins
 - Support ward / park initiatives E.G action days / weeks - a holistic approach of door knocking / community involvement and feedback
 - Implement the use of signage and targeted communications at selected locations where fines have been issued, to raise greater awareness of patrol activity with local residents and to serve as a deterrent
 - Increase the dog fouling FPN to the current maximum of £100
 - To develop a seasonal forward plan of Comms activities.
 - Profile and targeted communications to incorporate local resident groups and schools

REASONS FOR RECOMMENDATION

3. To ensure the Council continues to provide a proactive service that responds to the concerns of local residents.

SUMMARY OF KEY POINTS

4. In July 2019, The Executive as part of its cleaner and greener agenda established a cross-party working group of Members and Officers to look at how the Council could strengthen its approach to promote socially responsible dog ownership and reduce dog fouling across the borough. It was anticipated that the Working Group would report to the Executive with their recommendations within 6 months.

5. **Service Background**

Feedback from residents indicates that concerns about dog fouling remain high. Initial meetings discussed the governing legislative powers, existing service delivery and the key local issues. In summary, the Anti-Social Behaviour and the Crime and Policing Act 2014 provide the overarching legislative powers. Boroughwide enforcement patrols for dog fouling and pro-active work with residents are undertaken by LA Support (Formerly Kingdom Environmental Services) and the Council's Park Ranger service. Patrols and priority setting for dog fouling patrols have traditionally been set from community information, obtained from residents and Members.

6. **Working Group Priorities**

The initial meeting was held on the 29th August 2019 and was constructive in 'setting the scene' of existing operational delivery, the terms of reference of the Group and to enable the key priorities of the Group to be established. At this meeting the Group were also consulted on the proposed Public Space Protection Order for Dog Control. The recommendations of the Working Group have been considered and incorporated within the consultation outcomes and the report to the Executive, on this matter.

7. Appendix One – *Working Group Priorities* provides a summary of the activities that have been recommended by the Working Group, that would be undertaken within each of the proposed recommendations. The Group recommended the importance of stronger 'reporting in' mechanism for residents and Ward Members. A dedicated hotline for dog fouling, similar to the approach that is currently in place to report motor cycle nuisance was recognised and recommended. (The hotline would provide Members and residents the opportunity to report any incidents to a dedicated answerphone, that whilst would not be 'manned' 24/7 it would be periodically checked by Officers within working hours and the intelligence used to determine hotspot patrol priorities).
8. A further key strand of work recommended by the Group is the support of a robust dog fouling communications plan to facilitate the;
 - Review of existing publicity
 - Continued reporting of hotspot areas
 - Reinforcing of the importance of socially responsible dog ownership
 - To provide a feedback loop of activities and enforcement at the local level
 - Inclusion of targeted publicity messages via schools and residents' groups based on the profile of dog fouling offenders
9. Dog fouling is enforced by the issue of Fixed Penalty Fines. The current fixed penalty charge for dog fouling is set by the Council at £75.00. The Council has retained the penalty charge of £75.00 at this level since its introduction. Following consideration of this,

Members of the Working Group recommend that from 2020 the charge for dog fouling that is set by the Council is increased to the national / legislative maximum. The maximum charge is set by DEFRA and is currently £100.00. Local benchmarking demonstrates that most Lancashire Authorities that enforce on dog fouling, currently impose the maximum fine of £100.00.

The Working Group recommend this change as being necessary to;

- Demonstrate the Council’s robust response to those offenders that commit dog fouling.
- To serve as a deterrent
- To demonstrate to the wider community that the Council will take a tough stance on this issue of key public concern.

10. Members of the Working Group requested benchmarking data on current dog fouling targeted activity performance across neighbouring Authorities. Other Lancashire Authorities were contacted and the following recorded performance data for dog fouling was obtained;

Local Authority	17/18	18/19	19/ to date
Blackburn	19	26	7
Blackpool	N/A	15	2
Burnley	249	66*	24*
Chorley	-	0	-
Hyndburn	-	-	4
Lancaster	3	3	2
Preston	3	0	0
Pendle	-	-	12
Ribble Valley	1	7	3

**Recorded year from 1st Jul – 30th June*

11. As can be seen, the Council currently takes a robust approach and is successful in tackling dog fouling. Members of the Working Group recognised the positive action that the Council has already previously taken to address this key resident concern. Members of the Working Group recognised that the implementation of the proposed recommendation would continue to strengthen the council’s targeted approach to tackling dog fouling across the borough, working in partnership with our residents.

Should the proposed recommendations be approved by the Executive, Officers will develop an action plan for delivery to commence from January 2020, for implementation and delivery during 2020/21. Performance updates will be provided to Members via the Council’s Strategic Priority Update reports. Ward performance and details of activities will be provided via Member, Parish Council and resident updates on a regular basis.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

12. The proposed recommendations will be delivered via existing operational budgets.

POLICY IMPLICATIONS

13. The proposal supports the commitment in the strategic plan to “implement a range of initiatives to maintain a clean, safe, attractive and environmentally friendly borough”.

DETAILS OF CONSULTATION

14. Cross Party Dog Fouling Working Group during August – November 2019.

BACKGROUND PAPERS

15. None

FURTHER INFORMATION

PLEASE CONTACT:

Jonathan Jackson

ALSO:

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