

EXECUTIVE

Wednesday, 6th April, 2022
6.30 pm





EXECUTIVE

ROOMS 2 & 3, BURNLEY TOWN HALL

Wednesday, 6th April, 2022 at 6.30 pm

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.

There is limited space to accommodate members of the public due to Public Health guidance around social distancing. You are advised to contact democracy@burnley.gov.uk in advance of the meeting.

AGENDA

1) Apologies

To receive any apologies for absence

2) Minutes

5 - 6

To approve as a correct record the Minutes of the last meeting as attached.

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) Declaration of Interest

In accordance with the Regulations, Members are required to declare any personal or personal and prejudicial interests they may have and the nature of those interests in respect of items on this agenda 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) *Right To Speak*

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

PUBLIC ITEMS

7) *Minutes of Individual Executive Decisions*

To note any Individual Executive Member Decisions made since the last meeting.

- a) ***Rotunda Café Licence, 17th March 2022 - Executive Member for Resources and Performance*** 7 - 8

8) *Local List Supplementary Planning Document* 9 - 46

To consider representations received in relation to, and to approve the adoption of the Local List Supplementary Planning Document (SPD).

9) *Houses in Multiple Occupation (HMO) and Small Flats Supplementary Planning Document* 47 - 108

To consider representations received in response to, and to seek adoption of the Houses in Multiple Occupation Supplementary Planning Document (SPD).

10) *Strategic Risk Register* 109 - 128

To update Members on the Strategic Risk Register.

11) *COVID-19 Additional Restrictions Grant* 129 - 136

To seek approval for the eligibility criteria for the COVID-19 Additional Relief Fund.

12) *Council Tax Rebate Scheme* 137 - 146

To propose and seek approvals for a scheme for the Council Tax Rebate

and Discretionary Fund.

13) *Pennine Lancashire Building Control - Withdrawal from Joint Agreement*

147 - 150

To seek approval to give notice of withdrawal from the Pennine Lancashire Building Control (PLBC) Partnership Agreement and proceed with all withdrawal arrangements.

MEMBERSHIP OF COMMITTEE

Councillor Afrasiab Anwar (Chair)
Councillor Sue Graham (Vice-Chair)
Councillor Beatrice Foster

Councillor John Harbour
Councillor Margaret Lishman
Councillor Asif Raja

PUBLISHED

Tuesday, 29 March 2022



EXECUTIVE

BURNLEY TOWN HALL

Wednesday, 16th March, 2022 at 6.30 pm

PRESENT

MEMBERS

Councillors A Anwar (Chair), S Graham (Vice-Chair), B Foster, J Harbour and A Raja

OFFICERS

Mick Cartledge	– Chief Executive
Lukman Patel	– Chief Operating Officer
Howard Hamilton-Smith	– Head of Finance and Property
Clare Jackson	– Housing Manager
Eric Dickinson	– Democracy Officer

98. Apologies

Apologies were received from Councillor Margaret Lishman.

99. Minutes

That the Minutes of the last meeting held on the 14th February 2022 be approved.

100. Additional Items of Business

That additional items of business relating to Exclusion of the Public as Item 8, and regarding Towneley Hall Grant Acceptance as Item 9, be added to the agenda.

101. Housing Renewal Assistance Policy 2022

PURPOSE

To seek a revision to the Private Sector Housing Renewal Policy to provide a wide range of financial assistance which will improve the condition of homes in the Borough.

To introduce a Handyperson service for vulnerable residents in Burnley.

REASON FOR DECISION

To provide a comprehensive range of financial assistance that will help improve living conditions within the Borough and reduce the number of empty homes.

DECISION

- (1) To approve the Housing Renewal Assistance Policy 2022, attached as appendix 1 to this report; and
- (2) To appoint a Handyperson (Grade 8) and acquire the necessary tools and electric van for implementation of the Burnley Handyperson service.

102. Exclusion of the Public

To consider the exclusion of the public from the meeting before discussion takes place on the following item of business regarding Minute 103 (Item 9 Towneley Hall Grant Acceptance) on the grounds that in view of the nature of the business to be transacted if the public were present there would be a disclosure to them of exempt information within the meaning of Part VA of the Local Government Act 1972.

103. Towneley Hall- Grant Acceptance

PURPOSE

To seek approval to accept an offer of grant funding towards the cost of repairs required at Towneley Hall.

During the meeting the Executive thanked Simon Goff for the work done on this item.

REASON FOR DECISION

To accept the grant offer within the timescales set by the funder which will enable essential repairs to be carried out at Towneley Hall.

DECISION

- (1) That the acceptance of an offer of a grant as set out in this report be approved ;and
- (2) That call-in be waived in order to accept the grant prior to the deadline set out in the terms of the funding agreement.

In accordance with and following the requirements set out in Paragraph 15 of Part 4.5 of the constitution regarding the prior agreement provided by the Chair of Scrutiny, it is stated that in the opinion of the Executive this decision is an urgent one and therefore not subject to call-in.



INDIVIDUAL DECISION BY THE EXECUTIVE MEMBER FOR RESOURCES AND PERFORMANCE

BURNLEY TOWN HALL

PRESENT

OFFICERS Eric Dickinson - Democracy Officer

3. Towneley Rotunda Kiosk

Purpose To seek approval for the issue of a temporary licence for the Towneley Rotunda Kiosk

Reason For Decision Because the lease for the Stables café has not been signed and to allow Park Life to focus on establishing the stables café as a thriving business.

Decision That the Executive Member for Resources & Performance approves the issue of a new 6-month licence to the existing licence holders and re-tendering of the licence for a start date 1st October 2022.

Decision made by: Councillor Sue Graham
Executive Member for Resources and Performance

Date: 17/03/2022
Decision Published on: 17/03/2022

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THE LOCAL LIST SUPPLEMENTARY PLANNING DOCUMENT (SPD)

REPORT TO THE EXECUTIVE



DATE	6 April 2022
PORTFOLIO	Economy and Growth
REPORT AUTHOR	Elizabeth Murphy/Erika Eden-Porter
TEL NO	Ext 3307
EMAIL	emurphy@burnley.gov.uk eedenporter@burnley.gov.uk

PURPOSE

1. The purpose of this report is to consider the representations received in response to statutory consultation on a draft of The Local List Supplementary Planning Document (SPD), and to seek its adoption.
2. The SPD has been prepared to support the implementation of Burnley's Local Plan. Once adopted, it will become a material planning consideration to be used in the determination of relevant applications.

RECOMMENDATION

3.
 - (1) That Executive notes the representations received on the draft version of The Local List Supplementary Planning Document (SPD) as set out in the Schedule of Representations Received at Appendix B.
 - (2) That Executive adopts The Local List Supplementary Planning Document (SPD) attached at Appendix A under the provisions of Section 23 of the Planning and Compulsory Purchase Act 2004 and Regulation 14 of the Town and Country Planning (Local Planning) (England) Regulations 2012.
 - (3) That the Strategic Head of Economy and Growth be authorised by the Executive to make any minor typographical corrections to the SPD required prior to its publication.

REASONS FOR RECOMMENDATION

4. To meet the Council's commitment to preparing a Local List SPD as set out in Burnley's Local Plan and the Council's Local Development Scheme (LDS).

SUMMARY OF KEY POINTS

Overview of the SPD

5. The Executive Report (25th October 2021) sets out the background to the preparation of the SPD and describes its scope and purpose. In summary the SPD is set out the process that will be used to review the current Local List, which was compiled over 20 years ago and is becoming inconsistent and reliable in parts. It sets out the procedure and criteria for assessing new and existing entries and explains how the degree of heritage significance is judged.
6. The document provides guidance to owners and occupiers of entries on the Local List. It explains why the Local List has been created and the effects of inclusion. The guidance will also help members of the public to suggest sites for inclusion on the Local List.
7. The review process will be overseen by the Council's Policy and Environment Team. It is envisaged that there will be the future opportunity for volunteer assessors, for example Parish Councils, local heritage societies and interested individuals to be trained and supervised by the Team. This will allow for a greater level of public involvement.
8. The Local List itself is published as a separate document to the SPD which will enable it to be updated when necessary, outside of the SPD process.

Consultation on the Draft SPD

9. 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.
10. Following the approval of the consultation draft of the SPD by the Executive on 25 October 2021, a 7-week public consultation took place from 15 December 2021 until 2 February 2022.(i.e. extended by a week to allow for the Christmas holidays).
11. Groups and organisations, statutory consultees and individuals on the Local Plan consultation database were notified by letter or e-mail. The draft SPD and Consultation Statement were published on the Council's website and paper copies were made available at the Contact Centre and main libraries.

Responses Received

12. A total of six duly made responses were received and are set out in the schedule of responses attached at Appendix B. In summary, five of the responses simply stated that they had no comment to make. The additional response, made by Historic England, welcomed the SPD and drew attention to its advice note on local heritage listing which had already been taken into account at the drafting stage.
13. Overall, the responses to the consultation do not result in the need for any changes to be made to the SPD. The final draft SPD is attached at Appendix A.

Next Steps

14. Following its Adoption, the Council is required to make the SPD and an Adoption Statement available as soon as reasonably practicable. The Council must also send a copy of the Adoption Statement to those who have asked to be notified of its adoption.
15. Any person with sufficient interest in the decision to adopt the SPD may apply to the High Court for permission to apply for judicial review of that decision not later than 3 months after the date on which the SPD is adopted.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

16. The costs associated with adoption and publication will be met within existing budgets. As such there are no financial implications directly associated with this report.

POLICY IMPLICATIONS

17. The Local List SPD will be a material consideration when considering relevant applications. Its production fulfils an existing commitment in Burnley's Local Plan and the Council's LDS.

DETAILS OF CONSULTATION

18. As set out in paragraphs 9 to 13 of the report.

BACKGROUND PAPERS

FURTHER INFORMATION

PLEASE CONTACT:	Erika Eden-Porter
ALSO:	Elizabeth Murphy

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The Local List: Supplementary Planning Document (SPD)

Adoption draft for Executive April 2022

Adopted (To be added)

**Policy & Environment Team
Economy and Growth
Town Hall
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1. Introduction

1.1. This Supplementary Planning Document (SPD) has been prepared by Burnley Borough Council as part of its planning policy framework. It supplements Policies HE1, HE3 and HE4 of Burnley's Local Plan 2012-2032. The text of the relevant policies is set out in Appendix Two.

1.2. SPDs elaborate upon the policies and proposals in Local Plans but do not have their formal statutory 'Development Plan' status. They are however material considerations that can be taken into account when determining planning applications.

1.3. This SPD is intended to raise awareness and assist in the appropriate conservation of the many unlisted but interesting and notable elements of the borough's historic environment that are valued at a local level for their heritage interest.

1.4. It is intended to be a resource for Council Members and officers, owners, developers and any organisations or infrastructure providers whose work may affect them; and for any person or organisation interested in the heritage of the borough.

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



Fig 1: Weaves Cottages Sparrable Row Padiham Police Station Dr Muirs Memorial Drinking Fountain

1.6. The document is principally concerned with the process of identifying and selecting entries for inclusion in the Local List, and the procedure for reviewing the current Local List. It sets out the types of entries that may be identified, the criteria for inclusion and explains how the degree of heritage significance is judged.

1.7. The SPD also provides guidance to owners and occupiers of entries on the Local List. It explains why the Local List has been created, the new criteria for inclusion, and the effects of inclusion. Accordingly, it delivers a consistent and accountable way of identifying entries on the Local List to the benefit of good planning for the area and to the benefit of owners and developers wishing to fully understand the reasoning for and implications of Local Listing.

1.8. This guidance will also help members of the public to nominate assets for inclusion on the Local List. A nomination form is included in Appendix Three.

1.9. The Local List itself is published as a separate document. It is not adopted within the SPD thus enabling it to be updated as necessary, outside of the SPD process.

1.10. The SPD takes account of established best practice in Local Listing, including Historic England's Advice Note 7 on Local Heritage Listing (2nd edition January 2021)¹ and the criteria and general principles used in the selection of Listed Buildings as set out in the DCMS publication Principles of Selection of Listed Buildings (November 2018).²



Fig 2: Pill Box, Halifax Road



St Cuthbert's Church Towneley Street



Milestone, Calder Head Cliviger

2. Background

2.1. Burnley's historic environment, including buildings and structures; monuments; archaeology; parks and gardens; designed landscapes; and sites and places, makes a major contribution to the character and local distinctiveness of the Borough. It provides a unique and irreplaceable record of Burnley's development over time and is central to local identity, creating a sense of place and a physical link to the past. This has wide-reaching implications for the image of the borough, its economy, tourism and the health and wellbeing of its residents.

2.2. The borough has 306 statutory listed building entries³, 22 Scheduled Monuments and 5 Registered Historic Park and Gardens, all of which are designated and protected through national legislation and national and local policy. In addition to this, the Council has designated 10 Conservation Areas to help preserve or enhance these areas of 'special architectural or historic interest'.

2.3. Although these designated assets are of vital importance and contribute significantly to the unique character of the borough, the overall quality of the historic environment is determined by more than just these. The larger in number and diverse range of unlisted buildings and structures, within and outwith conservation areas, such as memorials, sculptures, street furniture; designed landscapes such as parks or gardens; features such as historic trackways or field boundaries; and remains/sites of archaeological interest, are also an important element of the rich history of the borough and make a positive contribution to local character and sense of place. Although they do not meet the strict national criteria for designation e.g. as statutory listed buildings, their value to the community and future generations is acknowledged.

2.4. The Council recognises the value of these elements of the historic environment and has followed Government guidance by creating a Local List and including a policy in the Local Plan to

¹ [Local Heritage Listing: Identifying and Conserving Local Heritage \(historicengland.org.uk\)](https://historicengland.org.uk)

² [Principles of selection for listed buildings - GOV.UK \(www.gov.uk\)](https://www.gov.uk)

³ These figures represent the correct position in September 2021, however, it should be recognised that the number may be subject to change. Individual listed entries can include a number of buildings and structures; for example, one listing entry can comprise a row of terraced housing.

appropriately protect the list entries. Entries on the Local List are referred to as Heritage Assets and have the status of 'Non-Designated Heritage Assets' in planning terms.

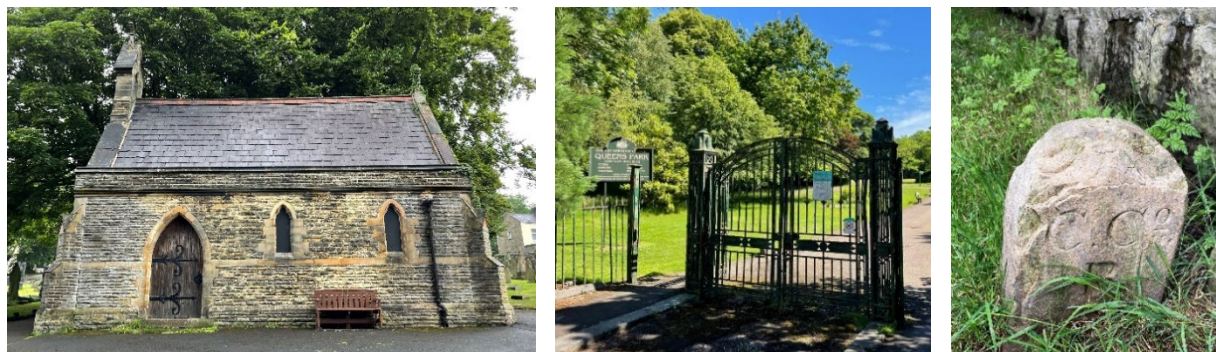


Fig 3: Mortuary Chapel Padiham Parish Cemetery

Queen's Park Gates

Boundary Stone Gannow Lane

3. What are Heritage Assets?

3.1. The Government's National Planning Policy Framework (NPPF) defines a heritage asset as a building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest.

3.2. Heritage interest may be archaeological, architectural, artistic or historic.

3.3. The value of a heritage asset to this and future generations (because of its heritage interest) is referred to as 'significance'. Significance is one of the guiding principles running through the Historic Environment section of the Local Plan and the National Planning Policy Framework.

3.4. Heritage assets are divided into two types:

- designated heritage assets; and
- non-designated heritage assets.

3.5. Designated heritage assets are mostly identified nationally under the relevant legislation (listed buildings, scheduled monuments, registered historic parks and gardens and registered battlefields), but also include world heritage sites, which are designated by UNESCO, and conservation areas, which are designated by the Council under relevant legislation. Designated heritage assets, with the exception of conservation areas and World Heritage Sites, are listed in the National Heritage List for England (NHLE).⁴ Designated heritage assets receive a greater degree of protection within the planning system than non-designated heritage assets. Works to some assets, such as listed buildings and scheduled monuments, are subject to additional consent regimes.

3.6. Non-designated heritage assets are locally identified buildings, monuments, sites, places, areas or landscapes that do not meet the criteria for designated heritage assets (e.g. as listed buildings) but are considered to hold sufficient heritage interest at a local level to merit consideration in planning decisions. The most appropriate (but not only) mechanism for identifying and recording them is through the production of a Local List.

⁴ [Search the List - Find listed buildings, monuments, battlefields and more | Historic England](#)

3.7. The NPPF states that all heritage assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance so that they can be enjoyed for their contribution to the quality of life for current and future generations.



Fig 4: Butchers Barn, Worsthorne Conservation Area



Old Stocks Cliviger

4. What is a Local List?

4.1. Local Listing is an established way for local councils and communities to jointly identify and physically record elements of the historic environment that are valued for their local heritage interest, such that they merit special consideration in the planning process as non-designated heritage assets. It is widely recognised that Local Lists also play a role in building and reinforcing a sense of place within local communities, contributing to local pride and well-being.

4.2. Whilst Local Lists are mostly be made up of buildings and structures, including those within the boundaries of conservation areas, they can also include other features such as monuments, sites or designed landscapes.

4.3. The Local List is a physical register that provides clarity on the location of each entry and its special heritage interest.

4.4. The purpose of the Local List is to identify non designated heritage assets so that owners, developers and any organisations or infrastructure providers whose work may affect them, are aware of their status and value; and to aid the Council in its decision making when considering planning applications to ensure that their special heritage interest is given due consideration.

4.5. Where the Council has not supported development schemes involving locally listed buildings, planning appeal decisions across borough in recent years have upheld the principle of protecting the special interest of buildings on the Local List as a material consideration.



Fig 5: Padiham Building Society



Leeds and Liverpool Canal Straight Mile



Fingerpost Halifax Road

5. Burnley's Local List

5.1. Burnley's current Local List was compiled over 20 years ago and has over 400 entries. The Local List has not been actively maintained in recent years. The accuracy and integrity of the information and reasons for the asset's inclusion on the Local List is becoming inconsistent and unreliable in parts. In line with the NPPF and Historic England guidance, the Council intends to work towards a full review of the current Local List in accordance with the procedures set out in this SPD.



Fig 6: Hurstwood Baptist Church, Hurstwood Conservation Area Former Reading Rooms Halifax Road

6. Planning Policy Context

6.1. Protection through Local Listing relies on the planning system. It is therefore very important that the planning context is understood.

6.2. National planning policy exists in the form of the National Planning Policy Framework (NPPF)⁵ 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. Local Plans are prepared to be consistent with national policy. Current local policies can be found in Burnley's Local Plan which was adopted on 31st July 2018 [Burnley's Local Plan Adopted Version - Final.pdf](#)

6.3. Local Listing is supported and encouraged by government guidance, Historic England best practice and the Local Plan.

National Good Practice Advice

6.4. National good practice advice issued by Historic England in its Advice Note 7 Local Heritage Listing (2nd edition January 2021) promotes the important role of Local Lists in providing a consistent and accountable way of identifying elements of the historic environment which enrich and enliven their local area. The advice note promotes the importance of Local Lists in raising the profile of local heritage, including celebrating heritage that is valued by the community, by providing an opportunity for communities to have their views on local heritage heard. This includes consulting communities on the selection criteria to be used to judge the suitability of candidates for inclusion on the Local List, along with a role in nomination. The advice note also advocates the proper recording and public access to Local Lists.

⁵ [National Planning Policy Framework - Guidance - GOV.UK \(www.gov.uk\)](#)

National Policy and Guidance

6.5. At a national level, the NPPF at paragraph 189 advises that plans should set out a positive strategy for the conservation and enjoyment of the historic environment. Emphasis is placed on sustaining and enhancing the significance of heritage assets and recognising that heritage assets are an irreplaceable resource which should be conserved in a manner appropriate to their significance.

6.6. The NPPF defines heritage assets as including those identified by the Council, for example through Local Listing. Entries on the Local List are recognised in local and national planning policy as Non-Designated Heritage Assets (as set out in Section 3). The NPPF advises that the effect of development proposals on the significance (special interest) of all heritage assets should be taken into account in determining planning applications. In weighing applications that directly or indirectly affect non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the asset.

6.7. The National Planning Practice Guidance (NPPG) gives further guidance on non-designated heritage assets (paragraphs: 039-041). In particular, it advocates the production of Local Lists and underlines the need for the selection of Local List entries to be based on sound evidence and up-to-date information and for lists to be accessible to the public in order to provide greater clarity and certainty for developers and decision-makers.

Local Policy

6.8. Burnley's Local Plan gives significant weight to the preservation and enhancement of non-designated heritage assets in planning decision making. Local Plan Policy HE1 sets out the Council's guiding principles on the historic environment. Policy HE1(2) sets out the key elements that contribute to the borough's distinct identity that will be a key priority to protect, enhance and promote. Policy HE1(3)(d) commits the Council to maintaining a Local List as a principal means of identifying the borough's non-designated heritage assets.

6.9. Local Plan Policy HE3 is also relevant when considering planning applications that impact upon the significance of non-designated heritage assets, including entries on the Local List. The policy sets a presumption in favour of the retention of entries on the Local List. It requires proposals affecting them to relate appropriately and sensitively to them, and developments affecting their setting to give due consideration to their heritage significance and ensure that it is protected or enhanced where possible.



Fig 7: Well Steet Padiham



Winding House to Railway Pit Cliviger



Shakespeare Street Padiham

Planning Reform

6.10. This SPD does not take account of the proposals for the reform of the current system of plan-making system set out in the White Paper 'Planning for the Future' issued for consultation in August 2020 and subsequently indicated in the Queen's speech of May 2021 to be included in a forthcoming planning bill.

7. The Implications of Local Listing

Requirement for Planning Permission

7.1. Inclusion of a heritage asset on the Local List introduces no additional planning controls. It does not automatically affect permitted development rights, i.e. the rights to make certain changes to a building without the need to apply for planning permission.

7.2. Where a heritage asset on the Local List is within a conservation area or subject to an Article 4 Direction⁶, there are some additional planning controls already in place.

7.3. The Council will monitor the effect of the Local List and, if necessary, consider the introduction of Article 4 Directions to remove certain permitted development rights that would otherwise allow alterations to be made to the heritage asset, or its demolition, without the need for planning permission.

7.4. When submitting a planning application that would affect, or have the potential to affect, a building or structure on the Local List, a written Heritage Statement will be required. The statement should describe the heritage interest, both as a whole and the specific parts, and any particular features of interest affected by the proposal. The level of detail should be sufficient to understand the potential impact of the proposal on the significance of the asset.

Policy Implications

7.5. Including a heritage asset on the Local List changes the level of consideration given by the Council to preserving the special heritage interest (significance) when planning permission is required and planning proposals are assessed.

7.6. Entries on the Local List are recognised in local and national planning policy as Heritage Assets and categorised as Non-Designated (see Section 3). The fact that an asset is on the Local List means that its conservation is an objective of the NPPF (see Section 6).

7.7. Applications are determined in accordance with the Local Plan unless material considerations indicate otherwise. Burnley's Local Plan gives significant weight to the preservation and enhancement of non-designated heritage assets in planning decision making.

7.8. Where planning permission is required, the special heritage interest (significance) of the local list entry will be a 'material consideration' in determining the planning application. This means that

⁶ An article 4 direction is made by the local planning authority and restricts the scope of permitted development rights either in relation to a particular area or site, or a particular type of development anywhere in the authority's area. Where an article 4 direction is in effect, a planning application may be required for development that would otherwise have been permitted development. Article 4 directions may be used to require planning permission for the demolition of a non-designated heritage asset (such as a locally listed building outside a conservation area), by removing demolition rights.

account will be taken of the impact of the proposal on the special interest of the asset including its setting when making a decision on development proposals. For those assets located within conservation areas, other heritage related planning policies are also relevant.

7.9. The Council is committed to protecting, enhancing and promoting the distinct identity of the borough and in doing so will work with owners and developers to encourage the retention, good maintenance and continued use of heritage assets on the Local List wherever possible.

Implications for Building Control

7.10. Buildings on the Local List are given special consideration in relation to Approved Documents L1B and L2B of the Building Regulations. This effectively means that heritage interest can be taken into account when considering the requirements under the building regulations in relation to the conservation of fuel and power in existing homes and other buildings to ensure that the significance of the heritage asset is better safeguarded.



Fig 8: Hill Farmhouse Halifax Road



The Square Worsthorne



Milestone Bacup Road Cliviger

8. Local List Entry Types

8.1. As set out above, whilst Local Lists are mostly made up of buildings, they also encompass a wide variety of other structures and features of the historic environment that give local areas their distinctive character including monuments, sites and landscapes. The following table sets out a wide range of types which most Local List entries will fall within. It is recognised that the Local List is not exclusive and some types can be cross-cutting:

Local List Entry Type	Examples
Agriculture	Traditional farm buildings, including well-preserved barns, dairies, stables, piggeries, dovecotes, cart sheds etc.
Public Art and Commemorative	Monuments that show a high level of craftsmanship or artistry, especially if associated with a known artist or local manufacturer. This asset type includes public art and sculpture, grave markers, civic monuments, commemorative plaques, war memorials.
Commercial	Banks and offices, shops and shopfronts, public houses, inns and hotels.
Cultural and Entertainment	Libraries and reading rooms, museums, assembly rooms and music venues, theatres and cinemas, dance halls, village halls and institutes.

Residential	Well-preserved examples of vernacular and more contemporary dwellings and ancillary buildings.
Places of Worship or religious sites	Places of worship of all different denominations and faiths including other buildings that have been reused as faith buildings.
Law and Civic, (including Education and Health)	Town halls and government buildings, law courts, police stations and prisons, fire stations, reading rooms, political clubs and institutions, hospitals, schools and technical colleges.
Trade and Industry	Assets relating to textiles manufacturing; engineering and machine-making, coal mining and quarrying amongst others.
Utilities and Communication	Power generation or distribution sites; waterworks, pumping stations, water towers and reservoirs; post boxes, telephone boxes and telegraph exchanges
Leisure, Sports and Recreation	Indoor and outdoor sporting venues, including swimming baths, pavilions, and sports grounds.
Public Realm and Street Furniture	Street surfaces, lampposts, boundary markers, street nameplates, signposts, drinking fountains, street furniture, railings.
Transport	Canal and rail infrastructure, bridges, bus and tram depots and sheds, historic trackways and way markers.
Historic designed landscapes	Public gardens and parks, cemeteries, recreation grounds, public squares, woodland, deer parks, private gardens.
Archaeological sites and monuments	Buried archaeological remains and upstanding remains or earthworks.



Fig 9: New Town Mill Burnley Former C17 Smithy Guy Street Padiham School Masters House Worsthorne

9. Selection Criteria

9.1. It is important that the inclusion of assets within the Local List is consistent and based on sound evidence. For inclusion, an asset must demonstrate heritage significance with regard to the criteria as set out below.

9.2. The criteria are based on the best practice advice within Historic England's Local Heritage Listing: Historic England Advice Note 7 (2nd edition January 2021) and the criteria and general principles used in the selection of Listed Buildings as set out in the DCMS publication Principles of Selection of Listed Buildings (November 2018). This approach ensures that inclusion on the Local List is consistent with similar surveys at both a local and national level and will help to ensure that Local Listing is transparent, robust and will stand up to scrutiny, for example at planning appeals.

9.3. Heritage Assets must be of architectural, artistic, historic or archaeological interest. This is referred to in this SPD as the Principal Selection Criteria and a single entry can meet one or more of these criteria. They should also meet one or more of the Secondary Selection Criteria which include authenticity (age, rarity or intactness), social and community interest, group value and townscape/landscape interest.

9.4. The criteria are to be used as both as a guide for those making a nomination and to inform the selection process. They are intended to set an appropriate standard which can be consistently applied to the assessment of candidates for local listing and to be sufficiently broad in the range of heritage values captured. At the same time, the criteria should ensure the standard is not too low so as to risk including assets of more limited quality which might devalue the status of the Local List.

Principal Selection Criteria

Criteria	Description
Architectural or Artistic Interest	<p>Architectural interest is an interest in the art or science of the design, construction, materials, craftsmanship and decoration of buildings and structures of all types. Artistic interest is an interest in other creative skills such as sculpture and decoration. This criteria includes:</p> <ul style="list-style-type: none"> Well preserved examples of particular local building styles/traditions, techniques and materials that are part of the local architectural style (local vernacular) and/or which illustrates local or regional architectural history or design. Good examples of a distinctive architectural style or fashion; or that demonstrates high quality design, including form, proportions, materials, attention to detail and articulation. These assets should be well preserved or affected only by minor reversible alterations. Works of a notable local or national architect, designer or artist. Assets with a high degree of creative skill/craftsmanship in their construction and/or detailing for example stone carving, joinery, metalwork, stained glass. Decorative elements such as finials, roof bosses, door surrounds or signage, may also hold a degree of artistic interest.

	<ul style="list-style-type: none"> This criteria also covers assets that are important local examples of technological innovation or engineering. <p>Assets nominated under this category for their architectural or artistic interest must meet the secondary criteria for Authenticity (Age, Rarity, Intactness).</p>
Historic Interest	<p>Historic interest is an interest in past lives and events and includes assets that exhibit evidence of an association with an important/valued aspect of local or national history, notable people/families, groups or events, or relate to a key period of building development. This criteria includes:</p> <ul style="list-style-type: none"> Assets that have well-authenticated historical associations with an individual; company; organisation; groups/movement; or event of local or national importance. For example a birthplace of a notable figure, the meeting place of a notable group or the site of a significant event. Assets that have an important association with key periods of economic development such as agricultural, industrial, commercial, communications or transport.
Archaeological Interest	<p>There will be archaeological interest in a heritage asset if it holds, or potentially holds, evidence of past human activity worthy of expert investigation at some point. Assets can take the form of structural remains, earthwork monuments, archaeological features or deposits. These may date from very early prehistory through to relatively recent sites, for example the remains of structures associated with World War Two.</p>

Secondary Selection Criteria

Criteria	Description
Authenticity (Age, Rarity, Intactness)	<p>The older a heritage asset is, and the fewer surviving example of its type, the more likely it is to have heritage significance. Generally, assets will be a good example of their type and survive in or closely to their original form as follows:</p> <ul style="list-style-type: none"> Pre 1845: Assets that retain a significant proportion of their original fabric, and where the style, form and construction are easily identifiable. Early origins, if not now clearly expressed in the character of the building, would not in themselves justify inclusion. Superficial alterations which may be reversed in the future will not preclude inclusion. 1845 to 1945: Assets that are substantially unaltered and retain the majority of their original features, fabric and plan form, having a quality and character that distinguish them from other buildings/structures of the same period locally. Superficial alterations which may be reversed in the future will not preclude inclusion.

	<ul style="list-style-type: none"> • Post 1945: Assets that are outstanding examples of important architectural styles of their period and unaffected by inappropriate alterations and extensions. <p>Assets nominated for their architectural or artistic interest must meet this secondary criteria.</p>
Social and Communal Interest	Social and communal interest is closely related to historic interest and comprises assets that represent key social or cultural roles in the historical development of the area including associations with activities, events, or traditions that give an area and/or community a sense of local identity or that contributes to the “collective memory” of the area.
Group Value	In addition to the individual qualities of an asset, they may also have special interest through their visual, design or historic functional relationship with other buildings, structures and spaces. Examples include farm groupings, mill complexes, residential terraces or retail parades.
Townscape/Landscape Interest including Landmarks	<p>This criteria includes:</p> <ul style="list-style-type: none"> • Assets or groups of assets which, due to their form, scale, location or appearance, stand out positively in the townscape; landscape; roofscape; or key views. • Designed landscapes that make a positive visual contribution to the local distinctiveness of an area, for example public squares, cemeteries, parks and gardens. • Assets that make a valued contribution to a distinctive streetscene including boundary treatments (e.g. walls, fences and railings); street surfaces (e.g. cobbles, flags and setts); and street furniture (e.g. signposts, streetlights, benches, post boxes and telephone boxes).

9.5. It is important to ensure that the inclusion of an asset in the Local List is based on robust evidence demonstrating the heritage values that contribute to its significance. Evidence includes historic mapping; documentary sources such as local history books, archived newspaper articles, historic building plans and images where they exist; and site survey. The information gathered on each asset, including photographs from public vantage points, will provide key baseline data on location and significance and will be used to support the case for inclusion on the Local List.



Fig 10: Green Church Hapton Road



Central Buildings Padiham



Drinking Fountain Worsthorne

10. Procedure for adding to or removing entries from the List

10.1. Local Listing requires thorough research and robust assessment to ensure that potential candidates have sufficient heritage significance to be considered as being material considerations in a planning context.

Identification

10.2. The Local List is a dynamic document and assets are likely to be identified in the following ways:

Nomination: Members of the public are encouraged to nominate assets that they consider meet the criteria for inclusion on the Local List by using the nomination form on the Council's website and included in Appendix Three of this SPD. A completed nomination form will include as a minimum:

- Street address including postcode and/or a site location plan;
- Written description of significance identifying which of the Local List criteria are met; and
- Clear digital photographs taken from public viewpoints giving an overall impression of the asset; the original design intention; any important decorative or structural features; and any dates or inscriptions that contribute to an understanding of the significance of the heritage asset.

Local Character Appraisals: The most common type of appraisal undertaken by the Council are Conservation Area Appraisals. During the course of these appraisals, individual assets that meet the selection criteria will be taken through the assessment process.

Historic Environment Record (HER): The HER is held and updated by Lancashire County Council. It identifies both designated and non-designated heritage assets. Those non-designated heritage assets that meet the selection criteria will be considered for inclusion on the Local List.

Development Control Process: During the determination of planning applications, it may emerge that the proposal relates to a building or structure that meets the selection criteria and will be considered for inclusion on the Local List.

Local Listing Procedure

10.3. The process of Local Listing identifies, assesses and describes a heritage asset against the criteria. The objective is to do so in a robust and consistent manner across the whole borough, distinguishing only those assets which are of the greatest merit or local interest.

10.4. Once identified, assessed, and described, the heritage asset is recommended for Local Listing by a Selection Panel. The final decision is taken by Burnley Council.

10.5. The procedure will be overseen by the Council's Policy and Environment Team. It is envisaged that there will be the future opportunity for volunteer assessors for example Parish Councils, local heritage societies and interested individuals to be trained and supervised by the Team. This will allow for a greater level of community engagement. Proposed additions to the Local List will be processed in periodic batches and will include the following stages:

Stage One: Initial Assessment – A preliminary evaluation of the information submitted, to see if the asset is likely to meet the selection criteria sufficiently to warrant further investigation. If an asset is

not considered to meet the selection criteria, re-assessment will only take place if further information about the asset has come to light that reveals more about its heritage significance.

Stage Two: Further Investigation - Further research and evaluation including a site visit.

Stage Three: Consultation – Where it is considered that an asset merits consideration, a draft report outlining the reasons will be prepared for consultation. The owner (where known) will be invited to comment within a 28-day period. The presumption at this stage is in favour of including the asset on the Local List. The draft report will also be added to the Council’s website for public comment and local ward councillors, the relevant parish council, and other interest groups will be notified. It is important to note that the Council can only consider comments about the asset’s heritage interest and cannot consider personal circumstances or current or future development proposals. Any request for an asset not to be added to the list will need to be based on evidence that it fails to meet the requirements of the selection criteria.

Stage Four: Final Assessment and Selection Review Panel - Consultation responses will be assessed and summarised as part of the final assessment. Where assets are considered suitable for inclusion on The List a final draft report will be prepared. The report will comprise the following information: address and location plan; photographs; the known or believed date of construction; the present use (if relevant); a description of the asset; and the criterion under which it qualifies. The report will be taken to a Selection Review Panel for their assessment. The panel is not a decision making body, it will comprise representatives from Burnley Council (officer and members) and persons external to the Council, who have appropriate qualifications, experience, knowledge, or interest in the heritage sector such as members of local interest groups and external specialists. Invitations to sit on the Selection Review Panel will be made by the Council’s Strategic Head of Economy and Growth in consultation with the relevant Portfolio Holder. The Secretary of the Selection Panel will be provided by Burnley Council. The Panel can recommend that the asset is considered for Local Listing; that the asset is not considered further; or that recommendation is deferred pending further evaluation.

Stage Four: Final Decision- Where the Selection Review Panel recommends addition to the Local List, this will be reported to the Council’s Executive; or the Council’s Strategic Head of Economy and Growth in consultation with the relevant Portfolio Holder under delegated authority for their final decision.

Stage Five: Local List Update - If the asset is agreed for inclusion on The Local List, it will be assigned an identification number and the Local List updated accordingly.

10.6. The Council will refer assets that have strong potential for inclusion on the National List to Historic England so that consideration can be given to whether they should be statutorily listed.

Notification

10.7. Once a decision has been made by the Council to include an asset on the Local List, or remove it, the owner, where known or identified, will be notified in writing with an explanation of what this means and how it affects them.

10.8. Owners will have the opportunity to challenge the decision to include (or not include) their property on the Local List. Such appeals should be made in writing no later than 28 days from the date of the notification and should demonstrate why the asset does not (or does) meet each of the selection criteria.

10.9. The cases will be considered by an Appeals Panel. Reasons for removal would be that upon further investigation the significance of the asset was found to be less important than was originally thought. Reasons for addition following a Council decision not to include would be that further evidence has been discovered or revealed that proves the asset has greater significance than was originally thought such that it would meet the selection criteria. Future plans for alterations will not be accepted as justification for removal from the Local List. Owners are advised to read Section 7 of this document which sets out how local listing impacts their rights in terms of permitted development and the requirement for planning permission.

10.10. Assets added to the Local List will be plotted onto an electronic geographical information system and used for development control purposes.

10.11. The Council will share appropriate information gathered through the assessment and selection process with the Lancashire County Council Historic Environment Record (HER) in accordance with data protection requirements. The HER is an important local historic resource and collaboration in this respect will enable the HER to update their records accordingly.

Removing Entries from the List

10.12. Requests for a long standing asset to be removed from the Local List must be supported by evidence to show that the asset no longer meets the selection criteria and therefore no longer merits inclusion on the List. The

10.13. Where removal from the Local List is recommended, a report will be taken to the same Selection Review Panel as set out in paragraph 10.5 above. Where the Selection Review Panel recommends removal from the Local List this will be reported to the Council's Executive; or the Council's Strategic Head of Economy and Growth in consultation with the relevant Portfolio Holder and/or Heritage Champion under delegated authority for their final decision.

10.14. The Local List will be updated accordingly and made available on the Council's website.

Review and Monitoring

10.15. The local list will be monitored and updated on an on-going basis to take account of new information that is available about specific assets that justifies its inclusion or removal. This would include information that comes to light when preparing or updating Conservation Area Appraisals and information received through the development control process.



Fig 11: Yorkshire Street Aqueduct Burnley



The Talbot Hotel Burnley



Albert Street Padiham

11. Viewing the Local List

11.1. The Local List is available to view on the Council's website. A hard copy of the Local List is also available to view at the Council's Offices by appointment. GIS data will also be available on request.⁷

11.2. A brief description of each entry and a summary of the reasons for inclusion on the Local List will be available for every new and updated entry; accompanied by an image of the entry taken from the public highway, where possible. The description for each entry may not be exhaustive, and further research may reveal a greater understanding of the site which would meet other selection criteria.



Fig 12: Lime Kilns Canal Embankment Burnley Gannow Bridge Burnley Mill Street Padiham

12. Guidance on works to local listed buildings

12.1. Owners are advised to consider the following guidelines before carrying out works to a Locally Listed building or structure, whether or not it requires planning permission. Where planning permission is required, Local Plan a policy HE3 will be the starting point for consideration:

12.2. Proposals should seek to preserve, enhance or restore the special heritage interest.

12.3. A repair rather than replace approach should be adopted. It is important to retain historic fabric as far as possible to preserve the authenticity (this includes features such as doors, windows, chimneys, roofs, barge-boards, facing materials, boundary materials etc). Many of the buildings and structures on the Local List are traditional vernacular buildings. Their construction is different to that of modern buildings and as such fabric repairs should normally adopt traditional materials and methods.

12.4. Building materials often play a large part in defining the character of a building or structure on the Local List e.g. local stone walls, natural slate roofs, timber windows and doors, metal decorative roof features etc. The use of such materials for repairs or replacements will be encouraged.

12.5. It is important that any special features which contribute to the heritage interest of an asset are retained. Historic architectural features such as windows, doors, roof pitch, dormers etc. are all important elements which, if lost or significantly altered, can harm the heritage interest of the asset. Features of architectural and historic interest both internally and externally, should be preserved and restored wherever possible.

⁷ In the future, this may be available for people to view and download via the Council's website

12.6. Extensions should be designed so that they preserve the appearance, scale and character of the building or structure. They should relate appropriately in terms of siting, style, scale, massing, height and materials; and should normally be visually subservient to the main building. It is important that extensions and alterations do not compromise elements of the building which are of historic or architectural interest. Extensions could be of a traditional or contemporary design. If a traditional (historic) approach is adopted it is important that historic accuracy is employed with regard to detailing, materials, colour and scale. If a contemporary approach is adopted and considered appropriate, a high quality of design detail and materials is essential.

12.7. For further advice please also see Local Plan Policies SP5: Development Quality and Sustainability, HS5: House Extensions and Alterations, and the Residential Extensions SPD (forthcoming).

12.8. The setting of the heritage asset should normally be preserved where this contributes to its heritage interest. This means that careful consideration should be given to the location and design of new buildings or street works within the grounds or in close proximity. Elements which are likely to contribute to the setting of buildings are the historic arrangement of buildings/structures, views in to and out of the site; levels of enclosure or openness; the use of landscape features to frame or enhance buildings or as a method of screening; surfacing and boundary treatments. New developments should preserve positive settings and enhance settings which are poor. This should be achieved through appropriate positioning, layout, design, landscaping and boundary treatment.



Fig 13: Employment Exchange, Finsley Gate



The Waggoners Inn and Barn, Manchester Road

13. Further Advice and Information

13.1. If you are in any doubt about whether planning permission or any other consent is required for any works you wish to carry out to a building/structure included on the Local List, please contact the Development Management Team at planning@burnley.gov.uk.

13.2. If you would like to make a nomination for the local list please carefully consider the asset against the criteria set out within this document.

13.3. You will need to complete the nomination form as included in Appendix Three and return it to the Policy and Environment Team at localplan@burnley.gov.uk or by post to Policy & Environment, Economy and Growth, Town Hall, Burnley, BB11 9SA. This form will be available as a printable PDF or Word document to complete on the Council's website.

13.4. Any requests for geographical information should be addressed to localplan@burnley.gov.uk.

Appendices

Appendix One: Glossary of Terms

Article 4 Direction (including Permitted Development)	<p>The Town and Country Planning (General Permitted Development) (England) Order 2015 sets out a number of classes of development that are permitted development (i.e. have been granted planning permission) subject to the exceptions, limitations and conditions mentioned in the Order. Provided development is carried out in accordance with these no application for planning permission needs to be made. Under the Order, Local Planning Authorities can remove selected permitted development rights using an Article 4 Direction.</p> <p>The effect of such a Direction is that planning permission will be required for specific types of development which would otherwise be regarded as permitted development. Directions can cover a variety of works and might include: the replacement of doors and windows, the erection of gates, fences, garages, sheds, porches, or the installation of satellite antennae</p>
Conserve/Conservation	<p>The active process of maintaining and managing change to the historic environment in a way that sustains and where appropriate enhances the special interest (significance) of heritage assets. The aim is to recognise and reinforce heritage significance, while accommodating the changes necessary to ensure their long term future and enjoyment.</p>
Designated Heritage Asset	<p>A building, monument, site, place, area or landscape designated and protected through legislation such as, A World Heritage Site, Scheduled Monument, Listed Building, Protected Wreck Site, Registered Park and Garden, Registered Battlefield or Conservation Area.</p>
Enhance	<p>To improve the values that contribute to the significance of heritage assets.</p>
Heritage	<p>All inherited resources which people value for reasons beyond mere utility and pass on from one generation to another. Heritage encompasses our built heritage which in itself is not just buildings, but also streets and public spaces, gardens, parks, monuments, industrial complexes, waterways and roads, archaeological sites and open landscapes. Our heritage also includes languages, stories, traditions and foods. An awareness of heritage gives people and places an identity and significance. It gives localities their distinctive character and marks their individuality as neighbourhoods and as part of the wider town and region.</p>
Heritage Asset	<p>A building, monument, site, place, area or landscape identified as having a degree of significance meriting consideration in planning decisions, because of its heritage interest. Heritage Assets include designated heritage assets and non-designated heritage assets such as those designated through the Local Listing process.</p>

Heritage Harm	Change for the worse, here primarily referring to the effect of inappropriate repairs, alterations or entirely new development on the significance of a heritage asset. Harm can result from loss of fabric, alteration or destruction, or from development within the setting of heritage assets.
Historic Environment	All aspects of the environment resulting from the interaction between people and places through time, including all surviving physical remains of past human activity, whether visible, buried or submerged, and landscaped and planted or managed flora.
Lancashire Historic Environment Record (HER)	The Lancashire Historic Environment Record (HER) is the definitive record of all known archaeology in the county. It contains information on over 35,000 known sites across the Lancashire including standing ruins, prehistoric and medieval earthworks, features identified on an aerial photographs, historic landscape, townscape and buildings.
Material Planning Consideration	A matter that is relevant to making the planning decision in question (i.e. whether to grant or refuse an application for planning permission). The scope of what can constitute a material consideration is very wide. The effect of an application on a non-designated heritage asset is a material consideration when deciding planning applications.
National Planning Policy Framework (NPPF)	The National Planning Policy Framework, together with Planning Policy for Traveller Sites and a number of written ministerial statements sets out the Government's planning policies for England and how these should be applied.
Non-Designated Heritage Asset	Non-designated heritage assets are buildings, monuments, sites, places, areas or landscapes identified as having a degree of significance meriting consideration in planning decisions because of their heritage interest but do not meet the criteria for being designated heritage assets.
Preserve	To cause no harm to the significance of a heritage asset.
Setting	The setting of a heritage asset is the surroundings in which it is experienced. Its extent is not fixed and may change as the asset and its surroundings evolve. Elements of a setting may make a positive or negative contribution to the significance of an asset; may affect the ability to appreciate that significance; or may be neutral.
Significance	The value of a heritage asset to this and future generations because of its heritage interest. That interest may be archaeological, architectural, artistic, historic or communal. In legislation and designation criteria, the terms 'special architectural or historic interest' of a listed building and the 'national importance' of a scheduled monument are used to describe all or part of a heritage asset's significance.

Appendix Two: Key Local Plan Policies

Policy HE1: Identifying and Protecting Burnley's Historic Environment

- 1) The Council will proactively manage and work with property owners and other stakeholders to ensure positive, well-informed and collaborative conservation that recognises and reinforces the historic environment's contribution to local identity and distinctiveness and its potential as a driver for economic growth, attracting investment and tourism and providing a focus for successful regeneration.**
- 2) Key elements that contribute to the distinct identity of the borough that will therefore be a priority to protect, enhance and promote, include:**
 - a) The industrial heritage related to the textile industry, in particular, mills, weaving sheds, chimneys and associated housing; public buildings and the legacy of public parks and gardens;**
 - b) The heritage assets associated with and that contribute to the character of the Leeds & Liverpool Canal, including canal-related infrastructure such as bridges, wharfs and warehouses;**
 - c) Pre-industrial townscape including barns, farmhouses, cottages and higher status buildings of 16th and 17th Century origins; and**
 - d) Historic town centres.**
- 3) In addition to its role in sustaining and enhancing the significance of heritage assets in response to development proposals, the Council will maximise the benefits of the borough's historic environment through the following actions:**
 - a) Identifying grants and funding opportunities for heritage-led regeneration initiatives, especially in those areas where the historic environment has been identified as being most at risk;**
 - b) Maintaining a record of Heritage Assets at Risk through neglect, decay or other threats and addressing such assets in a positive manner, proactively seeking solutions for assets at risk through discussions with owners and a willingness to consider positively development schemes that would ensure the repair and maintenance of the asset and, as a last resort, using statutory powers;**
 - c) Introducing Article 4 Directions where there is clear justification to introduce stricter controls;**
 - d) Maintaining a Local List as a principal means of identifying non-designated heritage assets that make a positive contribution to local character and sense of place because of their heritage value;**

- e) Maintaining and developing effective control and taking enforcement action in respect of unauthorised works to designated heritage assets or within their settings where it is expedient to do so; and
 - f) Engaging local people in discovering, presenting and conserving the borough's heritage and offering help, advice and information as appropriate.
- 4) The Council will encourage, wherever possible, opportunities to enhance or better reveal the significance of heritage assets or their setting for example through repairs, reinstatement of lost architectural features, reversal of previous inappropriate changes and measures to secure their long term maintenance. This will normally be a requirement where grant assistance is being offered or enabling development considered.

Policy HE3: Non-Designated Heritage Assets

- 1) The Council will maintain a local list and will seek to help ensure the retention, good maintenance and continued use of non-designated heritage assets.
- 2) Where a non-designated heritage asset or its setting, including where identified through the planning process, is affected by development proposals (directly or indirectly) there will be a presumption in favour of its retention.
- 3) Proposals affecting non-designated heritage assets should relate appropriately in terms of siting, style, scale, massing, height and materials.
- 4) Development proposals affecting the setting of a non-designated heritage asset will be required to give due consideration to its significance and ensure that this is protected or enhanced where possible.
- 5) Where the loss of the whole or significant part of a non-designated heritage asset is determined to be acceptable, the applicant will be expected to secure recording to the appropriate level, the results of which should be deposited with the Council.

Policy HE4: Scheduled Monuments and Archaeology

- 1) Development proposals that will lead to substantial harm to, or the total loss of the significance of Scheduled Monuments or other archaeological assets that are of demonstrably equal significance, will only be permitted in wholly exceptional circumstances. Proposals that will lead to less than substantial harm to significance will be permitted only where the harm is clearly and convincingly justified and is outweighed by the public benefits of the proposal.
- 2) Where development would or is likely to affect the significance of Scheduled Monuments or other archaeological assets that are of demonstrably equal significance, proposals should be accompanied by an assessment of significance and impact. The assessment should describe the likely impacts of the proposal on the significance of the archaeological asset and set out appropriate measures for its preservation, protection, management; together with any mitigation measures, excavations and recording proposals. The level of information required will be appropriate to the assets significance and the scale of likely impact of the proposal, and may require a desk-based archaeological assessment and/or field evaluation. Proposals should also give adequate consideration of how the public understanding and appreciation of such sites could be improved.

3) Where it is accepted that in-situ preservation is not possible or not desirable, adequate provision must be made for excavation, recording and analysis in accordance with a Written Scheme of Investigation approved by the planning authority including where appropriate arrangements for the storage/relocation of assets. Research and recording must be appropriately archived in a way agreed with the Council.

4) Proposals that affect other non-designated archaeological assets will be judged on the significance of the asset and the scale of likely harm to establish whether the development is acceptable in principle. Whilst the preferred approach will be to seek to avoid damage to such remains through their preservation in situ, when in-situ preservation is not judged to be necessary, the developer will be required to make adequate provision for excavation, recording and analysis and where appropriate the storage/relocation of assets. Research and recording must be appropriately archived in a way agreed with the Council.

Appendix Three: Nomination Form

Local List of Heritage Assets Nomination Form



Before completing this nomination form please refer to the Local List of Heritage Assets Supplementary Planning Document (SPD) for guidance.

Heritage Asset Details:

Heritage Asset Name	
Address including postcode	
Asset Type	
Date of construction (if known)	
Owner (if known)	
Parish	
Short description of heritage asset* (e.g. materials, style, features of interest)	

How intact is the heritage asset? Tick as appropriate	Completely Intact	Largely Intact	Partially intact	Largely spoilt	Completely spoilt

Significance:

Please provide an explanation of how the heritage asset meets at least one of the following criteria. It is important to remember that significance can be informed by available written records, for example the Historic Environment Record or records in published books, texts or articles.

Architectural/Artistic Interest	
Historic Interest	
Artistic Interest	
Authenticity (Age, Rarity, Intactness)	
Social and Communal Interest	
Group Value	
Townscape/Landscape Interest including Landmarks	
Does the asset hold any other heritage interest?	

Additional Information:

Sources of Information Include notes of where you have sourced your information	
Details of Photographs Provided (where relevant)	
Grid Reference (if known)	
Additional Supporting Information/Notes	

Details of Nominator:

Name	
Address	
Email	
Preferred means of contact	

Notes:

Please complete as much of this form as possible. Each nomination must be supported by at least one digital photograph.

This form, together with relevant supporting information should be e-mailed to Localplan@burnley.gov.uk or posted to Burnley Borough Council, Local Plans, Town Hall, Manchester Road, Burnley, BB11 9SA

An expert panel considers all nominations. Decisions are based on a majority view of whether a nomination meets set criteria. A letter will be sent to you notifying you of the Panel's decision.

Data Protection Notice:

Information from this application will be processed in accordance with the Data Protection Act 2018. By completing this form you consent to the Council contacting you in relation to your request. The personal information you supply to us will only be used for purposes relating to the compilation, consultation and publication of the Local List.

The personal information contained in the application may, in exceptional circumstances, be subject to disclosure to third parties under either the [Data Protection Act 2018 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/2018/52/section/1), the [Freedom of Information Act 2000 \(legislation.gov.uk\)](https://legislation.gov.uk/ukpga/2000/36/part/II/chapter/1) or [The Environmental Information Regulations 2004 \(legislation.gov.uk\)](https://legislation.gov.uk/ukreg/2004/1625/ppt/1) to the extent the law allows and in accordance with the Council's Publication Scheme. Disclosure will only be made where in all the circumstance's it would be fair to do so and in the public interest.

Please note that the Council may process your information in the absence of consent, for the purpose of crime prevention or detection, so far as is in accordance with the law.

Further information please see Council's data protection web page by following the link below:
[Privacy Notice \(Fair Processing Notice\) | Burnley Borough Council](#)

Local List SPD:

Schedule of Representations Received and Recommended Responses - Appendix B to Executive Report, 6 April 2022

Please note: The comments received, and the recommended responses do not take account of the proposed changes set out in the government's White Paper: 'Planning for the Future - August 2020'

Comment Ref.	Consultee	SPD Ref.	Comments/Key Issues raised	Recommended Response
1.	National Highways	General	Have no comments to make	Noted
2.	Historic England	General	<p>Welcome the Council's intention to produce a local list for the Borough.</p> <p>HE draw attention to their Advice Note 7 - Local Heritage Listing: Identifying and Conserving Local Heritage which is intended to support communities and local authorities in introducing a local heritage list in their area or making changes to an existing list. It encourages a consistent and accountable approach to the identification and management of local heritage assets when selected by uniform criteria.</p> <p>HE recommend that advice is sought from the local authority conservation officer and appropriate archaeological staff.</p>	<p>Support welcomed though it is noted that this is in relation to the production of a local list which is not the purpose of the SPD. As set out in para 1.6, the SPD is principally concerned with the process of identifying and selecting entries for inclusion in the Local List, and the procedure for reviewing the current Local List.</p> <p>The SPD takes account of established best practice in Local Listing, including Historic England's Advice Note 7 on Local Heritage Listing.</p> <p>The Council's Principal Planner with responsibilities for Heritage and Design was the lead officer in drafting the SPD. This post will continue to lead on the adoption of the document and subsequently its implementation including monitoring of its effectiveness.</p>
3.	Environment Agency	General	Have no comments to make	Noted
4.	Lancashire County Council	General	Have no comments to make	Noted
5.	The Coal Authority	General	Have no comments to make	Noted
6.	Homes England	General	Do not wish to make any representations	Noted

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HOUSES IN MULTIPLE OCCUPATION AND SMALL FLATS SUPPLEMENTARY PLANNING DOCUMENT (SPD)

REPORT TO THE EXECUTIVE



DATE	6 April 2022
PORTFOLIO	Economy and Growth
REPORT AUTHOR	Pete Milward
TEL NO	Ext 3296
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PURPOSE

1. The purpose of this report is to consider the representations received in response to statutory consultation on a draft of the Houses in Multiple Occupation and Small Flats Supplementary Planning Document (SPD), and to seek its adoption.
2. The SPD has been prepared to support the implementation of Burnley's Local Plan in response to concerns raised by Councillors and local residents. It will provide additional detail on the policies of the Plan and how they apply to developments involving small flats or HMOs and will assist applicants, officers and members in preparing and determining planning applications. Once adopted, it will become a material consideration to be used in the determination of relevant applications.

RECOMMENDATION

3.
 - (1) That Executive notes the representations received on the draft version of Houses in Multiple Occupation and Small Flats Supplementary Planning Document (SPD) as set out in the Schedule of Representations Received and agrees the Recommended Responses at Appendix B.
 - (2) That Executive adopts the Houses in Multiple Occupation and Small Flats SPD attached at Appendix A.
 - (3) That the Strategic Head of Economy and Growth be authorised by the Executive to make any minor typographical corrections to the SPD required prior to its publication.

REASONS FOR RECOMMENDATION

4. To meet the Council's commitment to prepare a Houses in Multiple Occupation and Small Flats SPD as set out in the Council's Local Development Scheme (LDS).

SUMMARY OF KEY POINTS

Overview of the SPD

5. The focus of this SPD is proposals for Houses in Multiple Occupation and small flats (including studios and self-contained bedsits). Its particular focus is on conversions and changes of use rather than new build schemes as these are much less common in Burnley. The principles and guidance would still be relevant to new build schemes, but a wider range of considerations would also be relevant.
6. The SPD guidance is therefore limited to the following uses and planning ‘use classes’:
 - Change of use of a non-domestic building into a HMO (between 3 and 6 unrelated individuals – Use Class C4)
 - Change of use of a non-domestic building to shared housing occupied by more than 6 people (Sui Generis Larger HMO)
 - Change of use of a Use Class C3 dwellinghouse to shared housing occupied by more than 6 people (Sui Generis Larger HMO)
 - Change of use of an existing small HMO (Use Class C4) to a larger HMO (Sui Generis)
 - Change of use and conversion of non-domestic buildings and individual dwellinghouses to small flats (small one bedroomed flats, studios and self-contained bedsits (Use Class C3)
7. Whilst Burnley’s Local Plan includes policies that are used to assess applications for new HMO’s and small flats (where schemes require planning approval), the SPD provides more detail on these policies and how they apply to these types of developments.
8. There is no requirement for planning permission for the change of use of a dwelling house in Use Class C3 to a small HMO in Use Class C4. The Council may consider the need for an Article 4 Direction to help control this type of small HMO.

Planning Reform

9. The SPD is written to support the current adopted Local Plan and current national policy. It does not take account of the proposed planning reforms set out in the 2020 White Paper: ‘planning for the future’. Should the changes set out be implemented, the SPD content would need to be reviewed or withdrawn. It would need to be kept under review in any event.

Consultation

10. 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.
11. Following the approval of the consultation draft of the SPD by the Executive on 1 December 2021, a 7-week public consultation took place from 15 December 2021 until 2

February 2022.(i.e. extended by a week to allow for the Christmas holidays).

12. Groups and organisations, statutory consultees and individuals on the Local Plan consultation database were notified by letter or e-mail. The draft SPD and Consultation Statement were published on the Council's website and paper copies were made available at the Contact Centre and main libraries.

Responses Received

13. Six duly made responses were received, which included 8 detailed comments. A schedule of the comments made and suggested responses is attached at Appendix B.
14. A revised SPD taking into account the recommended responses is attached at Appendix A.
15. In addition to the revisions proposed as a result of the formal consultation, changes have also been made to the layout of the document to merge sections where applications for HMOs and Small Flats would be subject to the same policy considerations. The SPD has also been strengthened taking account of recent experience from Development Management colleagues when considering recent planning applications. These changes are not considered so substantial as to require further statutory consultation.

Next Steps

16. Following its Adoption, the Council is required to make the SPD and an Adoption Statement available as soon as reasonably practicable. The Council must also send a copy of the Adoption Statement to those who have asked to be notified of its adoption.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

17. The costs associated with adoption and publication will be met within existing budgets. As such there are no financial implications directly associated with this report.

POLICY IMPLICATIONS

18. The Houses in Multiple Occupation and Small Flats SPD will be a material consideration when considering relevant applications.

DETAILS OF CONSULTATION

19. As set out in paragraphs 10-15 of the report.

BACKGROUND PAPERS

20. None

FURTHER INFORMATION

PLEASE CONTACT:

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Houses in Multiple Occupation and Small Flats Supplementary Planning Document (SPD)

Adoption Draft: April 2022

Draft for Executive Approval: April 2022

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1 Introduction

1.1 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. SPDs elaborate upon the policy and proposals in Local Plans but do not have their formal statutory 'Development Plan' status. SPDs cannot introduce new local plan policy. Planning decisions by law must be made in accordance with the local plan (the development plan) unless material considerations indicate otherwise. SPDs are material considerations in the consideration of relevant development proposals, as are changes to national policy which postdate the local plan; however, the Local Plan remains the starting point.

1.1.2 The SPD was adopted by the Council on *[to be inserted]*.

1.1.3 The SPD relates to proposals for Houses in Multiple Occupation and small flats (including studios and self-contained bedsits).¹ Its particular focus is on conversions and changes of use rather than new build schemes as these are much less common in Burnley. The principles and guidance would still be relevant to new build schemes, but a wider range of considerations would also be applicable.

1.1.4 The SPD addresses those issues that are unique or of particular relevance to HMOs and small flats, rather than the full scope all the Local Plan policies which may apply.^{2, 3} It has been prepared to assist property owners, planning applicants, planning officers and elected councillors in preparing, commenting on and determining planning applications.

1.1.5 The SPD guidance is limited to the following uses and 'use classes':

- Change of use of a non-domestic building to a HMO (between 3 and 6 unrelated individuals – Use Class C4)
- Change of use of a non-domestic building to shared housing occupied by more than 6 individuals (*Sui Generis Larger HMO*)
- Change of use of a Use Class C3 dwellinghouse to shared housing occupied by more than 6 (*Sui Generis Larger HMO*)
- Change of use of an existing small HMO (Use Class C4) to a larger HMO (*Sui Generis*)
- Change of use and conversion of non-domestic buildings and individual dwellinghouses to small flats (small one bedroomed flats, studios and self-contained bedsits (Use Class C3))

1.1.6 Whilst it does not cover residential institutions (C2), where schemes provide a low level of care or support such that they remain in Class C3 or become *sui generis* (by virtue of being a mixed use or use outside any of the uses classes), the guidance on small flats will apply. It does not cover hostels (*sui generis*) or student halls of residence.

¹ For the purposes of this SPD a small flat will be a flat with a gross internal floor area of less than 39m

² The text of the most relevant policies of Burnley's Local Plan can be seen in Appendix C

³ The wider policies that may apply may include policies on design, listed buildings, conservation areas, extensions, and energy efficiency.

1.1.7 It also explains the role of the HMO licencing regime which is a separate process that relates to HMOs which may or may not require planning permission.

1.2 Houses in Multiple Occupation (HMOs)

1.2.1 HMOs form part of the borough's privately rented housing provision, contributing to people's housing choices. This form of accommodation is generally more affordable and flexible than other housing types and therefore suitable for younger people and other households that are not living as families. As well as reducing housing costs for individuals, sharing homes can also have positive social benefits for occupiers, helping individuals, especially young people, to form new networks and relationships.

1.2.2 Analysis of planning applications in the borough between 2019 and 2022 shows an increase in the numbers of planning applications for HMOs and some concerns have been raised about the quality of accommodation they provide and their concentration within certain locations.

1.2.3 Due to the nature of the accommodation that they provide, unless they are properly planned and managed, HMOs can create issues, including:

- **Reduced Housing Choice:** The Local Plan seeks to provide a mix of housing types and tenures to meet the needs of all households. An oversupply of HMOs can create an imbalance in housing type and tenure, reducing the supply and affordability of homes for families to rent or to purchase their first home.
- **Detriment to visual amenity/character:** resulting from additional waste, other outside storage and parking.
- **Noise and disturbance:** resulting from the intensification of the residential use and/or the lifestyle of occupants.
- **Overlooking and loss of privacy:** resulting from revised internal layouts and intensification of use.
- **Highway safety concerns:** resulting from additional on and off-street parking requirements.
- **Additional demands on local services and infrastructure:** resulting from a higher concentration of adults compared to a typical family home or household.
- **Reducing community cohesion:** resulting from and lack of interaction and/or high turnover of occupants.

1.2.4 There are currently (December 2021) 31 licensed HMOs in the Borough. Further Information the licensing of HMOs in Burnley is set out in Section 3.4.

1.3 Small flats, Studios and Self-contained Bedsits

1.3.1 There has been a significant increase in the number of planning applications for small flats over the last few years, mostly involving the change of use and conversion of former office buildings and individual dwellinghouses. In determining these applications, the Council is mindful of the overall mix of housing required to meet the borough's needs and also the quality of schemes, particularly in terms of living conditions for future occupiers including size, layout and facilities; adequate natural daylighting and outlook; external amenity space; refuse storage; and car parking provision.

1.3.2 Due to changes to permitted development rights introduced since 2013, a number of these schemes do not require planning permission or require 'light touch' prior notification process which only allows a limited number of factors to be addressed. MHCLG funded research⁴, published in July 2020, concluded that accommodation created under permitted development tended to be of worse quality than that built with full planning permission. Such accommodation was found to be more likely to be below acceptable space and natural light standards and lacking in outdoor amenity space.

⁴ Research into the quality standard of homes delivered through change of use permitted development rights MHCLG (July 2020)

2 Policy Context

2.1 National Policy and Guidance

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 a frequently updated online Practice Guidance covering a series of themes. It also exists in the provisions of the relevant Act of Parliaments, key sections of which are also described in Appendix A.

2.1.2 The NPPF sets out that the purpose of the planning system is to contribute to the achievement of sustainable development. One of the three overarching objectives of the NPPF requires the planning system to support strong, vibrant and healthy communities by ensuring that a sufficient number and range of homes can be provided to meet the needs of present and future generations.

2.1.3 Whilst there is no specific reference to HMOs within the NPPF, it sets out the Government's objective of "significantly boosting the supply of homes" and requires Councils to assess and reflect in their local plans, the number, size, type and tenure of housing needed for different groups in the community, including for those who require affordable housing, students, families, and people who rent their homes etc. The Practice Guidance echoes the content of the NPPF in that it does not provide specific advice on HMOs, however, it does provide guidance on planning for the housing needs of different groups.

2.1.4 Paragraph 119 of the NPPF states: "Planning policies and decisions should promote an effective use of land in meeting the need for homes and other users, while safeguarding and improving the environment and ensuring safe and healthy living conditions."

2.1.5 Paragraph 126 of the NPPF states that; "The creation of high quality, beautiful and sustainable buildings and places is fundamental to what the planning and development process should achieve. Good design is a key aspect of sustainable development, creates better places in which to live and work and helps make development acceptable to communities."

2.1.6 The National Design Guide⁵ identifies well designed homes as one of the ten characteristics of good design as set out in the NPPF. It advises that new homes should, regardless of type of tenure, be fit for purpose and provide a good standard and quality of internal space including adequate room sizes, storage, daylight, sunlight and ventilation. They should minimise sound pollution, have good air quality and should provide safe and functional amenity space(s). Waste storage, management and collection should also be given careful attention.

2.1.7 The National Model Design Code⁶ sets a baseline standard for quality and practice which local planning authorities are expected to take into account when determining applications. The document expands on the ten characteristics of good design set out in the National Design Guide. In relation to new homes, it states that they should be functional, accessible, inclusive and sustainable; provide attractive environments that support the health and wellbeing of their users; are adequate in size, fit for purpose and adaptable; and allow for easy operation and servicing.⁷

⁵ <https://www.gov.uk/national-design-guide-2019>

⁶ [National Model Design Code 2021 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/national-model-design-code-2021)

⁷ These form part of the national planning practice guidance

2.2 Local Policy

2.2.1 Current local policies can be found in Burnley's Local Plan which was adopted on 31st July 2018. Local Plans are prepared to be consistent with national policy.

2.2.2 Whilst the Local Plan does not contain any policies that specifically relate to HMOs, Local Plan Policy SP4 sets the development strategy for the Borough and supports new development within defined Development Boundaries where it is of an appropriate type and scale, bearing in mind the role of the settlement in the hierarchy, and where it satisfies a number of overarching criteria including that: *it makes efficient use of land and buildings; it is well located in relation to services and infrastructure and is, or can be made, accessible by public transport, walking or cycling; it does not have an unacceptably detrimental impact on residential amenity or other existing land users; and it appropriately reuses existing buildings and infrastructure.*

2.2.3 Policy SP5 requires high standards of design, construction and sustainability through setting a number of minimum requirements to be addressed, including: *respecting existing or locally characteristics street layouts, scale and massing; having respect for its townscape setting; ensuring there is no unacceptable adverse impact on the amenity of neighbouring occupants or adjacent land users, including by reason of overlooking; not resulting in unacceptable conditions for future users and occupiers of the development; and ensuring the provision of adequate and carefully designed storage for bins and recycling containers.*

2.2.4 Similarly, Policy HS4 states that new housing developments should be high quality in their construction and design in accordance with Policy SP5 and sets out requirements on a range of matters relating to all housing developments, to ensure that developments provide a good level of amenity for future occupiers including outdoor amenity space, privacy, outlook, daylight; and for larger schemes, requirements for adaptable homes and public open space.

2.2.5 A wide range of other Local Plan policies would also be relevant to any schemes for HMOs or small flats depending on the particular type and location of the scheme in question, e.g. parking requirements (IC5) flood risk (CC4) and designated heritage assets (HE2).

2.3 Making a Planning Application

2.3.1 Advice on how to make a planning application can be found on the Council's website or by seeking pre-application advice. Further information can be found using the following links:

<https://www.burnley.gov.uk/residents/planning/development-control/how-make-application>

<https://www.burnley.gov.uk/residents/planning/development-control/permission-needed>

3 What is a House in Multiple Occupation (HMO)?

3.1 The Housing Act

3.1.1 Houses in Multiple Occupation (HMOs) are defined separately by housing and planning legislation. The definition of HMOs was originally set by the Housing Act 2004, with a definition of HMOs introduced to the Use Classes Order⁸ for planning purposes in 2010.

3.1.2 Under the Housing Act 2004⁹, a building, or part of a building, is considered to be a HMO if it meets one of the three tests below. These are set out in more detail in Appendix A, along with further information from the Housing Act:

- It is occupied by more than one single household which shares facilities such as a toilet, bathroom or kitchen. This is known as the **'standard test'**; or,
- It is occupied by more than one single household within a converted building that does not entirely comprise self-contained flats (whether or not there is also a sharing or lack of amenities). This is known as the **'self-contained test'**; or,
- It is occupied by more than one single household within a property made up entirely of converted self-contained flats and the standard of conversion does not meet, at a minimum, that required by the 1991 Building Regulations and more than one third of the flats are occupied under short tenancies. The **'converted building test'**.

3.1.3 A 'household' is defined within the Housing Act 2004 as an individual or members of the same family, partners or co-habiting couples and relatives.

3.1.4 The Act also defines types of living accommodation that are not HMOs.¹⁰ These include, but are not limited to, properties occupied by the owner and up to two lodgers, higher education halls of residence or properties occupied by religious communities.

3.2 Planning Legislation

3.2.1 Planning legislation defines two different types of HMO as set out below. Until 2010, HMOs were either included within the definition and use class of dwellinghouses (C3) or were *sui generis* i.e. not in any identified use class and therefore required planning permission.

Use Class C4 (i.e. small HMOs)

3.2.2 In 2010, changes to the General Permitted Development Order (GPDO)¹¹ introduced a new Use Class C4 (Houses in Multiple Occupation), which relates to:

- the "use of a dwellinghouse by not more than six residents". Circular 08/2010 Annex A described the new C4 class as broadly covering small, shared houses or flats occupied by between three and six unrelated individuals, as their main residence, and who share basic amenities.

⁸ Town and County Planning (Use Classes) Order 1987 (as amended).

⁹ Section 254 of the Housing Act (2004)

¹⁰ See Schedule 14 of the Housing Act (2004)

¹¹ The Town and Country Planning (General Permitted Development) Order 1995 (as amended)

3.2.3 Care homes, children's homes, bail hostels and small religious communities are excluded from Use Class C4. Properties occupied by the owner and up to two lodgers are also excluded. Some of these uses are in Use Class C3, some in other Use Classes and some are *sui generis*.

3.2.4 Use Class C3 was amended accordingly to reflect this new C4 use class, and C3 use now consists of the following:

- Class C3a - Those living as a single household as defined by the 2004 Housing Act 2004 (basically a 'family' where there is no limit on the number of members of the household)
- Class C3b - Not more than six people living together as a single household and receiving care e.g. supported housing schemes such as those for people with learning disabilities or mental health problems
- Class C3c - Not more than six people living together as a single household who do not fall within the C4 definition of a HMO (for example a small religious community, or homeowners with up to 2 lodgers)

3.2.5 Planning permission **is** currently required for the change of use of a premises falling outside a Class C3 dwellinghouse (i.e. a non-residential building) into a Class C4 small HMO.

3.2.6 Planning permission **is not** currently required for the change of use of a Class C3 dwellinghouse (including a flat) into a single small HMO (Use Class C4). That change of use can be made under permitted development rights as set out within the General Permitted Development Order 2015 (Class L in Part 3 to Schedule 2). Planning permission would be required if these permitted development rights were removed through an Article 4 Direction or a previous planning permission.

3.2.7 Whether or not planning permission is required for the change of use, it may be required for any external physical works to facilitate it. Where non-residential buildings are being converted, or flats converted or created; planning permission will usually be required for external works such as changes to window or door styles and materials, new window and door openings, external staircases, alterations to shopfronts and extensions. For information on how and where to seek advice on the need for planning permission, please see the Council's website.¹² For listed buildings, all internal and external alterations which affect the buildings special interest may also require listed building consent. Building Regulations approval may also be required for internal and external works.¹³

Sui Generis (i.e. larger) HMOs

3.2.8 Larger HMOs are typically defined as having more than 6 unrelated residents sharing basic amenities such as a kitchen or bathroom.

3.2.9 For planning purposes such HMOs are regarded as a '*Sui Generis*' use (meaning that they do not fit into any of the standard Use Classes). Planning permission **is** therefore required for the creation of this type of HMO.

3.2.10 In addition, the expansion of an existing large HMO through the increase in number of bedrooms or occupants may require also planning permission (e.g. if a previous planning permission included the number of residents, or other restrictive conditions were applied).

¹² [Is permission needed? | Burnley Borough Council](#)

¹³ [Building Control: Pennine Lancashire | Burnley Borough Council](#)

3.3 Article 4 Directions: Extending the Control of HMOs

3.3.1 An Article 4 Direction, made under Article 4 of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), can be used by local planning authorities to remove specified permitted development rights in part or all of their area, thereby requiring planning permission for developments that would otherwise be permitted development.¹⁴ These are a means by which local planning authorities can exert greater control over small HMOs (i.e. by requiring planning permission for the change of use of a dwellinghouse (Use Class C3) to a small HMO (Use Class C4)).

3.3.2 The NPPF (para. 53) requires the use of Article 4 Directions of this type to be limited to situations where it is “necessary to protect local amenity or the wellbeing of the area”; and in all cases, to “be based on robust evidence, and apply to the smallest geographical area possible”.

3.3.3 The Planning Practice Guidance (PPG) “When is Permission Required?” similarly states that evidence is required to justify the purpose and extent of a Direction, to demonstrate that such action is needed to protect local amenity or well-being of the area. The PPG also states that the potential harm that the Article 4 direction is intended to address, should be clearly identified, and there will need to be a particularly strong justification for the withdrawal of permitted development rights across a wide area (for example those covering a large proportion of or the entire area of a local planning authority).

3.3.4 The introduction of an Article 4 Direction does not mean that all planning applications for a change of use from a dwellinghouse to a Use Class C4 HMO should or will be refused. Rather, the Direction, in requiring the submission of a planning application, would bring these into the planning system to allow consideration of the proposed development against relevant planning policies.

3.3.5 In the future, the Council may consider the need for an Article 4 Direction(s) in order to better manage the creation of small HMOs and their impacts on the amenity of certain areas.

3.4 HMO Licensing

3.4.1 Licensing is a separate consenting regime. Under HMO licensing legislation a lack of planning permission is not a relevant factor when making a decision on whether to grant or refuse an HMO licence. However, Government guidance ‘Houses in Multiple Occupation and residential property licensing reform: Guidance for Local Housing Authorities’¹⁵ states that *“We actively encourage local authorities to ensure planning permission has been given before issuing a licence. Wherever possible we recommend processing consents in parallel, to resolve any issues as early as possible”*. Conversely, having planning permission in place (or not requiring it) does not mean a premises is licensed to operate an HMO and this may need to be applied for separately.

3.4.2 Where the Council becomes aware of an unauthorised HMO through licensing activity, it will consider whether it is expedient to take enforcement action.

3.4.3 A licence is required for HMOs in Burnley borough for rental properties that meet all the following criteria:

¹⁴ There are currently two Article 4 Directions in Burnley which relate to the protection of visual amenity and the character and appearance of the countryside. Neither are related to HMOs [Link](#)

¹⁵ [Houses in Multiple Occupation and residential property licensing reform: Guidance for Local Housing Authorities’ October 2019](#)

- There will be 5 or more unrelated people living in it.
- There will be 2 or more separate households living there.
- The tenants will share some amenities like the kitchen, toilet or bathroom.

3.4.4 The Council's website includes details about HMO licensing and the license application process: <https://www.burnley.gov.uk/HMO>

4 How will planning applications for HMOs and Small Flats be considered?

4.1 Overview

4.1.1 It is important that HMOs and small flats can continue to be provided at appropriate levels in in appropriate locations in a way which supports housing choice and promotes mixed and inclusive communities; whilst safeguarding against unacceptable impacts.

4.1.2 As set out in Section 1.1, the focus of this SPD is on conversions and changes of use rather than new build schemes. The principles and guidance would still be relevant to new build schemes, but a wider range of considerations would also be relevant. The Local Plan includes a range of policies that may be relevant to specific HMO and small flats proposals, depending on their scale and location, but this SPD focuses on those issues that are unique to or of particular relevance to HMOs and small flats and where additional guidance on the application of Local Plan policy is considered helpful.

4.1.3 These policies include SP4, SP5, HS4, TC2 and 3 and IC3, CC4 and CC5 and the following clauses which seek to ensure that developments:

SP4 1): deliver a comprehensive range of choices of types and tenures

SP4 2(c): do not have an unacceptably detrimental impact on residential amenity or other existing land users

SP5 2(a): respect existing, or locally characteristic street layouts, scale and massing

SP5 2(e): have respect for their townscape setting and where appropriate, landscape setting

SP5 2(g): ensure there is no unacceptable adverse impact on the amenity of neighbouring occupants or adjacent land users, including by reason of overlooking

SP5 2(h): do not result in unacceptable conditions for future users and occupiers of the development

SP5 2(i): provide adequate and carefully designed storage for bins and recycling containers. These should be located or designed in a way which is both convenient and safe for occupants and supports the quality of the street scene.

HS3 4): for housing schemes of 0.4 hectares or for 10 units or more should consider a mix of housing types....The precise mix should be informed by site specific considerations and the need to increase the quality and choice across the Borough

HS4 2(a): provide private and functional outdoor space for occupants. For flats and mews/courtyard developments, outdoor space may be shared

HS4 2(b): are well laid out to ensure habitable rooms receive adequate levels of daylight

HS4 2(c): provide appropriate levels of privacy and outlook for occupants and for existing adjacent residents

TC2 8(b): for residential use in Burnley Town Centre outwith the Primary Shopping Area do not lead to a concentration of residential uses which undermines the overall mix of main town centre uses

TC2 8(c): do not prejudice the lawful operating conditions or viability of adjacent land uses

NE5 6): generating noise which is likely to create significant adverse impacts on health and quality of life and cannot be mitigated and controlled through the use of conditions or through pre-existing effective legislative regimes will not be permitted

CC4 1): do not result in increased flood risk from any source or other drainage problems, either in the development site or elsewhere

CC5 3): that are major developments, incorporate SuDS

IC3 2): for residential schemes will be expected to provide a minimum number of parking spaces per new dwelling depending on their type and location

IC3 3): for residential schemes will be expected to make adequate provision for cycle parking.

4.1.4 In order to satisfy these policy criteria, the following issues should be addressed:

4.2 Housing Mix

4.2.1 The Local Plan sets out the objective of providing a well-integrated mix of high quality aspirational and affordable homes of different types in tenure to meet the needs of a wide range of households support economic growth.¹⁶ It outlines the need to plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community; and to diversify the current stock away from terraced properties towards larger more aspirational detached and semi-detached dwellings. It sets out indicative housing mix proportions for the plan period based on evidence of need and demand from the Strategic Housing Market Assessment.¹⁷ No specific target is mentioned for 1 bedroomed flats, but the overall proportion for flats is 10%. A 0% target is set for bedsits/studios/room only (which would include HMOs).¹⁸

4.2.2 Informed by this evidence, Policy HS3 details how the density and mix of individual proposals will be assessed so that each site can contribute, as appropriate, to meeting the overall borough-wide mix. It is the achievement of the borough-wide mix that is important and Policy HS3 is only one part of this mechanism. Policy SP4 Development Strategy is also relevant.

4.2.3 As part of the ongoing monitoring of the Local Plan, the Council collects data on planning permissions and completions by type to assess the effectiveness of Policy HS3 in helping to deliver of the overall mix sought. Should it become apparent that further provision of HMOs or small flats would result in an unwelcome imbalance of house types and sizes across the borough or within certain areas (see also section 4.3 and 4.6), this will be considered as part of the 'planning balance' when determining planning applications, alongside the consideration of the individual impact of proposals, and schemes may be refused.

Policy SP4: Development Strategy, seeks to deliver a choice of types and tenures and Policy HS3: Housing Density and Mix states that all housing schemes of 0.4 hectares or for 10 units or more should consider a mix of housing types. The precise mix should be informed by site specific considerations and the need to increase the quality and choice across the Borough.

¹⁶ Objective 2 and para 5.1 32.

¹⁷ www.burnley.gov.uk/residents/planning/planning-policy/burnleys-local-plan/evidence-base/strategic-housing-market-assessment

¹⁸ The overall targets from the SHMA are set out in Table 3 of the Local Plan, page 85

4.3 Balance of Residential Uses within Burnley Town Centre

4.3.1 Changes to the balance of uses within Burnley Town Centre created by proposals for HMOs and small flats can have a detrimental impact on the vitality and viability of the Town Centre.

4.3.2 The Local Plan defines a Town Centre for Burnley within which is a defined Primary Shopping Area made up of the Town Centre's Primary and Secondary Frontages. The aim of identifying these areas is to maintain a critical mass of retailing uses.¹⁹

4.3.3 Policy TC3 sets out the level of non-retail uses that will be permitted in the Primary and Secondary Frontages. Policy TC2 8) allows proposals for residential uses (including HMOs) where they are located on upper floors and would not prejudice the operating conditions or viability of adjacent land uses.

4.3.4 In the rest of the Town Centre (outwith the Primary Shopping Area) there is a greater degree of flexibility on uses. In accordance with Policy TC2 8) b), however, the Council will not support planning applications for residential uses (including HMOs) where the development would lead to a concentration of residential uses which would undermine the overall mix of main town centre uses.

4.3.5 An unacceptable concentration would be considered to occur where:

- More than 10% of properties within a 100m radius of the application property are already in residential use. This includes properties where the upper floors are in residential use. The radius of 100m will be measured from the centre of the boundary of the application property. If any part of a building, or its curtilage, falls within the 100m radius it will be included.
- Exceptions may be made:
 - Where the concentration of residential uses within the 100m radius is such that restricting further changes of use would have little impact on the mix of town centre uses; or
 - Where it is demonstrated that there is no reasonable long-term demand for the existing property in its continued use, taking into account such factors as the location, size, character and form of the existing building. Loss of town centre offices would need to take into account Local Plan Policy EMP4: Office Development.

4.3.6 In September 2020, changes to the Use Classes Order introduced a single 'Commercial, Business and Service' use (Class E) which combined a number of the previous retail, office, non-residential institutions, assembly and leisure uses classes including shops, restaurants, offices, gyms and nurseries.²⁰ This has reduced the Council's ability to control some changes of use that will result in the loss of retail uses within the Primary Shopping Area of the Town Centre.

4.3.7 In 2021, changes to permitted development rights created a new class of permitted development, Class MA, which, subject to a light touch 'Prior Approval' process and with certain limitations, allows the change of use of vacant Class E properties of up to 1500m² to residential use.²¹

¹⁹ In Padiham the Primary Shopping Area is one and the same as the Town Centre Boundary. Within Padiham Town Centre residential uses, including HMOs, will only be permitted on upper floors.

²⁰ Town and Country Planning (Use Classes) Order 1987 (as amended)

²¹ General Permitted Development) (England) Order 2015 (the 'GPDO') (from August 2021)

Policy TC2: Development within Burnley and Padiham Town Centres requires at 8b) that residential development in Burnley Town Centre outwith the Primary Shopping Area does not lead to a concentration of residential uses which undermines the overall mix of main town centre uses, or at 8c) does not prejudice the lawful operating conditions or viability of adjacent land uses.

4.4 Visual Amenity, Impacts and Living Conditions

4.4.1 The majority of HMOs and small flats in Burnley are formed through the conversion of existing buildings. The Local Plan requires all development to be of a high standard of design and respect its setting and locally characteristic street layouts, scale, massing, detailing and use an appropriate palette of materials. The physical alterations to buildings to facilitate the conversion to HMOs and small flats can have a significant impact on a host building and the wider street scene and will need to be carefully considered.

4.4.2 Whilst there is no minimum size for a building to be considered suitable for conversion, the Local Plan requires all schemes for HMOs and small flats to provide an acceptable living environment for future occupiers. Internal layouts should ensure adequate levels of privacy and outlook, natural daylight and ventilation.

4.4.3 Similarly, the Local Plan requires that schemes must not have an unacceptably detrimental impact on the amenity of neighbouring occupiers or adjacent land users.

4.4.4 The Local Plan was written to the 2012 version of the NPPF. Updated versions of the NPPF were issued in 2018, 2019 and 2021. The 2018 version added reference to ‘healthy living conditions’ which is retained in the 2021 version (Para 119) and states that “planning policies and decisions should promote an effective use of land in meeting the need for homes and other uses, while safeguarding and improving the environment and ensuring safe and healthy living conditions.”

4.4.5 The 2021 version of the NPPF also significantly strengthened policies towards design. It makes clear that creating high quality buildings and places is fundamental to what the planning and development process should achieve. The 2019 National Design Guide and 2021 National Model Design Code are intended to illustrate how well-designed places that are beautiful, healthy, greener, enduring and successful can be achieved in practice.

4.4.6 Whilst these policies changes and publications post-date the Local Plan, they are consistent with its approach and reinforce the importance of achieving high quality design through the planning system and its role in protecting and improving physical and mental health. Together these changes are a material consideration which can be seen to add weight/strengthen various aspects of SP5 clause 2).

Size, Layout and Facilities

4.4.7 There are no specific minimum space standards prescribed for HMOs or small flats in the Local Plan. The national ‘Technical Housing Standards: National Described Space Standard’²² (NDSS) sets out minimum requirements for internal space standards within new dwellings at defined levels of occupancy as well as floor areas and dimensions for key parts of the home including bedrooms, storage and floor to ceiling heights. Whilst these national standards are not mandatory or adopted through the Local Plan, they are a useful guide to ensuring comfortable living space for developments

²² Technical Housing Standards: Nationally Described Space Standard (2015) sets out requirements for the Gross Internal (floor) Area of new dwellings at a defined level of occupancy as well as floor areas and dimensions for key parts of the home, notably bedrooms, storage and floor to ceiling height.

of small flats. Accordingly, schemes which fail to meet them may be judged to not meet the requirements of Policy SP5 2) h) “to provide acceptable living conditions for future occupiers” and may give rise to other planning issues associated with the overdevelopment of sites.

4.4.8 In 2018, the Council adopted ‘**Burnley Council’s Standards for Houses in Multiple Occupation**’ for all HMOs (both licensable and non-licensable).²³ These are reproduced in Appendix B of this SPD. They include minimum space standards for bedrooms kitchens and dining/living rooms.

4.4.9 Whilst these standards were not developed as planning policy, they were included in the consultation draft of this SPD for comment and they do provide appropriate standards for ensuring that HMO proposals comply with the Local Plan, in particular Policy SP5 2) h). Therefore, where these standards relate to matters within planning control, planning applications for HMOs are expected to meet them. A failure to meet them in full would not automatically be a reason for refusal of planning permission, providing that an alternative approach can be justified to the Council’s satisfaction. As with developments of small flats, schemes which fail to meet these standards may be judged to not meet the requirements of Policy SP5 2) h) and may give rise to other planning issues associated with the overdevelopment of sites.

4.4.10 An example of the type of proposal where an alternative approach may be justified is one involving a heritage asset where the strict application of some or all of the requirements would result in harm to heritage significance which cannot be outweighed by public benefits. However, the accommodation must still be of a satisfactory standard and if this cannot be achieved without unacceptable and unjustified harm to the heritage asset, schemes are likely to be refused.

4.4.11 Residential conversions to HMOs should be easily capable of conversion back into a single dwelling to provide accommodation for a single household.

4.4.12 Applications for HMOs or small flats should include a full set of floor plans which identify whether rooms are single or double, and the layouts of furniture including sanitary ware.

Basement and Roof Space Accommodation

4.4.13 Basement and roof space accommodation can often provide unsatisfactory living conditions in terms of outlook and daylight. Basement rooms can also present issues in terms of flood risk – see 4.5. Basements may be most suitable for storage or communal facilities such as laundry/utility rooms or gyms.

4.4.14 Occupiers of a HMO are likely to spend more time in their bedrooms than occupants of single household accommodation and as such HMO bedrooms served only by rooflights that face the sky are not considered to provide a reasonable standard of outlook. In the case of small flats, rooflights that face the sky are also discouraged, but may be acceptable where other habitable rooms within the property are available and are served by windows that provide appropriate standard of outlook.

Drying Areas

4.4.15 HMOs should provide a designated area for drying laundry. Where it is not reasonably possible to provide an outside drying area, internal space should be allocated for drying clothing.

4.4.16 A lack of appropriate drying facilities can exacerbate condensation and damp within properties, particularly when combined with poor ventilation, and this can have a detrimental impact

²³ [Burnley Borough Council’s Standards for Houses in Multiple Occupation: October 2018](#)

on health. Furthermore, due to the nature of the use, individual occupants of an HMO will have less overall control of the laundry arrangements and ventilation of the property as a whole.

Noise

4.4.17 The development of HMOs and small flats has the potential for the transmission of noise, internally and with adjoining properties. This is particularly relevant when considering the conversion of semi-detached or terraced properties, properties in narrow streets or densely developed areas where the potential impact is likely to be more concentrated.

4.4.18 As noted in the Council's Authority Monitoring Report, a significant proportion of complaints received by the Council's Environmental Health Team concern domestic noise nuisance. In some circumstances a condition seeking sound reduction measures may be attached to a planning permission for new HMO development, exclusive of any building regulations requirements.

4.4.19 The semi-independent living style of HMO residents means they are likely to spend more time in their individual bedrooms. This is likely increase in noise levels, as each occupant uses their own TV, plays music etc. Kitchen facilities are also likely to be in use for longer periods than in a single household. Noise generated within a HMO can be transmitted through party walls to adjoining neighbours and between the individual rooms of the HMOs. This likely increase in noise could lead to unacceptable impacts on the living conditions of neighbours or residents. Similar issues may occur in schemes involving a number of small flats.

4.4.20 In all cases, in order to reduce the potential for noise transfer both internally and between separate dwellings, care should be taken with the positioning and relationship of rooms. In particular:

- HMOs and small flats should be designed so that rooms with a similar use are placed next to and above one another (stacking) wherever possible, to avoid living and sleeping spaces sharing common/party walls, floors and ceilings. This includes avoiding the positioning of living rooms, kitchens or bathrooms adjacent to bedrooms in neighbouring properties/flats;
- Non-habitable rooms such as hallways, corridors and storage space should be used as noise buffers to adjoining properties or individual flats wherever possible; and
- Layouts should be planned to limit the transmission of airborne and impact sound from communal spaces.

4.4.21 A Noise Assessment will be required to support a planning application where a proposal would introduce new residential uses into a 'noisy area' (e.g. an area with very heavy traffic, industrial plant and machinery etc) and may also be required where a scheme itself has the potential to cause noise-related problems for new residents or existing adjacent occupiers. Assessments should detail any measures that could satisfactorily mitigate against the identified impacts.²⁴

4.4.22 Whilst legislation exists outside of the planning process to control noise where it amounts to a statutory nuisance (i.e., more than general living noise),²⁵ as set out in Policy NE5 6) the Council will use its planning powers to ensure that developments do not have significant adverse impacts on health or quality of life, even where these impacts fall below the threshold for separate action as a statutory noise nuisance.

²⁴ see the Council's planning application Validation Checklist

www.burnley.gov.uk/residents/planning/development-control/how-make-application

²⁵ www.burnley.gov.uk/business/environmental-health/environmental-protection/noise/domestic-premises

Waste Storage (Refuse and Recycling)

4.4.23 Waste generation rates per m² are likely to be higher for schemes involving HMOs and small flats in comparison to schemes for larger flats or single dwelling houses. Inadequate waste storage can cause a health hazard with the potential to attract vermin.

4.4.24 Within the borough, in most cases, domestic waste is stored and then collected from wheeled bins which are placed on the street or at a designated points on collection day. The majority of properties can have up to four bins: general waste; card and paper; other recyclables; and garden waste.

4.4.25 The design and layout of developments must ensure that there are adequate facilities for waste storage, both internally and externally, and also for collection. The Council's Standards for HMOs set out the waste disposal provision requirements based on occupancy levels - see Appendix B. Schemes that do not provide for adequate and appropriately designed on-site storage, having regard to the amenity of residents and neighbours, wider visual impact and highway safety, will not be supported.

4.4.26 Where it is not practical to provide separate bins for each flat or HMO room, provision should be made for shared/communal bins. Proposed site plan and elevations should show the location, size and design of any external waste storage area and the route (and distance) to the collection point.

4.4.27 Storage should normally be to the side or rear of properties and be appropriately screened from neighbouring properties. Care needs to be taken to ensure that storage areas do not interfere with the outlook from habitable rooms and that storage areas are adequately separated from any 'sitting out space'.

4.4.28 Where internal temporary storage is proposed, proposed floor plans should show the location. The internal storage area must be sited so not to be a danger to children, or cause problems with hygiene and attract pests. Waste must not be stored on escape routes.

Highway Safety, Parking and Cycle Storage

4.4.29 Local Plan Policy IC3 requires the adequate provision of car parking for developments in accordance with specific parking standards set out in Appendix 9 of the Local Plan. These include specific minimum and maximum standards for HMOs and flats.

4.4.30 In the Town Centres of Burnley and Padiham or where schemes include redevelopment to secure the future of a heritage asset, the minimum standards may not be applied in full in cases where public parking exists nearby or where on-street parking is available and the development would not cause or exacerbate congestion, highway safety issues or on-street parking problems. (Appendix 9, Paragraph 11).

4.4.31 The demand for HMOs and small flats tends to be higher in inner urban areas with good access to public transport and within easy walking and cycling distances of local services and facilities, and HMO's in particular do not tend to be as car dependent as other forms of housing with occupants more likely to rely on public transport, walking or cycling. However, any lower rate of car dependency may be offset by the increased intensity of occupation. It is therefore important that schemes provide sufficient parking (on site or nearby where justified) in accordance with Policy IC3 and Appendix 9.

4.4.32 Any requirement for in-curtilage car parking should not result in the paving over of gardens or removal of boundary walls where this would have an unacceptably detrimental effect on the existing streetscene or a loss of important green infrastructure. This is particularly important for schemes

within conservation areas (Policy HE2) or within Ecological Networks (Policy NE1). The paving over of excessive areas of rear/side gardens may similarly be resisted.²⁶

4.4.33 To meet the requirement of Policy IC3 3) and to maximise opportunities for the use of sustainable modes of travel in accordance with Policy IC1, adequate space for cycle parking/storage should be provided within the curtilage of the property or within a convenient and secure communal space. Through Policy IC3, Appendix 9 (para 8) of the Local Plan allows for this to be internal or external within a convenient and secure communal space. It should have a clear route available to/from the public highway and be protected from the weather. External storage should be sensitively designed and sited so as to avoid any loss of amenity to neighbouring residents or visually detract from the wider streetscene.

4.4.34 Cycle parking and storage within habitable rooms or communal lounge/kitchen or dining areas is not acceptable.

Outdoor Amenity Space

4.4.35 It is important for residents of HMOs and small flats to have access to private or semi-private outdoor space. However, it is recognised that in some cases, existing external space may be compromised by the need to meet other requirements such as car parking and the storage of bins and/or cycles.

4.4.36 The importance of access to open and green space to people's physical and mental health was highlighted during the early months of the Covid-19 pandemic. Due to 'lockdown' restrictions, the opportunity to exercise outdoors and close to home was of increased importance for everybody, but for those who live in flats or homes without private gardens and for those without access to a private car, locally accessible open spaces was essential for their physical and mental health. The National Design Guide reinforces the importance of external amenity spaces in supporting health and wellbeing.

4.4.37 Local Plan Policy HS4 requires new housing development to provide private and functional outdoor space for occupants, and in the case of HMOs and apartments, allows for communal provision. The Local Plan does not set out quantitative requirements for the size of private or communal amenity spaces.

4.4.38 As a general guide, amenity space should, in addition to accommodating necessary bin storage, car parking and external cycle storage, provide space for residents to sit comfortably away from bin storage areas. It should provide a degree of privacy and receive some direct sunlight where possible.

4.4.39 The use of public open space in lieu of on-site provision of amenity space will require the applicant to demonstrate that on-site provision is not possible and that the public open space is sufficiently accessible and of a type to provide a genuinely usable alternative to on site provision. On site provision will be expected for large scale and new build schemes.^{27, 28}

4.4.40 All external amenity space should be well designed, fit for purpose and incorporate planting and food growing opportunities where possible.

²⁶ Depending on the size and location of the schemes this could be relevant to Policy SP5, SP6, NE1 and any loss of trees under to NE4 - and could also be relevant to flood risk - see Section 4.5

²⁷ Large Scale would be 10 or more flats, or 10 or more bedrooms in a single HMO

²⁸ Policy HS4 also includes standards for public open space for housing developments of five and upwards which are in addition to private/shared amenity space requirements

4.5 Flood Risk and Drainage

4.5.1 In line with Local Plan Policy CC4 1) and 8) the Council will seek to ensure that development does not result in increased flood risk either on the development site or elsewhere; and that where necessary, mitigation is included.

4.5.2 Policy CC4 6) requires a Site Specific Flood Risk Assessment to be submitted to support an application where a proposal is in Flood Zone 2 (medium) or Flood Zone 3 (high); or is in Flood Zone 1 where the site is greater than one hectare, has critical drainage problems (as notified by the Environment Agency) or includes an ordinary water course. Whether or not a Site Specific Flood Risk Assessment is needed, the Council will need to be satisfied that the occupants are adequately protected against flooding.²⁹ Advice on preparing Site Specific Flood Risks Assessment and the circumstances where these are required in Zone 1 is available on [Flood risk assessments if you're applying for planning permission.](#)³⁰

4.5.3 In flood risk policy terms, most residential uses are considered as a 'more vulnerable' use.³¹ A change of use of a non-residential building to a HMO or small flats may therefore involve introducing a use that is in a higher vulnerability category than the current use.

4.5.4 Basement dwellings are however classed as a 'highly vulnerable' use. National Planning Practice Guidance Flood Risk and Coastal Change makes it clear that 'highly vulnerable' development is incompatible with Flood Zone 3 and should not be permitted.

4.5.5 Where the proposal is not for a basement dwelling but would involve the creation of living or sleeping accommodation in a basement or sleeping accommodation on the ground floors, the Environment Agency recommends that planning permission is unlikely to be granted in Flood Zone 3, unless robust additional flood resistance and resilience measures are confirmed, together with the identification of a safe refuge above the flood level and the provision of a flood warning and emergency response plan.³²

4.5.6 Further advice is also available on the North West Flood Hub (<https://thefloodhub.co.uk/>)

Sustainable Urban Drainage Systems (SuDS)

4.5.7 Local Plan Policy CC5 3) states that in respect of major developments SuDs will be required, and that these should be designed in line with Plan, Ciria SuDS Manual C753 (2015, or any future replacement).³³

4.5.8 Whilst SuDS schemes are only required for major development and are normally only relevant to new build schemes, elements of them can be incorporated into non-major applications and schemes of conversions and changes of use such as to HMOs and developments of less than 10 small

²⁹ Paragraph 167 of the NPPF (footnote 55), also asks for a site-specific flood risk assessment for developments in flood Zone 1 where land may be "subject to other source of flooding, where its development would introduce a more vulnerable use". The guidance referred to in para 4.5.2 indicates that these are sources other than rivers or the sea, for example surface water drains and reservoirs.

³⁰ <https://www.gov.uk/guidance/flood-risk-assessment-for-planning-applications>

³¹ As defined in [Table 2: Flood Risk Vulnerability Classification of the \(PPG\): Flood Risk and Coastal Change.](#)

³² Whilst not forming part of their published guidance, the Environment Agency made the recommendation in its response to the consultation on this SPD.

³³ Burnley's Local Plan defines major applications as development where the number of residential units to be constructed is 10 or more or the site is 0.5 ha or more. The GPDO/NPPF says 'provided'

flats. This will be particularly relevant where the development would otherwise increase surface water run-off through, for example, increased paving of garden areas to provide bin storage or car parking.

4.5.9 Policy CC5 1) requires that in order to minimise surface water run-off, existing green infrastructure should be retained and integrated and where possible enhanced in line with Policy SP6, and that the use of permeable materials should be maximised. Clause 2) set out the discharge hierarchy.

4.5.10 What sort of sustainable drainage system is necessary and reasonably practicable should be informed by reference to the technical standards published by the Department for Environment, Food and Rural Affairs which take into account design and construction costs.³⁴

Policy CC4 1) states that the Council will seek to ensure that new development does not result in increased flood risk from any source or other drainage problems, either in the development site or elsewhere. Policy CC5 1) requires the minimising of surface water run-off and 2) sets out a hierarchy for discharge, and 3) states that in respect of major development, SuDS will be required.

4.6 Cumulative Impacts: Managing the Concentration of HMOs and Small Flats

4.6.1 The issues above highlight that individual schemes for HMOs and small flats have a number of potential impacts that need to be satisfactorily addressed.

4.6.2 In addition, HMOs in particular, when these are concentrated in a specific area, can have wider cumulative impacts that can change an area's physical and social character. These impacts can affect neighbourhoods or individual streets. They will be most acute in areas of high-density terraced housing (terraced housing makes up over 50% of Burnley's housing stock). Whilst impacts can be controlled through planning applications, permitted changes which do not require permission, when carried out alongside approved schemes, can cause negative cumulative impacts.

4.6.3 Concentrations of HMOs may occur in and around further/higher education facilities to accommodate students, around major employers and in areas that are deprived and where property values are low.

4.6.4 The impact of a concentration of HMOs (or small flats) is considered harmful if:

- It significantly adversely affects the purchase and sale of single household dwellinghouses;
- It significantly reduces the choice of housing available in specific areas;
- It no longer provides for a mixed and balanced community;
- It changes the overall physical character of the area through excessive physical works to buildings, lower levels of property maintenance,³⁵ loss of gardens etc; or
- The increased level of occupation affects the quietness of an area or creates critical parking issues.

³⁴ The judgement of what is reasonably practicable should be by reference to the [non-statutory technical standards published by the Department for Environment, Food and Rural Affairs](#) and take into account design and construction costs

³⁵ Whilst good landlords will adequately maintain a building structure and fixtures and fittings, occupants may be less invested in the property's presentation compared to someone who owns or rents their own exclusive property/outdoor space.

4.6.5 When considering proposals for HMOs and small flats, the Council will also therefore consider the potential cumulative impacts under the requirements of Policy SP4 and SP5. Cumulative impacts here is concerned with the effects of a concentration of HMOs or small flats within a specific area, as opposed to overall number of HMOs and small flats which is considered in Section 4.2 on Housing Mix. Specific issues relating to Burnley Town Centres is considered section 4.3.

4.6.6 When considering potential cumulative impacts, the appropriate scale for the assessment will be either be at 'local neighbourhood' or the 'street level'. The local neighbourhood is the area which has similar characteristics to the street where the development is proposed.

4.6.7 For HMOs, where schemes would lead to a harmful concentration as defined below, the application is likely to be refused.

- At the 'local neighbourhood' level, a harmful concentration can occur:
 - where a dwelling (C3 use), including a flat, becomes directly sandwiched between HMOs;³⁶ or
 - where HMOs currently, or would as a result of the application, represent more than 20% of the residential properties within a 100m radius of the application property in a particular neighbourhood.
- At the 'street level', a harmful concentration can occur:
 - where a dwelling (C3 use), including a flat, becomes directly sandwiched between HMOs; or
 - where there would be two or more adjacent HMO properties; or
 - where HMOs currently, or would as a result of the application, represent more than 10% of the residential properties within a 100m radius of the application property in the same street.

4.6.8 The 10 and 20% rules are a guide as to the point at which the application will trigger clustering concerns. Whether or not this alone would result in refusal of an application would depend on the particular circumstances e.g. the location of the street/neighbourhood and the size and type of properties in the neighbourhoods/street.³⁷

HMO Clustering Calculation:

$$\text{HMO Clustering Percentage} = \left[\frac{\text{Total number of residential properties in use as HMOs within 100m radius*}}{\text{Total identified residential properties within 100m radius**}} \right] \times 100$$

* including HMOs in converted buildings

** including residential properties in converted buildings

³⁶ The sandwich effect would not apply where the properties are separated by an intersecting road or where properties have a back to back relationship in different streets. Subdivided units will be considered on a case by case basis.

³⁷ Whilst there is no formal quantification/definition of the point at which an application may begin to affect the mixed nature of housing stock within the community, there is a widely accepted view within similar SPDs that imbalance occurs at around 10% of the residential properties within an area. The National HMO Lobby Paper 'Balanced Communities & Studentification (2008)' identifies 10% of properties or 20% of the population as the 'tipping-point' for HMO-dominance in a neighbourhood. <http://www.hmolobby.org.uk/39articles.pdf>

Policies SP4 2c), Policy SP5 2 e), Policy SP5 2 g) and Policy SP5 2 i) require that development proposals do not have an unacceptably detrimental impact on residential amenity or other existing land users, have respect for their townscape setting, ensure that there is no unacceptable adverse impact on the amenity of neighbouring occupants or adjacent land users, and provide adequate and carefully designed storage for bins and recycling containers, located or designed in a way which is both convenient and safe for occupants and supports the quality of the street scene.

Appendices

Appendix A – HMOs and the Housing Act (2004)

A1.1 The Housing Act 2004 clarifies the definition of a house in multiple occupation (HMO), replacing the definition under the Housing Act 1985. The definition of an HMO is found in Part 7 of the 2004 Act.³⁸

A1.2 To be defined as an HMO, a building, or part thereof, must fall within one of the following categories:

- a building or flat in which two or more households share a basic amenity, such as bathroom, toilet or cooking facilities: this is known as the 'standard test' or the 'self-contained flat test'
- a building that has been converted and does not entirely comprise of self-contained flats: this is known as the 'converted building test'
- a building that is declared an HMO by the local authority
- a converted block of flats where the standard of the conversion does not meet the relevant building standards and fewer than two-thirds of the flats are owner-occupied: this is known as a section 257 HMO

A1.3 These tests are explained in detail below.

Standard test for HMOs

A1.4 A building is an HMO under the standard test if the:³⁹

- occupants share one or more of the basic amenities (defined as a toilet, personal washing facilities and cooking facilities) or the accommodation lacks one or more of these amenities
- building does not entirely consist of self-contained flats (it may, however, comprise some self-contained units)
- building is occupied by at least three people who constitute more than one household
- building is the occupants' main residence (or should be treated as such)
- occupation constitutes the only use of the accommodation, and
- rents are payable, or some other form of consideration, for at least one person's occupation

A1.5 This test applies to the most common type of HMO. It applies to shared houses (shared by more than one household such as students) and purpose-built bedsit accommodation. It may also apply to a hostel if the accommodation does not entirely comprise of self-contained units.

Self-contained flat test

A1.6 The criteria to meet the self-contained flat test are the same as the standard test, except that they apply to an individual flat that is in multiple occupation.⁴⁰

³⁸ s.254 Housing Act 2004.

³⁹ s.254(2) and para 7, Sch. 14 Housing Act 2004

⁴⁰ s.254(2) and (3) Housing Act 2004.

A1.7 A unit of accommodation is self contained if it is a separate set of premises, and all three basic amenities are available for the exclusive use of its occupants.⁴¹

A1.8 If a building comprises both self-contained and non-self-contained accommodation and there is some sharing of facilities, then the standard test applies.

Converted building test

A1.9 The converted building test is met where:⁴²

- a building or part of a building consists of living accommodation and has been converted, where one or more of the units of accommodation have been created since the building was originally constructed
- it contains at least one unit of accommodation that is not a self-contained flat (there may be some self-contained flats)
- the accommodation is occupied by three or more persons who do not form a single household
- the accommodation is the occupants' main or only residence (or should be treated as such)
- occupation as living accommodation constitutes the only use of that accommodation
- rents are payable

A1.10 This test would apply, for example, in the case of a house converted to bedsits, where bathrooms and/or toilets are shared.

HMO declarations

A1.11 The local authority can make a declaration that a house is in multiple occupation where it is satisfied that the premises meets one of the three tests above and the occupation of the living accommodation (by more than one household) constitutes a 'significant use',⁴³ rather than 'sole use', of the property.⁴⁴

A1.12 An HMO declaration makes it clear that the building shall be regarded as an HMO for the purposes of the Act. The declaration could be used where a hotel taking short-term guests is also providing accommodation for homeless people.

A1.13 The local authority must serve a notice that the building has been declared an HMO on each relevant person (any person with an interest in the building, or who manages or has control of the building, but not a tenant) within seven days of making the decision.⁴⁵

A1.14 The notice comes into force after 28 days, which is the period for appeal to the First-tier Tribunal (Property Chamber).⁴⁶ If there is an appeal, the notice only comes into effect once it has been confirmed by the Tribunal and the time for appeal against that decision has elapsed (normally 28 days) or the Upper Tribunal confirms the notice.

⁴¹ s.254(8) Housing Act 2004.

⁴² s.254(4) Housing Act 2004.

⁴³ s.260 Housing Act 2004.

⁴⁴ s.255 Housing Act 2004; Herefordshire Council v Rohde [2016] UKUT 39 (LC).

⁴⁵ s.255(4) Housing Act 2004.

⁴⁶ Tribunal Procedure (First-tier Tribunal) (Property Chamber) Rules 2013 SI 2013/1169; the First-tier Tribunal and Upper Tribunal (Chambers) (Amendment) Order 2013 SI 2013/1187.

A1.15 The local authority may revoke the declaration at any time on its own initiative or on application by a relevant person, where the building no longer meets any of the HMO tests. If the local authority refuses an application to revoke an HMO declaration, this decision can be appealed to the First-tier Tribunal (Property Chamber) within 28 days.

Converted houses – section 257 HMOs

A1.16 Section 257 of the Housing Act 2004 applies to whole converted properties rather than individual dwellings and describes a HMO as a building:⁴⁷

- which has been converted into and consists of self-contained flats
- where the conversion work did not comply with the appropriate building standards and still does not
- where less than two-thirds of the flats are owner-occupied

A1.17 The appropriate building standards are those required by the Building Regulations 1991 or 2000 (whichever were in force at the time of the conversion).

A1.18 Owner-occupiers are those with a lease of more than 21 years or who own the freehold in the converted block of flats, or a member of the household of the person who is the owner.

Definition of a single household

A1.19 A building is considered an HMO if it is occupied by more than one household. The Housing Act 2004 defines a single household as:⁴⁸

- a family, for example a couple (whether married or not and including same-sex couples) or persons related to one another
- an employer and certain specified domestic employees
- a carer and the person receiving care
- a foster parent and foster child

Only or main residence

A1.20 To be an HMO the accommodation has to be used by persons as their only or main residence. It is usually apparent if this is the case, but secondary legislation specifies certain situations where the nature of occupation is less clear cut. These include:⁴⁹

- a residence for the purpose of undertaking full-time further or higher education
- a refuge, that is a building or part of a building used by a voluntary organisation for temporary accommodation for people who have left their home as the result of domestic violence
- occupation by migrant or seasonal workers where the employer or agent provides the accommodation
- occupation by asylum seekers and their dependents, where the accommodation has been provided under section 95 of the Immigration and Asylum Act 1999 and the accommodation is provided by a private landlord under contract to or on behalf of UKVI

⁴⁷ s.257 Housing Act 2004; Hastings BC v Turner [2020] UKUT 184 (LC).

⁴⁸ s.258 Housing Act 2004.

⁴⁹ s.259 Housing Act 2004; reg 5 Licensing and Management of Houses in Multiple Occupation and other Houses (Miscellaneous Provisions) (England) Regulations 2006 SI 2006/373.

A1.21 A hostel or night shelter providing accommodation to homeless people may be an HMO because, even if the accommodation is overnight, it is the occupants' only residence. Rent (or consideration) must be paid for the HMO definition to apply.

Exemption from HMO regulations

A1.22 Certain buildings that meet the criteria to be defined as an HMO under the Housing Act 2004 are exempt from the licensing provisions and the management regulations.

A1.23 This comprises buildings that are:⁵⁰

- managed or controlled by private registered providers of social housing, a co-operative society, local authorities and other specified public sector bodies
- buildings regulated under other legislation, for example boarding schools, prisons, accommodation centres for asylum seekers and care homes
- occupied by religious communities, unless they are section 257 HMOs
- halls of residence (or other accommodation occupied by students) that are managed or controlled by one of the educational establishments listed in the regulations
- only occupied by an owner/occupier, members of their household and no more than two tenants or licensees. This exemption does not apply to section 257 HMOs
- only occupied by two people who form two households
- properties subject to a temporary exemption notice or an interim management order

⁵⁰ Sch. 14 Housing Act 2004, as amended.

Appendix B – Burnley Council House in Multiple Occupation Standards

Space Standards

B.1 Houses in Multiple Occupation should meet the following space standards as the minimum requirements.

Table 1 – Space Standards

Minimum Bedroom Size	Total Number of People in HMO	Minimum Kitchen Size	Living / Dining Room Size
Occupant 6.51m ² Or Occupants 11m ²	3 to 5 people	7m ²	11m ²
	6 to 10 people	10m ²	16.5m ²
	11 to 15 people	13.5m ²	21.5m ²
	16+ people	16.5m ²	25m ²
Occupant 10m ² Or Occupants 15m ²	3-5 people	7m ²	No additional communal living space required
	6-10 people	10m ²	
	11 to 15 people	13.5m ²	
	16+ people	16.5m ²	

B.2 The kitchen or living room should be within one floor distance from an occupants bedroom.

HMOs with kitchen facilities for the exclusive use of the occupants (Bedsits)

B.3 A bedsit is where sleeping, living and cooking facilities are provided for exclusive use by the occupants within a single unit of accommodation (e.g. one room). It can be occupied by a maximum of two persons.

B.4 A 1 person bedroom, sitting room and kitchen must be a minimum of 13m². A 2 person bedroom, sitting room and kitchen must be a minimum of 20.5m².

Usable Space

B.5 The measured space in any room must be 'usable space'. The room should be able to accommodate the required amount of appropriate furniture easily and still allow space for movement about the room.

B.6 Any floor space that has a ceiling height of less than 1.5m shall be disregarded for the purpose of measuring the total usable space in the room.

B.7 All habitable rooms, kitchens, bathrooms and toilets shall have a minimum floor to ceiling height of 2.3m, except in the case of basements which shall have a minimum height of 2.14m.

Washing Facilities and Toilets

B.8 Where there are five or more occupiers sharing bathing and toilet facilities there must be at least one separate toilet and wash hand basin with appropriate splash back and at least one bathroom with a fixed bath or shower and toilet.

B.9 The bathrooms or shower rooms and toilets shall be readily accessible and normally not more than one floor away from the user. Shared facilities shall be accessible from a common area. Facilities must be inside the building.

B.10 Bathrooms and shower rooms must be of adequate size and be laid out in such a way as to enable persons to undress, dry and dress themselves in a safe manner.

B.11 Each bath, shower and wash hand basin shall be provided a continuous and adequate supply of hot and cold running water, designed to ensure reasonable temperature control.

B.12 Bathrooms and shower rooms must have adequate lighting, heating and ventilation. Bathrooms, shower rooms and toilets must be fit for the purpose.

B.13 The splash back to a wash hand basin or bath shall be a minimum 300mm high and extend to at least at least equal to the width of the wash hand basin and all joints shall be adequately sealed.

B.14 In the case of a shower whether in it's own compartment or over a bath, the splash-back shall be a minimum 150mm above the height of the shower head and up to the edge of a fixed shower screen (the shower screen must meet current British Standards). Where a shower curtain is used the splash-back should extend 300mm beyond the shower curtain to ensure it is waterproof.

B.15 The walls and ceilings in the bathroom, shower room and toilet should be smooth, impervious, which can be easily cleaned. The flooring should be capable of being easily cleaned and slip- resistant.

B.16 Bathrooms, shower rooms and toilets must be constructed to ensure privacy.

B.17 Any toilet provided in a separate compartment must have a wash hand basin with an appropriate splash back as detailed above.

B.18 The following table explains the sharing ratios for bathrooms and toilets.

Table 2 – Number of Bathroom>Showers and Toilet Facilities

Number of Occupants	Facilities Required
1 to 4 people	1 bathroom containing a bath or shower, toilet with a wash hand basin (the toilet with wash hand basin may be situated in a separate room).
5 people	1 bathroom containing a bath or shower, toilet with a wash hand basin. 1 separate toilet with wash hand basin.
6 to 9 people	2 bathrooms containing a bath or shower, toilet with wash hand basin.
10 people	2 bathrooms containing a bath or shower 2 toilets with wash hand basin, one of which must be in a separate room.
11 to 14 people	3 bathrooms containing a bath or shower, toilet with wash hand basin.
Bedrooms with en-suites	Where a bedroom is provided with a complete en-suite facility (bath/shower, toilet and wash hand basin) for the exclusive use of that occupant, then that occupant will be disregarded when considering the provision of washing facilities for the shared facilities in the remainder of the dwelling.

Kitchens

B.19 A kitchen, suitably located in relation to the living accommodation, and of such layout and size and equipped with such facilities so as to adequately enable those sharing the facilities to store, prepare and cook food.

B.20 The kitchen must be equipped with the following equipment (see Appendix 1 for further information), which must be fit for the purpose and supplied in a sufficient quantity for the number of those sharing the facilities:

- Sinks with draining boards
- An adequate supply of cold and constant hot water to each sink supplied
- Installations or equipment for the cooking of food
- Electrical sockets
- Worktops for the preparation of food
- Cupboards for the storage of food or kitchen and cooking utensils
- Refrigerators with an adequate freezer compartment (or, where the freezer compartment is not adequate, adequate separate freezers)
- Appropriate waste disposal facilities; and
- Appropriate extractor fans, fire blankets and fire doors.

B.21 The kitchen layout must be safe, convenient and allow good hygiene practices.

B.22 Cookers should be located away from doorways and have enough floor space for items to be safely retrieved from the oven

B.23 If two sets of facilities are provided the layout must allow them both to be used safely at the same time. No more than two sets of facilities shall be provided in any one kitchen.

Table 3 – Kitchen Facilities for Shared Use

Number of Occupants	Minimum Provision of Kitchen Facilities
3 to 5 people	<p>A complete set of kitchen facilities consisting of the following items must be provided for every five persons:</p> <p>Sink:</p> <p>A stainless steel sink, integral drainer and a tiled splash-back, on a base unit. A minimum of 300mm high should be provided to the sink and draining board, and all joints shall be adequately sealed.</p> <p>The sink must have constant supplies of hot and cold running water and be properly connected to the drains. The cold water must come directly from the rising water main. It must be possible to stand directly in front of the cooker and sink and to place utensils down on both sides of each.</p> <p>Cooker:</p> <p>A gas or electric cooker with four ring burners, oven and grill, that are capable of simultaneous use. The cooker is to be located away from doorways.</p> <p>Electrical Sockets:</p> <p>At least two double 13amp electrical power points (in addition to those used for fixed appliances, such as washing machines).</p> <p>Worktop:</p> <p>A kitchen worktop that is level, secure and impervious. The minimum dimensions are 1500mm length for 3 occupants plus 500mm per additional person.</p> <p>Storage:</p> <p>A food storage cupboard for each occupant that is at least one 500mm wide base unit or wall unit. The space in the unit beneath the sink and drainer is not allowable for food storage.</p> <p>Fridge/Freezer:</p> <p>A refrigerator with adequate freezer space. If not in the kitchen the fridge/freezer must be freely accessible and adjoining the kitchen.</p> <p>Waste Disposal:</p> <p>Appropriate waste disposal facilities must be provided</p> <p>Ventilation:</p> <p>At a minimum the window opener should be easily accessible to open and close to provide ventilation. Ideally, mechanical ventilation to the outside air at a minimum extraction rate of 60 litres/second, or 30 litres/second if the fan is sited within 300mm of the centre of the hob.</p>

6 to 7 people	A combination microwave is acceptable as a second cooker. A dishwasher is acceptable as a second sink. A refrigerator and a separate freezer.
8 to 10 people	Two complete sets of kitchen facilities as above.

B.24 Where the landlord provides a catering service the facilities must comply with the Food Hygiene (England) Regulations 2006. In addition, some self-catering facilities will need to be provided and the level of facilities required will be determined on a case-by-case basis, taking into account the level of provision by the landlord. Please contact Burnley Council for further advice.

Kitchen for Exclusive use: Bedsits:

B.25 A bedsit is where sleeping, living and cooking amenities are provided for exclusive use by occupants within a single unit of accommodation (i.e. one room).

Table 4 – Kitchen Facilities for Exclusive use: Bedsits

Minimum Provision of Kitchen Facilities for Exclusive use: Bedsits
<p>Cooking: A gas or electric cooker with a minimum two-ring hob, oven and grill.</p> <p>Storage: A food storage cupboard for each occupant that is at least one 500mm wide base unit or wall unit. The space in the unit beneath the sink and drainer is not allowable for food storage.</p> <p>Preparation: A kitchen worktop that is level, secure and impervious. The minimum dimensions are 500mm width and 1000mm length.</p> <p>Electricity: Two double 13 amp power sockets suitably positioned at worktop height for use by portable appliances, in addition to sockets used by fixed kitchen appliances, plus two double sockets located elsewhere within the bedsit.</p> <p>Washing: A stainless steel sink and integral drainer set on a base unit with constant supplies of hot and cold running water. The sink shall be properly connected to the drainage system. The cold water shall be direct from the mains supply. A tiled splash-back shall be provided behind the sink and drainer.</p> <p>Ventilation: At a minimum the window opener should be easily accessible to open and close to provide ventilation. Ideally, mechanical ventilation to the outside air at a minimum extraction rate of 60 litres/second, or 30 litres/second if the fan is sited within 300mm of the centre of the hob.</p> <p>Layout: The same principles of safe layout and design apply in bedsits as for shared kitchens. Cookers must not be located near doorways to avoid collisions.</p>

Fire Safety

B.26 The Licensing and Management of Houses in Multiple Occupation and Other Houses (Miscellaneous Provisions) (England) Regulations 2006 require appropriate fire precaution facilities and equipment must be provided of such type, number and location as considered necessary.

B.27 The Regulatory Reform Order (Fire Safety) 2005 requires all HMOs to have a sufficient risk assessment with regard to fire. The Council will usually complete joint property inspections of licensed HMOs with the Lancashire Fire and Rescue Service.

B.28 The Management Regulations require fire fighting equipment and fire alarms to be maintained in good working order.

B.29 Fire Safety guidance about fire safety provisions for certain types of existing housing is published by LACORS. This document contains advice for landlords and fire safety enforcement officers in both local housing authorities and fire and rescue authorities on how to ensure adequate fire safety.

B.30 The information in Table 5 below is summarised from the Lacors Fire Safety Guidance document and provided to help landlords understand their responsibilities and the fire safety precautions judged necessary for HMOs.

Fire Risk Assessment

B.31 A Fire Risk Assessment is required. A Fire Risk Assessment is an organised and methodical look at the premises, the activities carried on there and the likelihood that a fire could start and cause harm to those in and around the premises. The aims of a Fire Risk Assessment are:

- to identify fire hazards;
- to reduce the risk of those hazards causing harm to as low as reasonably practicable; and
- to decide what physical fire precautions and management arrangements are necessary to ensure the safety of people in the premises if a fire does start.

B.32 For all medium/large HMO's it is recommended that a professional fire risk assessment is completed.

B.33 Further useful information for landlords and agents about fire risk assessments, including a link to find a risk assessor, is available on the Lancashire Fire and Rescue Service website at: <http://www.lancsbusinessplus.org.uk/>

B.34 The following table provides examples based on typical properties that do not present a high risk.

Table 5 – Fire Safety

Area	Items	Number of Storeys		
		1 or 2	3	4+
Fire Doors	Doors to kitchens must be 30 minute fire doors with combination heat and smoke seal intumescent strips	✓	✓	✓
	Bedroom doors must be 30 minute fire doors with combination heat and smoke seal intumescent strips	✓	✓	✓
	Doors to any cellars must be 30 minute fire doors with combination heat and smoke seal intumescent strips. Note - Self closer devices should be fitted to all 30 minute fire doors.	✓	✓	✓
Fire Alarm System	Grade A* fire alarm system with smoke detectors in escape route at all levels, heat alarm in the kitchen , incorporate manual call points.	✗	✗	✓
	Grade D* fire alarm system with smoke detectors in escape route at all levels and heat alarm in the kitchen	✓	✓	✗
	Additional interlinked smoke alarms to bedrooms	✓	✓	✓
	Additional interlinked smoke alarms in any cellar *Note – For further information about Grades of fire alarm system – see LACORS Housing- Fire Safety guidance.	✓	✓	✓
Fire Fighting Equipment	Fire blanket in kitchen	✓	✓	✓
Locks on Doors	Final exit doors must have a security lock that can be opened from the inside without a key.	✓	✓	✓
	Locks on bedroom doors must be provided with a lock that can be opened without a key from the inside.	✓	✓	✓

Protected Escape Route	30 minute protected escape route. **	✓	✓	✓
	Walls and floors should be of sound, traditional construction;	✓	✓	✓
	Escape windows in each bedroom as an alternative escape route.	✓	✗	✗
	**the staircase enclosure should be of sound, conventional construction throughout the route, and the stairs should be 30 minutes fire resisting.			
Lighting of Escape Routes	Conventional artificial lighting	✓	✓	✓
	Emergency lighting Note – Emergency escape lighting required only if route is complex or where there is no effective borrowed light.	✗	✓	✓
Signage	Signage along escape routes	✗	✗	✓
	Note – Fire exit signage along escape route if the escape route is complex.			

B.35 Although the table above can't detail an exhaustive list of requirements it shows what the necessary requirements may include.

B.36 Fire safety signs/fire exit signs should be considered as part of the fire risk assessment and be fitted along the escape route if the escape route is complex.

B.37 Landlords are required to test and maintain fire alarm and emergency lighting systems in accordance with the British Standards.

Grade A fire alarm systems should be tested weekly. The system must be inspected and serviced at periods not exceeding six months in accordance with the recommendations of Clause 45 of BS 5839-1:2017. An inspection and servicing certificate of the type contained in H.6 of BS 5839-1:2013 should be issued by a suitably qualified and competent person.

Emergency lighting systems should be tested regularly/a minimum of monthly – self certified by landlords, and a full system test and service must be completed annually by a competent person in line with BS5266.

Grade D fire alarm systems should be tested at reasonable intervals/a minimum of 3 monthly. Testing and maintenance must be in accordance with the manufacturer's instructions. Landlords can self-certify this has been completed.

Higher Risk Houses

B.38 If the property is of a non-standard layout or if the occupants present a higher risk due to factors such as drug/alcohol dependency or limited mobility then the risk may increase and additional precautions may need to be taken. This must be factored into your Fire Risk Assessment.

B.39 An example of a non-typical layout is 'inner rooms' where the bedroom is located such that the occupant passes through risk rooms (living rooms, kitchens or dining rooms) in order to reach the means of escape. There are various solutions available such as escape windows or water suppression systems; these should be discussed with a case officer before undertaking works.

The Management of HMO's

B.40 The Management of Houses in Multiple Occupation (England) Regulations 2006 apply to all HMOs (except those consisting entirely of self-contained flats) whether they require a licence or not. These regulations cover the manager's and occupiers responsibilities to maintain the property in a clean and safe condition

B.41 Anyone failing to comply with any part of the regulations is committing an offence and could be prosecuted by the Council.

B.42 For HMOs consisting of self-contained flats, then The Licensing and Management of Houses in Multiple Occupation (Additional Provisions) (England) Regulations 2007 apply.

Definitions:

B.43 The regulations refer to 'the manager' of an HMO. This is the person managing the HMO. It may be the landlord, manager or agent.

B.44 A 'household' is the individual or family occupying the property. For a shared house (eg of students) each person would be considered as a 'household' for the purposes of the Regulations.

B.45 'Common parts' are all the areas both inside and outside the property used by more than one household.

B.46 'Living accommodation' is the room(s) let to a household for their personal use.

B.47 The Manager of a HMO Must:

Provide Information to Occupiers	<ul style="list-style-type: none"> ✓ Make each occupier aware of his name, address and contact telephone number ✓ Display these details in a prominent position in the property (usually in a common area of the HMO)
Duty to Take Safety Measures	<ul style="list-style-type: none"> ✓ Maintain means of escape from fire in a safe condition and keep them free from obstruction. ✓ Maintain any fire-fighting equipment and alarms in good working order. ✓ Ensure that all notices indicating the fire escape route are displayed in positions which enable them to be clearly seen by

	<p>occupants (<i>this does not apply where the HMO has four or fewer occupiers</i>)</p> <ul style="list-style-type: none"> ✓ Take steps to protect occupiers from injury having regard to: <ul style="list-style-type: none"> ○ The design of the HMO ○ The structural conditions in the HMO ○ The number of occupiers in the HMO. ○ Making sure any balconies or roofs accessible from the property are safe. ○ Fitting bars or other safeguards to openable windows on the first floor or higher which have a low sill to prevent the window being opened so far that an occupier could fall.
Maintain Water Supply and Drainage	<ul style="list-style-type: none"> ✓ Keep the water supply and drainage system in good working condition, ensuring:- <ul style="list-style-type: none"> ○ Any water storage tank is provided with a suitable cover. ○ Water fittings liable to frost damage should be protected. ✓ The manager must not unreasonably cause or permit the water or drainage supply to be interrupted.
Supply and Maintain Gas and Electricity	<ul style="list-style-type: none"> ✓ Ensure that gas and electricity supplies are maintained in a safe condition. ✓ The manager must not unreasonably cause the gas or electricity supply to be interrupted. ✓ If the Council make a request in writing, provide a copy of the latest gas appliance test certificate within 7 days. ✓ Arrange to have every fixed electrical installation inspected and tested (by a person qualified to do this) every 5 years as a minimum, and obtain a certificate to show the results. If the Council make a request in writing, provide a copy of the latest test certificate within 7 days. ✓ If you provide portable electrical appliances, you will need to supply a PAT test certificate.
Maintain Common Parts, Fixtures, Fittings and Appliances	<ul style="list-style-type: none"> ✓ Keep all common parts: <ul style="list-style-type: none"> ○ In good and clean decorative repair ○ In safe and working condition ○ Prevent the obstruction of these areas. ✓ Make sure all handrails and banisters are in good repair (and provide additional rails or banisters if necessary); stair coverings must be secure and in good condition. ✓ Make sure all windows or other means of ventilation are in good repair.

	<ul style="list-style-type: none"> ✓ Provide adequate light fittings, available for use at all times. ✓ Maintain fixtures, fittings or appliances in good working order. (This does not apply to anything brought in by an occupier). ✓ Keep outbuildings, yards, forecourts maintained in repair, clean condition and good order. ✓ Keep gardens safe and tidy ✓ Keep boundary walls fences and railings etc in good condition and safe. ✓ Make sure any parts of the property which are not in use are also kept clean and free from obstruction including refuse and litter.
Maintain Living Accommodation	<ul style="list-style-type: none"> ○ Make sure that living accommodation and any furniture supplied with it are clean at the beginning of a person's occupation. ○ Keep in good repair and maintained (this does not apply to anything brought in by the occupier): ○ The internal structure ○ Any fixtures, fittings and appliances within each area of living accommodation ○ Every window and other means of ventilation.
Provide Waste Disposal Facilities	<ul style="list-style-type: none"> ✓ Ensure that sufficient bins are provided for occupiers to store refuse and make arrangements for the disposal of refuse having regard to the service provided by the Council.

Occupiers of a HMO's:

B.48 The Regulations also place a number of duties upon the occupiers/tenants of an HMO. These duties include:

1. Do nothing to hinder the manager in carrying out his duties.
2. Allow the manager, or someone acting on his behalf, to enter at all reasonable times. (before entering for anything other than an emergency the manager must give 24 hours notice).
3. Provide information the manager may need to carry out his duties.
4. Take care to avoid damage to anything the manager is legally required to provide.
5. Store and dispose of refuse and litter correctly.
6. Comply with reasonable instructions regarding fire safety.

Waste Disposal

B.49 HMOs occupied by separate and multiple households generate more waste than a single family. The Council are committed to reducing environmental crime. To do this it is important that the landlord of the HMO provides the occupants with the appropriate facilities for storing rubbish.

B.50 To encourage occupants to recycle waste, internal storage areas should be designed to enable occupants to segregate their waste into refuse and recyclables and to store it temporarily until it can be transferred to external bins.

B.51 Where provision for internal storage is included, occupants should be supplied with container(s) for the internal segregation of waste for recycling. Burnley Borough Council does not provide such containers.

B.52 Options that landlords may wish to consider are kitchen units with pull out drawers and separate containers. There are several such products on the market.

B.53 The containers described below should be able to be stored within the external boundary of each property. Container storage areas should be in a convenient position to enable the householder to wheel them to the kerbside for collection.

B.54 Occupiers are required to present their containers at the kerbside on collection day and return them to the storage area as soon as possible following collection.

Table 6 – Waste Disposal and Recycling

Number of Occupants	Refuse	Recycling Paper/Card	Recycling Glass, Cans, Plastic Bottles
1 to 4 people	1x 240 litre bin	White Sack	Blue box
5 to 8 people	2x 240 litre bin	White Sack	Blue box
9 to 12 people	3x 240 litre bin	White Sack	Blue box

B.55 If additional recycling facilities are required please contact Burnley Council's Streetscene Department for further advice on 01282 425011.

Appendix C - National, Regional & Local Policies

National Planning Policy Guidance

C.1 National planning policy exists in the form of the NPPF and a small number of other policy documents and written ministerial statements, supported by an online practice guidance covering a series of themes – See ministry of Housing, Communities and Local Government website:

<https://www.gov.uk/guidance/national-planning-policy-framework>

Local Plan Policy

Policy SP4: Development Strategy

1) Development will be focused on Burnley and Padiham with development of an appropriate scale also supported in the following main and small villages:

Settlement Hierarchy:

Tier	Category	Settlement	
1	Principal Town	Burnley	<p>Role & Function: Principal service centre for the Borough and home to the majority of the borough's population and a town of a sub-regional importance for retail, leisure and public administration and services with excellent public and private transport links.</p> <p>Development Scale Housing: Large scale, major and a variety of smaller sites to deliver a comprehensive range of choice of types and tenures. Employment: Large scale, medium and a variety of smaller sites to deliver a comprehensive range of units for new and existing businesses and employment opportunities for new and existing residents. Retail: Sub regional centre for retailing and the principal retail destination for the borough. Town centre with defined Town Centre boundary and defined Primary Shopping Area and Primary and Secondary Frontages where new development will be concentrated including through a new allocation and by virtue of its size.</p>
2	Key Service Centre	Padiham	<p>Role & Function: A key service centre and public transport hub for the surrounding villages and rural areas and home to a significant proportion of the borough's population.</p> <p>Development Scale Housing: Large scale, major and a variety of smaller sites to deliver a comprehensive range of choice of types and tenures. Employment: Large scale, medium and a variety of smaller sites to deliver a comprehensive range of units for new and existing businesses and employment opportunities for new and existing residents. Retail: Town centre with defined Town Centre boundary with a supporting role to Burnley in the retail hierarchy where by virtue of its smaller size, more modest development would be focussed.</p>
3	Main Village	Hapton Worsthorne	<p>Role & Function: Predominantly residential areas but with some local employment sites, which provide a limited but reasonable range of services to the local community and local businesses and have good public and private transport links to larger towns.</p> <p>Development Scale</p>

4	Small Village	Clow Bridge Mereclough Lane Bottom Hurstwood Overtown Holme Chapel Walk Mill	<p>Housing: Medium and small scale sites to deliver quality and choice and modern adaptable stock for existing and new residents and to deliver aspirational housing and support and enhance existing service provision.</p> <p>Employment: Small scale schemes to provide opportunities for new and existing businesses and employment opportunities for new and existing residents.</p> <p>Retail: No defined centre – local shops to serve local community</p> <p>Role & Function: Predominantly residential areas but with some small scale local/rural employment sites, which provide a basic range of services to the local community and local businesses and have reasonable public and private transport links to larger towns and villages.</p> <p>Development Scale</p> <p>Housing: Small scale schemes to deliver quality and choice and modern adaptable stock for existing and new residents and support and enhance existing service provision.</p> <p>Employment: Limited small scale schemes to provide opportunities for new and existing rural businesses or rural diversification and employment opportunities for new and existing residents.</p> <p>Retail: No defined centre – local shops or facilities selling basic convenience goods to serve local community.</p>
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Development Boundaries and development within them

2) In addition to those sites specifically allocated for development in policies elsewhere in this Plan, new development will be supported within the Development Boundaries as defined on the Policies Map where it is of an appropriate type and scale bearing in mind the role of the settlement in the hierarchy and where it satisfies the following overarching criteria and other relevant policies of this Plan:

- a) It makes efficient use of land and buildings;
 - b) It is well located in relation to services and infrastructure and is, or can be made, accessible by public transport, walking or cycling; and
 - c) It does not have an unacceptably detrimental impact on residential amenity or other existing land users.
- 3) In considering the acceptability of development proposals on unallocated sites within these Development Boundaries, consideration will also be given to:
- a) Whether schemes appropriately re-use existing buildings and infrastructure; or
 - b) Whether schemes make use of previously-developed land that is not of recognised high biodiversity value.

Development in the Open Countryside

4) The open countryside is defined as land beyond any Development Boundary. In the open countryside development will be strictly controlled.

Coalescence

5) Development proposals should not lead to the coalescence of settlements.

Policy SP5: Development Quality and Sustainability

The Council will seek high standards of design, construction and sustainability in all types of development. Proposals will be expected to address the following minimum requirements, as appropriate to their nature and scale:

1) Energy Efficiency

- a) Incorporate measures to minimise energy and water consumption;
- b) A BREEAM Assessment must be carried out for all non-residential development with a floor space above 1,000m² and a rating of 'Very Good' or better will be expected;
- c) Seek opportunities for on-site energy supply from renewable and low carbon energy sources; and
- d) Seek opportunities to contribute to local and community-led renewable and low carbon energy initiatives.

2) Design and Layout

- a) Respect existing, or locally characteristic street layouts, scale and massing;
- b) Contribute positively to the public realm and avoiding unnecessary street clutter;
- c) Maximise the benefits of any waterfront locations, and at canalside locations optimising views and natural surveillance of the canal and opportunities for public access to it;
- d) Provide for new open space and landscaping which enhances and/or provides mitigation against loss of biodiversity and assists with the physical and visual integration of new development;
- e) Have respect for their townscape setting and where appropriate, landscape setting;
- f) Be orientated to make good use of daylight and solar gain;
- g) Ensure there is no unacceptable adverse impact on the amenity of neighbouring occupants or adjacent land users, including by reason of overlooking;
- h) Not result in unacceptable conditions for future users and occupiers of the development; and
- i) Provide adequate and carefully designed storage for bins and recycling containers. These should be located or designed in a way which is both convenient and safe for occupants and supports the quality of the street scene.

3) Key Gateways

- a) Where development is at or highly visible from a Key Gateway identified on the Policies Map, it should address in its design, orientation and layout, the Key Gateway and its particular nature/location and include where appropriate:
 - i) a landmark building;
 - ii) landmark tree planting;
 - iii) public art (can be incorporated into the public realm); or
 - iv) a carefully designed gentle transition from countryside to town.

4) Materials

- a) **Use a palette of high quality materials which are appropriate** to the local context in all respects including: type, colour, texture, element size and laying pattern and avoid unnecessary and excessive patterning;
- b) **Where contemporary materials are appropriate, use these in manner which respects the established character of the locality; and**
- c) **Wherever practical, use low embodied energy materials, including materials that are sourced locally or involve the appropriate reuse of existing resources through the conversion of existing buildings or reuse of demolished structures.**

5) **Accessibility**

- a) **Seek to incorporate and promote sustainable methods of transport, including cycle routes, walking routes and good links to public transport; and**
- b) **Be inclusive and accessible to all and promote permeability by creating places that connect with each other and with existing services and are easy to move through.**

6) **Security**

- a) **Be designed with the safety and security of occupants and passers-by in mind, helping to reduce crime and the fear of crime including through increasing the opportunity for natural surveillance.**

Policy HS4: Housing Developments

- 1) **New housing developments should be high quality in their construction and design in accordance with Policy SP5.**
- 2) **For schemes of more than 50 dwellings, planning applications should include a phasing plan which should include details of the proposed phasing, temporary works and security measures which should demonstrate an acceptable standard of development and amenity for early residents and existing adjacent residents.**
- 3) **In addition, the Council will require new housing developments to:**
 - a) **Provide private and functional outdoor space for occupants. For flats and mews/courtyard developments, outdoor space may be shared;**
 - b) **Be well laid out to ensure habitable rooms⁵¹ receive adequate levels of daylight; and**
 - c) **Provide appropriate levels of privacy and outlook for occupants and for existing adjacent residents. Unless an alternative approach is justified to the Council's satisfaction, the following privacy distances will apply:**

Type	Situation	Minimum distance
Single storey and two storey dwellings:	Between facing windows of habitable rooms	No less than 20 metres

⁵¹ Habitable rooms are those in a dwelling house other than landing bathrooms toilets and utility rooms

Single storey and two storey dwellings:	Where windows of habitable rooms face: ⁵² <ul style="list-style-type: none"> • a blank gable; or • other windows serving non-habitable rooms. 	No less than 15 metres
Three storey dwellings/apartments or where levels creates a significant difference in heights	For each additional storey above 2 storeys or where levels creates a significant difference in heights	As above plus an additional set back of 3 metres

Adaptable Homes

- 4) For schemes over 10 dwellings, 20% of dwellings should be designed to be adaptable to support the changing needs of occupiers over their lifetime, including people with disabilities complying with the optional technical standards of Part M4(2) of the small 2010.**

Open Space provision in new housing development

- 5) New housing developments will be required to provide or contribute to public open space provision as follows.**
- a) Proposals for 50 dwellings or more will be expected to incorporate recreational public open space to a minimum standard of 0.3 Ha per 50 dwellings or a proportion thereof, in accordance with the Fields in Trust Standard of 2.4 hectares per 1,000 population; or exceptionally, provide or pay a contribution in lieu of part or all of the open space provision for the creation or benefit of existing public open space nearby.**
 - b) Proposals for new housing developments of between 10 and 49 dwellings will be expected to provide public open space in line with the above standard. Where such a public open space is impracticable or unusable the Council will negotiate with the developer the payment of a commuted sum for the benefit of existing Public open space nearby.**
 - c) Proposals for new housing development of between 5 and 9 dwellings will be expected to provide the payment of a commuted sum in accordance with the Council's published schedule of fees for the benefit of existing or proposed public open space nearby.**
- 6) As part of the overall recreational space requirement referred to in 5) above, developers of housing sites comprising predominantly family housing, will be required to provide 0.09 Ha (0.23 acres) of equipped children's play space per 50 dwellings, or proportion thereof.**
- 7) Where public open space is provided in new housing development, it must normally be a single plot with a minimum functional size of 1,200m² and be overlooked by adjoining properties. It should landscaped to a high standard of design and the space must be usable, and easily accessible by all residents, including those with disabilities, and provide a safe place to play and relax whilst not causing a nuisance to nearby residents. The type of open space should have regard to the local needs and standards for all types of open space set out in the Council's Green Spaces Strategy.**
- 8) Landscaping works and the provision of play equipment and its future maintenance is the responsibility of the developer; where public open space is provided on-site, the developer will be expected to fund its maintenance for a period of at least 20 years, or put in place a sustainable scheme of management;**

⁵² Windows within a 45° angle of each other

- 9) Open space provision should be designed to deliver multifunctional benefits in particular by:
 - d) Providing and contributing to a wider network of green infrastructure as set out in Policy SP6;
 - e) Working with and retaining important existing landscape character, features, trees and habitats in accordance Policy NE1, 3 and 4;
 - f) Contributing to the provision of Sustainable Drainage Systems in accordance Policy CC5.
- 10) Public open spaces provided under this policy will subsequently be protected as Open Space under Policy NE2.

Policy TC2 Development within Burnley and Padiham Town Centres

- 1) The Council will seek to maintain and enhance the retail and service function of Burnley and Padiham Town Centres, the boundaries of which are defined on the Policies Map. Main Town Centre Uses which accord with other relevant policies elsewhere in the Plan will be supported in the following locations:
 - a) Proposals for retail development (A1 Use Class) will be supported within the Primary Shopping Area for Burnley or within the Town Centre of Padiham.
 - b) Proposals for comparison retailing (A1 Use Class) should normally be located within the Primary Shopping Area of Burnley or within the Town Centre of Padiham.
 - c) Proposals for convenience retailing (A1 Use Class) will be supported within the Town Centres of Burnley and Padiham.
 - d) Subject to the limits set out in Policy TC3, proposals for other retail uses (A2-A5) and other main town centre uses will be supported within the Town Centres of Burnley and Padiham.

Sequential Test⁵³

- 2) Proposals for comparison retailing (A1 Use Class) that do not comply with 1) b) due to a lack of suitable sites are required to be located in accordance with the following sequential test:

Burnley:

 - a) Edge of Centre locations (300m of the Primary Shopping Area); other Town Centre locations; edge of centre locations (300m of the Town Centre Boundary); out of Centre.

Padiham:

 - b) Edge of Centre locations (300m of the Town Centre Boundary); out of Centre.
- 3) Proposals for convenience and other retailing (A1 to A5 Use class) and other main town centre uses are required to be located in Town Centres. Where suitable sites are not available, these are required to be located in accordance with the following sequential test: Edge of Centre locations (300m of the Town Centre boundary); out of Centre.
- 4) When considering the sequential tests above, preference will be given to accessible sites that are well connected to the Primary Shopping Area /Town Centres. Applicants will be expected to demonstrate flexibility on issues such as format and scale.

⁵³ This requirement does not apply to small scale rural or local uses (Policies EMP4 and EMP5). Separate policy provisions also apply in District Centres - Policy TC6 and for uses in the Weavers' Triangle - Policy TC5

Impact Assessment

5) Proposals for main town centre uses which do not comply with 1) a) to d) above, or are not specifically allocated for town centre uses, should be supported by an Impact Assessment addressing the following:

- a) The impact of the proposal on existing, committed and planned public and private investment in a centre or centres in the catchment area of the proposal; and
- b) The impact of the proposal on town centre vitality and viability, including local consumer choice and trade in the town centre and wider area, up to five years from the time the application is made. For major schemes where the full impact will not be realised in five years, the impact should also be assessed up to ten years from the time the application is made.

6) The requirement for an Impact Assessment will apply to proposals of the following size/type:

Retail:

- i) Burnley – 1,000 sq.m gross and above
- ii) Padiham – 500 sq.m gross and above

Other Main Town Centre Uses:

- iii) 2,500 sq.m and above

7) Where an application fails to satisfy the sequential test or is likely to have significant adverse impact on one or more of the above factors set out in 5 a) and b), it will be refused.

Residential

8) Proposals for residential development, including new build, conversion or change of use on appropriate sites within the Town Centres will be considered favourably subject to meeting the other policy requirements of the Plan where:

- a) Within Burnley Primary Shopping Area and within Padiham Town Centre these are located on upper floors;
- b) In Burnley Town Centre outwith the Primary Shopping Area, they do not lead to a concentration of residential uses which undermines the overall mix of main town centres uses.
- c) The development does not prejudice the lawful operating conditions or viability of adjacent land uses.

Policy NE5: Environmental Protection

1) Development proposals, as appropriate to their nature and scale, should demonstrate that environmental risks have been evaluated and appropriate measures have been taken to minimise the risks of adverse impacts to air, land and water quality, whilst assessing vibration, heat, energy, light and noise pollution both during their construction and in their operation.

Air Quality

2) The Council will seek to ensure that proposals for new development will not have an unacceptable negative impact on air quality and will not further exacerbate air quality in AQMAs or contribute to air pollution in areas which may result in an AQMA. Applicants should consult with the Council's environmental health service to establish if the proposed development is located within an AQMA.

3) An air quality assessment will be required where a development may result in a significant increase in air pollution, or lead to a significant deterioration in local air quality resulting in unacceptable effects on human health, local amenity and/or the environment. Assessments shall address the following:

- a) The existing background levels of air pollution;
 - b) Existing developments and sources of air pollution throughout the borough and the cumulative effect of planned developments; and
 - c) The feasibility of any mitigation measures that would reduce the impact of the development on local air quality.
- 4) The Council will support and promote the provision of charging points for ultra-low emission vehicles.

Light Pollution

5) New lighting schemes should be appropriate to the type of development and its location. Proposals for outdoor lighting should not have an unacceptable adverse impact by reason of light spillage or glare on neighbouring building/uses, the countryside, highway safety or biodiversity in line with Policy NE4. Where appropriate, a light impact assessment will be required as part of the application submission.

Noise Pollution

6) Developments generating noise which is likely to create significant adverse impacts on health and quality of life and cannot be mitigated and controlled through the use of conditions or through pre-existing effective legislative regimes, will not be permitted.

Contaminated Land

7) On sites that are known to be or potentially contaminated, applicants will be expected to carry out an appropriate survey by a suitably qualified and experienced person.

- a) A Phase 1 Desk Study will be required for any application which results in a sensitive end use on a site where such a site is or may be contaminated by virtue of previous users.
- b) A Phase 2 Study will be required if the site is known or identified as having high levels of contamination. A Remediation Strategy shall be provided by the developer to bring the site to an acceptable level of condition which is relevant to the proposed use.

Unstable Land

8) On sites that are known to be or where there is reason to suspect them to be unstable and the risk of instability has the potential to materially affect either the proposed development or neighbouring uses/ occupiers, applicants will be expected to carry out an appropriate assessment by a suitably qualified and experienced person to demonstrate that the proposed development is safe and stable or can be made so. This should:

- a) Include a preliminary assessment including a desk based survey of the previous uses of the site and their potential for instability in relation to the proposed development; and**
- b) Where the preliminary assessment establishes that instability is likely but does not provide sufficient information to establish its precise extent or nature, site investigation and risk assessment must be carried out to determine the standard of remediation required to make the site suitable for its intended use.**

9) Where remediation, treatment or mitigation works are considered necessary to make the site safe and stable and/or to protect wider public safety, conditions or obligations will be imposed to ensure appropriate works are completed prior to the commencement of development or in accordance with an alternative programme agreed.

Water Quality

10) Development will not be permitted where it would have an adverse effect on the quality or quantity of groundwater resources or watercourses and water bodies.

Houses in Multiple Occupation and Small Flats SPD:

Schedule of Representations Received and Recommended Responses - Appendix B to Executive Report, 6 April 2022

Please note: The comments received, and the recommended responses do not take account of the proposed changes set out in the government's White Paper: 'Planning for the Future - August 2020'

Comment Ref.	Consultee	SPD Ref.	Comments/Key Issues raised	Recommended Response
1	National Highways	General	There are no comments we feel we need to make.	Noted
2	Historic England	General	<p>Historic England is the Government's statutory adviser on all matters relating to the historic environment in England. We are a non-departmental public body established under the National Heritage Act 1983 and sponsored by the Department for Culture, Media, and Sport (DCMS). We champion and protect England's historic places, providing expert advice to local planning authorities, developers, owners, and communities to help ensure our historic environment is properly understood, enjoyed, and cared for.</p> <p>We would encourage you to consider the historic environment in the production of your SPD. We recommend that you seek advice from the local authority conservation officer and from the appropriate archaeological staff. They are best placed to provide information on the historic environment, advise on local historic environment issues and priorities, indicate how heritage assets may be affected and identify opportunities for securing wider benefits through the conservation and enhancement of the historic environment.</p>	Noted. The Council's Principal Planner with responsibilities for Heritage and Design has been involved in the drafting and amending of the SPD.
3	Lancashire County Council	General	Lancashire County Council is the Lead Local Flood Authority (LLFA) for the County Council's administrative area. The Flood and Water Management Act (FWMA) sets out the requirement for the LLFA to manage 'local' flood risk (flooding from surface water, groundwater, and ordinary watercourses) within their area.	Noted

			The Lead Local Flood Authority has issued the Local Planning Authority with 'LLFA Standing Advice for Minor Developments' and it is strongly advised this is applied during the processing of all minor development applications.	
4	Lancashire County Council	Section 5.19 Flood Risk	<p>Section 5.19 includes a small section relating to flood risk but does not correctly set out the requirements under the NPPF that trigger the need for a site-specific flood risk assessment. This should be written as follows:</p> <p>A site-specific flood risk assessment may be required when developing or carrying out a change of use to a HMO, particularly where this may increase the risk to occupants, for example, through the creation of sleeping accommodation on the ground floor. A site-specific flood risk assessment must be submitted where required under paragraph 167 of the NPPF (footnote 55), including for all developments in flood zones 2 and 3, or where development will result in a change to a more vulnerable use, for example, offices to residential dwellings, where the land may be subject to flooding from any source, including fluvial, surface water, groundwater, reservoirs and canals. The vulnerability of a development is listed in table 2 of the flood risk and coastal change planning practice guidance (PPG). In line with Local Plan Policy CC4, the Council will seek to ensure that development does not result in increased flood risk and where necessary, that mitigation is included to protect occupiers.</p> <p>An increase in the vulnerability of the development may mean further mitigation measures are required to protect the occupants against flooding. This may require property flood resilience measures to be fitted. Further advice on this is available on the Flood Hub (https://thefloodhub.co.uk/)</p>	<p>Separate sections on the considerations for HMOs and flats in the draft SPD have now been merged into a single Section 4. Flood risk is addressed at Section 4.5</p> <p>Requirements for Site Specific Flood Risk Assessments are set out in Local Plan Policy CC4.</p> <p>The text of the SPD has been updated to add reference to the amended NPPF policy wording now set out in its footnote 55 and to explain that even where a formal Site Specific Flood Risk Assessment (SSFRA) is not triggered, in order to satisfy the requirements of Policy CC4, the Council will seek to ensure that development does not result in increased flood risk and where necessary, that mitigation is included to protect occupiers.</p> <p>Links to the national guidance for applicants on flood risk and undertaking SSFRAs has been added, as has a link to the North West Flood Hub.</p>
5	Lancashire County Council	Omission: Sustainable Drainage Systems	The SPD contains no reference to sustainable drainage systems (SuDS). A section on SuDS should be added to ensure developments satisfy the requirements of the NPPF (Paragraphs 167 and 169) and Policy CC5 of Burnley's Local Plan. This should be written as follows: Under Paragraph	Local Plan Policy CC5 3) states that in respect of major developments SuDs will be required, and that these should be designed in line with Plan, Ciria SuDS Manual C753 (2015, or any future replacement. This

		<p>167 of the NPPF, development should incorporate sustainable drainage systems, unless there is clear evidence that this would be inappropriate.</p> <p>These should be designed in line with policy CC5 of Burnley's Local Plan, Ciria SuDS Manual C753 (2015, or any future replacement), and paragraphs 167 and 169 of the NPPF and the PPG. In line with paragraph 169 of the NPPF, these systems should have appropriate minimum operation standards in line with the Defra Technical Standards for Sustainable Drainage Systems (or any future replacement), have maintenance arrangements in place to ensure an acceptable standard of operation for the lifetime of the development and provide multifunctional benefits.</p> <p>For example, development of HMOs and small flats, including the conversion of existing buildings, should incorporate SuDS components such as rainwater harvesting, green roofs and walls, permeable paving and geocellular storage. These can be retrofitted when carrying out alterations to any hardstanding areas or buildings. It is also important that existing permeable surfacing should be retained, and due consideration given to securing this for the lifetime of the development e.g., through removal of permitted development rights, covenant etc. Permeable paving must be used if converting existing permeable surface to hardstanding areas, as replacing permeable surface with impermeable surface over time will result in increased runoff and flood risk.</p>	<p>policy is consistent with new* national policy in Paragraph 167 of the NPPF 2021 which, states that <u>major</u> developments should incorporate sustainable drainage systems, unless there is clear evidence that this would be inappropriate. It is also consistent with the guidance in the NPPG.</p> <p>The SPD focuses on conversions and changes of use where in most instances, these are not major development and full SuDS compliance is neither necessary or practical.</p> <p>However, reference to SuDS and Policy CC5 3) has been added to Section 4.5 and further text has been added to state:</p> <p><i>“Whilst SuDS schemes are only required for major development and are normally only relevant to new build schemes, elements of them can be incorporated into non-major applications and schemes of conversions and changes of use such as to HMOs and developments of less than 10 small flats. This will be particularly relevant where the development would otherwise increase surface water run-off through for example increased paving of garden areas to provide bin storage or car parking.</i></p> <p><i>The judgement what sort of sustainable drainage system is necessary and reasonably practicable should be informed by reference to the technical standards published by the Department for Environment, Food and Rural Affairs and take into account design and construction costs.”</i></p>
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				*This was not a requirement on the 2012 version of the NPPF to which the Local Plan was written.
6	Environment Agency	Section 5.19 Flood Risk	<p>We are pleased to see that flood risk is included in section 5 as an issue for consideration against HMOs. However, we would advise that the LPA expands this, and also includes consideration of flood risk for flats, given that both types of residential development are particularly vulnerable to flooding where habitable accommodation is included at basement and/or ground floor levels. Providing additional guidance would help to prevent the inappropriate planning proposals coming forward for HMOs and flats that would be at risk of flooding.</p> <p>It should be made clear that basement dwellings are classed as ‘highly vulnerable’ to flooding, as defined in Table 2: Flood Risk Vulnerability Classification of the Planning Practice Guidance (PPG): Flood Risk and Coastal Change. Tables 1 and 3 of PPG (Flood Risk and Coastal Change) make it clear that ‘highly vulnerable’ development is incompatible with Flood Zone 3 and should not be permitted.</p> <p>We would recommend that LPA considers including in the SPD that ‘more vulnerable’ HMOs, with sleeping accommodation on the ground floor, and self-contained ground floor flats, would be unlikely to be granted planning permission where internal flooding remains in a 1% annual probability design flood, plus an allowance for climate change, unless robust additional flood resistance and resilience measures are confirmed, together with the identification of a safe refuge above the flood level and the provision of a flood warning and emergency response plan.</p>	<p>Separate sections on the considerations for HMOs and flats in the draft SPD have now been merged into a single Section 4.</p> <p>Flood risk is addressed at Section 4.5 and additional text has been to reflect the NPPG guidance in relation to basement dwellings in Zone 3; and also to include the EA’s recommendation in relation to sleeping accommodation in a basement or sleeping accommodation on the ground floor.</p>
7	Cadent Gas	General	<p>Following a review of the SPDs at the above link, please can I have a contact to discuss the high-level plans being proposed and how Gas supply in particular has been considered?</p> <p>It would be prudent for any new proposed builds, conversions/changes of use to existing structures/supplies to be reviewed from a network perspective, if new gas supplies or changes to demand are expected.</p>	Noted. Contact has been made with Cadent Gas for further discussions. No changes proposed as a result.

			<p>Although we have a dedicated connections team to review individual cases, larger scale developments are shared in this manner with ourselves - so again a contact to discuss the proposals would be useful. Visibility of your energy plan for these proposed changes may prompt us to reserve / model or make the capacity available, with a view to avoiding/reducing lead times for any potential reinforcements required to the gas network to facilitate growth etc.</p> <p>It may also be useful to look at the current supply/service to these buildings as they may be in a future programme for replacement to plastic if they are currently metallic.</p>	
8 Page 107	Homes England	General	<p>Homes England is the government's housing accelerator. We have the appetite, influence, expertise, and resources to drive positive market change. By releasing more land to developers who want to make a difference, we're making possible the new homes England needs, helping to improve neighbourhoods and grow communities.</p> <p>Homes England does not wish to make any representations on the above consultation. We will however continue to engage with you as appropriate.</p>	Noted.

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Strategic Risk Register

REPORT TO EXECUTIVE



DATE	06/04/2022
PORTFOLIO	Resources and Performance Management
REPORT AUTHOR	Ian Evenett
TEL NO	01282 425011 Ext 7175
EMAIL	ievenett@burnley.gov.uk

PURPOSE

1. To update members on the Strategic Risk Register.

RECOMMENDATION

2. That the Executive agree the Strategic Risk Register

REASONS FOR RECOMMENDATION

3. The Audit and Standards Committee have recommended the Strategic Risk Register to the Executive.
4. That the Executive receive the Strategic Risk Register.

SUMMARY OF KEY POINTS

Strategic Risk Register

5. The Strategic Risk Register (Appendix 1) was last presented to the committee in Jan.
6. Since then the revised Strategic Plan has been agreed in February and this requires an update to the risk register as they represent the actions that the council take to reduce these risks. These have been incorporated.
7. Other work has been included in Risk Ref 11 relating to Malicious Attack, in the Council’s work on Anti-Phishing training.
8. Strategic Actions which no longer relate to the risks have been removed.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

9. None

POLICY IMPLICATIONS

10. None

DETAILS OF CONSULTATION

11. Audit & Standards Committee 17th March

BACKGROUND PAPERS

12. None

FURTHER INFORMATION

PLEASE CONTACT:

**Ian Evenett (Internal Audit Manager) Ext
7175**

ALSO:



Burnley Borough Council

Strategic Risk Register

09 March 2022

Strategic Risk Register Summary

ID	Risk Description	Risk Score
1	Financial stability	9
9	Risks in responding to demographic changes and increased deprivation	9
6	Inability to deliver the regeneration programme	6
4	Changes in the political landscape	6
5	Changes in national policy/legislation	6
8	Inability to influence key decision makers	6
10	Workforce, skills and capacity challenges	6
14	Failure to respond to a widespread illness	6
2	Maintaining Partnership Performance	4
3	Damage to the Council's reputation	4
7	Inability to drive improvements through information technology	3
11	Malicious Attack	3
12	Safeguarding Failure	3
13	Environmental Event	3

Risk Prioritization Matrix

Likelihood	3		4, 5, 10	1, 9	Red High
	2		2, 3	6,8,14	Amber Medium
	1			7, 11, 12, 13	Green Low
		1	2	3	
		Impact			

Likelihood	Impact
1 Very Unlikely	1 Low
2 Likely	2 Medium
3 Virtually Certain	3 High

Risk Ref: 1 Financial stability

Trigger or Cause

Further funding cuts
Income loss (C19)
Insufficient financial controls
Expensive decision making
External cost pressures
Price or Interest Rate Increases
Political growth
Failing to understand the financial problem
National Economic Changes (C19)
Claims against the Council

Possible Consequences of Risk

Organisational sustainability
Reduced service delivery
Reduced customer satisfaction
Reduced reserves
Overspends
Damaged credit rating
Damage to reputation
Workforce morale/planning/retention
Reduced reputation for financial management
Central Government Intervention

Strategic Link: Cross Cutting

Residual Risk Assessment	Impact	3	Likelihood	3	Score	9	High Priority Risk
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Strategic Commitments

PF1 - We will manage our contract with Liberata robustly, so it delivers value for money and good services.

PF2 - We will adopt a Medium Term Financial Strategy that will put the Council on a sustainable financial footing. This strategy will set the framework for preparing annual budgets, ensuring the annual budget strategy is set within the context of the longer-term outlook.

PF3 - We will develop our digital strategy, so that more residents transact with us online and we will continue to deliver services more efficiently.

PF4 - We will deliver our Organisational Development strategy, ensuring we plan for the structures and capabilities that the organisation needs, and empowering our workforce to deliver the objectives of the Strategic Plan. This will include embedding hybrid working patterns where this improves productivity.

PL6 - We will invest in our heritage assets for the benefit of this, and future, generations.

PR5 - We will support UCLan's expansion, transforming Burnley into a University Town

PR6 - We will delivery our COVID-19 economic recovery plan.

PE2 - We will continue to develop the leisure and cultural offer of Burnley in partnership with Burnley Leisure.

Lead Responsibility : Head of Finance & Property

Risk Ref: 2 Maintaining Partnership Performance

Trigger or Cause

Procurement method
Supply chain failure
Commissioning 'v' traditional culture
Political Change
Poor implementation
Compliance/Legal
Business continuity
Transformational cultural change not achieved
Poor or weak contract management
Partner failure or withdrawal

Possible Consequences of Risk

Reduced service delivery
Reduced customer satisfaction
Political or reputation embarrassment
Perceived council failure
Poor co-ordination of existing providers and systems
Poor relationships
Increased costs

Strategic Link: Cross Cutting

Residual Risk Assessment	Impact	2	Likelihood	2	Score	4	Medium Priority Risk
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Strategic Commitments

PE1 - We will work with partners to make the borough a place of aspiration, including supporting efforts to increase education attainment and skills development.

PE2 - We will continue to develop the leisure and cultural offer of Burnley in partnership with Burnley Leisure.

PF1 - We will manage our contract with Liberata robustly, so it delivers value for money and good services.

PE3 - We will continue to work with partners to provide necessary support systems to reduce homelessness and to end rough sleeping in the borough.

PL1 - We will implement a range of initiatives to maintain a clean, safe, attractive, and environmentally friendly borough. This will include community engagement, enforcement and cleansing in 'hotspot' areas.

PL3 - We will work with partners to improve the quality and choice in the borough's housing stock.

PL4 - We will implement our 2015-25 Green Space Strategy.

PR3 - We will deliver the Town Centre and Canalside Masterplan, and strategic projects in Padiham Town Centre.

PR5 - We will support UCLan's expansion, transforming Burnley into a University Town

Other Work

Contract Review and Extension Planning

Lead Responsibility : Management Team

Risk Ref: 3 Damage to the Council's reputation

Trigger or Cause

Service failure
 Loss of key staff
 External events
 Customer Satisfaction not maintained
 Partner failure or withdrawal

Possible Consequences of Risk

Strategic plan delivery problem
 Credibility of the leadership (both political and officer)
 Low morale
 Loss of key staff
 Recruitment and retention issues

Strategic Link: Cross Cutting

Residual Risk
 Assessment

Impact

2

Likelihood

2

Score

4

Medium Priority Risk

Strategic Commitments

PF1 - We will manage our contract with Liberata robustly, so it delivers value for money and good services.

PF2 - We will adopt a Medium Term Financial Strategy that will put the Council on a sustainable financial footing. This strategy will set the framework for preparing annual budgets, ensuring the annual budget strategy is set within the context of the longer-term outlook.

PR1 - We will contribute to the strategic direction of local, sub-regional and regional partnerships, and will position the borough for economic development investment

PL1 - We will implement a range of initiatives to maintain a clean, safe, attractive, and environmentally friendly borough. This will include community engagement, enforcement and cleansing in 'hotspot' areas.

PF3 - We will develop our digital strategy, so that more residents transact with us online and we will continue to deliver services more efficiently.

PE4 - We will work on the wider determinants of poor health and will keep residents informed about changes to health services and how to access them.

Lead Responsibility : Chief Executive Officer

Risk Ref: 4 Changes in the political landscape	
<u>Trigger or Cause</u>	<u>Possible Consequences of Risk</u>
No overall control	Lack of strategic leadership
Political instability	Poor decision making
Poor member and officer relationships	Impact on the Council's reputation
Poor member and member relationships	Loss of influence with key partners
Local Govt Reorganisation	

Strategic Link: People Performance				
Residual Risk Assessement	Impact	2	Likelihood	3
			Score	6
Medium Priority Risk				

Strategic Commitments

PE1 - We will work with partners to make the borough a place of aspiration, including supporting efforts to increase education attainment and skills development.

PR4 - We will implement the Local Plan, delivering new housing, employment sites, and infrastructure.

Other Work

Council Constitution

Lead Responsibility : Chief Executive Officer

Risk Ref: 5 Changes in national policy/legislation

Trigger or Cause

New functions/loss of existing functions
 Short term thinking
 Lack of capacity
 Changes from the devolution of Powers from
 Central Government
 Interest rate changes

Possible Consequences of Risk

Reduced control over what you do and how you
 do it
 Inability to respond to the new agenda and
 continue with on-going functions
 Exclusion from new or evolving regional and sub-
 regional governance and operating structure
 Not in a position to deliver new functions or
 requirements

Strategic Link: Prosperity

Residual Risk Assesement	Impact	2	Likelihood	3	Score	6	Medium Priority Risk
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Strategic Commitments

PR1 - We will contribute to the strategic direction of local, sub-regional and regional partnerships, and will position the borough for economic development investment

PF4 - We will deliver our Organisational Development strategy, ensuring we plan for the structures and capabilities that the organisation needs, and empowering our workforce to deliver the objectives of the Strategic Plan. This will include embedding hybrid working patterns where this improves productivity.

Lead Responsibility : Management Team

Risk Ref: 6 Inability to deliver the regeneration programme

Trigger or Cause

Economic downturn (C19)
Lending squeeze/Interest rate increases
Procurement failure
Regeneration funding priorities change
Changes in funding from Central Government
Changes in Town Centre Use

Possible Consequences of Risk

Inability of private sector partners to deliver
Delivery partner does not have the capacity to delivery
Delays in delivery of the regeneration programme
Damaged reputation
Increase programme costs
Decreased programme funding

Strategic Link: Prosperity People

Residual Risk Assessment	Impact	3	Likelihood	2	Score	6	Medium Priority Risk
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Strategic Commitments

PR1 - We will contribute to the strategic direction of local, sub-regional and regional partnerships, and will position the borough for economic development investment

PR2 - We will proactively support the borough's businesses to innovate and expand, and make the borough a natural choice for business relocation

PR3 - We will deliver the Town Centre and Canalside Masterplan, and strategic projects in Padiham Town Centre.

PR4 - We will implement the Local Plan, delivering new housing, employment sites, and infrastructure.

PR5 - We will support UCLan's expansion, transforming Burnley into a University Town

PR6 - We will delivery our COVID-19 economic recovery plan.

PL3 - We will work with partners to improve the quality and choice in the borough's housing stock.

PE1 - We will work with partners to make the borough a place of aspiration, including supporting efforts to increase education attainment and skills development.

Lead Responsibility : Strategic Head of Economy and Growth

Risk Ref: 7 Inability to drive improvements through information technology	
<u>Trigger or Cause</u>	<u>Possible Consequences of Risk</u>
IT partnership failure (to deliver past procurement)	Inability to deliver and develop services and not deliver anticipated savings and service improvement
IT partnership procurement failure	
Current IT provision failure	
Information governance failure	Public confidence in use of Council services through IT lowered
Cyber-attack	Data Loss and Service disruption
	Increased costs of recovery

Strategic Link: Performance					
Residual Risk Assessment	Impact	3	Likelihood	1	Score 3 Low Priority Risk

<u>Strategic Commitments</u>
PF1 - We will manage our contract with Liberata robustly, so it delivers value for money and good services.
PF3 - We will develop our digital strategy, so that more residents transact with us online and we will continue to deliver services more efficiently.

Lead Responsibility : Chief Operating Officer

Risk Ref: 8 Inability to influence key decision makers

Trigger or Cause

Change of political control
Breakdown of key relationships
Change of staff/key relationships
Change in reputation for delivery

Possible Consequences of Risk

Loss of external funding opportunities
Reduced level of influence over key decision makers
Inability to deliver through partnerships
Reduced reputation of Council

Strategic Link: Cross Cutting

Residual Risk
Assessement

Impact

3

Likelihood

2

Score

6

Medium Priority Risk

Strategic Commitments

PE1 - We will work with partners to make the borough a place of aspiration, including supporting efforts to increase education attainment and skills development.

PL3 - We will work with partners to improve the quality and choice in the borough's housing stock.

PR1 - We will contribute to the strategic direction of local, sub-regional and regional partnerships, and will position the borough for economic development investment

PR2 - We will proactively support the borough's businesses to innovate and expand, and make the borough a natural choice for business relocation

PR5 - We will support UCLan's expansion, transforming Burnley into a University Town

Lead Responsibility : Management Team

Risk Ref: 9 Risks in responding to demographic changes and increased deprivation

Trigger or Cause

Government policy
Economic downturn (C19)
Big ticket issues – crime, health, housing (C19)
Benefit dependency (C19)
Short term fixes
Negative reputation
Failure to develop opportunities
Local Infection Increase (C19)

Possible Consequences of Risk

Not delivering on the regeneration programme
Poor service delivery
Poor customer satisfaction
Low aspirations
Damage to reputation
Failure to improve
Increased demand
Increased costs
Less funding
Viability of Burnley

Strategic Link: Cross Cutting

Residual Risk Assesment	Impact	3	Likelihood	3	Score	9	High Priority Risk

Strategic Commitments

PE1 - We will work with partners to make the borough a place of aspiration, including supporting efforts to increase education attainment and skills development.

PE2 - We will continue to develop the leisure and cultural offer of Burnley in partnership with Burnley Leisure.

PL1 - We will implement a range of initiatives to maintain a clean, safe, attractive, and environmentally friendly borough. This will include community engagement, enforcement and cleansing in 'hotspot' areas.

PL2 - We will improve the management and condition of private rented accommodation.

PL3 - We will work with partners to improve the quality and choice in the borough's housing stock.

PR1 - We will contribute to the strategic direction of local, sub-regional and regional partnerships, and will position the borough for economic development investment

PR2 - We will proactively support the borough's businesses to innovate and expand, and make the borough a natural choice for business relocation

PL3 - We will work with partners to improve the quality and choice in the borough's housing stock.

PR4 - We will implement the Local Plan, delivering new housing, employment sites, and infrastructure.

Other Work

Community Hub

Lead Responsibility : Management Team

Risk Ref: 10 Workforce, skills and capacity challenges

Trigger or Cause

Loss of the workforce
 Loss of organisational memory
 Loss of organisational skills
 Lack of commitment to organisational development
 Lack of investment in training
 Political direction change

Possible Consequences of Risk

Service failure/deterioration
 Damaged reputation
 Increased complaints
 Low morale
 Recruitment and retention issues
 Increased workflow
 Business resilience
 Not having the right staff with the right skills

Strategic Link: Cross Cutting

Residual Risk
 Assessment

Impact

2

Likelihood

3

Score

6

Medium Priority Risk

Strategic Commitments

PF1 - We will manage our contract with Liberata robustly, so it delivers value for money and good services.

PF2 - We will adopt a Medium Term Financial Strategy that will put the Council on a sustainable financial footing. This strategy will set the framework for preparing annual budgets, ensuring the annual budget strategy is set within the context of the longer-term outlook.

PF3 - We will develop our digital strategy, so that more residents transact with us online and we will continue to deliver services more efficiently.

PL4 - We will implement our 2015-25 Green Space Strategy.

PF4 - We will deliver our Organisational Development strategy, ensuring we plan for the structures and capabilities that the organisation needs, and empowering our workforce to deliver the objectives of the Strategic Plan. This will include embedding hybrid working patterns where this improves productivity.

Lead Responsibility : Chief Executive Officer

Risk Ref: 11 Malicious Attack

Trigger or Cause

Public Disturbance

National Risk Level

Lack of Stakeholder Engagement

Lack of Planning

Poor and delayed information and communication

Event Targeting

Cyber-attack

Possible Consequences of Risk

Death of Public / Staff

Loss of Assets

Major impact on Services and Community

Evacuation

Financial Cost

Reputational damage

Data Loss

Strategic Link: Cross-Cutting

Residual Risk
Assessement

Impact

3

Likelihood

1

Score

3

Low Priority Risk

Strategic Commitments

PF1 - We will manage our contract with Liberata robustly, so it delivers value for money and good services.

PE4 - We will work on the wider determinants of poor health and will keep residents informed about changes to health services and how to access them.

Other Work

Emergency Planning

Local Improvement of Counter Terrorism Strategy (CONTEST)

Event Planning

Community Engagement

Local Resilience Forum

Anti Phishing Training

Lead Responsibility : Chief Operating Officer

Risk Ref: 12 Safeguarding Failure

Trigger or Cause	Possible Consequences of Risk
Weak or No response to reported issues	Injury to Clients
Historic issues which are identified	Resources diverted to address Risks
Safeguarding System Failure	Major impact on Services and Community
Failure of Background Checks	Financial Costs
Not recognising Safeguarding Risks	Reputational Damage
	Central Government Action

Strategic Link: Cross Cutting

Residual Risk Assessement	Impact	3	Likelihood	1	Score	3	Low Priority Risk
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Strategic Commitments

PF4 - We will deliver our Organisational Development strategy, ensuring we plan for the structures and capabilities that the organisation needs, and empowering our workforce to deliver the objectives of the Strategic Plan. This will include embedding hybrid working patterns where this improves productivity.

Other Work

- Safeguarding Policy
- Open and Transparent Culture
- Whistleblowing Policy
- Communications
- Corporate Complaints Process

Lead Responsibility : Chief Executive Officer

Risk Ref: 13 Environmental Event

Trigger or Cause

Extreme Weather
High Rainfall
Heatwave
Changing Climate
High Snowfall
Storms and Gales
Flooding

Possible Consequences of Risk

Death of Public / Staff
Loss of Assets
Major impact on Services and Community
Evacuation
Financial Cost

Strategic Link: Cross Cutting

Residual Risk
Assessement

Impact

3

Likelihood

1

Score

3

Low Priority Risk

Strategic Commitments

PL5 - We will prepare and deliver a new Climate Emergency Strategy.

PL1 - We will implement a range of initiatives to maintain a clean, safe, attractive, and environmentally friendly borough. This will include community engagement, enforcement and cleansing in 'hotspot' areas.

PF1 - We will manage our contract with Liberata robustly, so it delivers value for money and good services.

PF3 - We will develop our digital strategy, so that more residents transact with us online and we will continue to deliver services more efficiently.

Other Work

Business Continuity Plans
Emergency Planning
Event Planning
Community Engagement
Local Resilience Forum
Sustainability

Lead Responsibility : Head of Streetscene

Risk Ref: 14 Failure to respond to a widespread illness

Trigger or Cause

Pandemic

Influenza

SAR

MERS

COVID

Local Infection Increase (C19)

Variant Strains

Possible Consequences of Risk

Death of Public / Staff

Major impact on Services and Community

Financial Cost

Event Closure

Buildings Closure

Business and Economy failures

Strategic Link: Cross Cutting

Residual Risk
Assessement

Impact

3

Likelihood

2

Score

6

Medium Priority Risk

Strategic Commitments

PR6 - We will delivery our COVID-19 economic recovery plan.

PE4 - We will work on the wider determinants of poor health and will keep residents informed about changes to health services and how to access them.

PE3 - We will continue to work with partners to provide necessary support systems to reduce homelessness and to end rough sleeping in the borough.

Other Work

Business Continuity Plans

Emergency Planning

Community Engagement

Local Resilience Forum

Transistional/Recovery Arrangements

Test/Trace/Vaccination/Isolation Payments

Cremation Services

Community Hub

Grant Schemes

Lead Responsibility : Management Team

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Covid-19 Additional Relief Fund

Report to Executive



DATE	6 April 2022
PORTFOLIO	Resources & Performance Management
REPORT AUTHOR	Howard Hamilton-Smith
TEL NO	01282 477173
EMAIL	Hhamilton-smith@burnley.gov.uk

PURPOSE

1. The purpose of the report is to seek approval for the eligibility criteria for the Covid-19 Additional Relief Fund.

RECOMMENDATION

2. It is recommended that the Executive:
 - a) Approves the eligibility criteria and allocation of the Covid-19 Additional Relief Fund as set out in appendix 1.
 - b) Delegates authority to Head of Finance and Property in consultation with the Executive Member for Resources and Performance Management to agree any amendments to the allocation to ensure any remaining funding is awarded.

REASONS FOR RECOMMENDATION

3. On 15th December 2021 the Government announced a new Covid-19 Additional Relief Fund, with an allocation for the Council of £2.04 million. The fund is available to support those businesses affected by the pandemic but that are ineligible for existing support linked to business rates.
4. The proposed scheme is based on a hybrid approach to awarding relief automatically, for relief below the threshold, and an application form for those at or above the threshold. This was to ensure that the relief was awarded equitably to those businesses that had been impacted more during the pandemic.

SUMMARY OF KEY POINTS

5. Covid-19 has presented a significant and unprecedented challenge for businesses. The Government has provided support throughout pandemic including funding to provide business rates relief for retail, hospitality and leisure properties given the direct impact of Covid-19 on businesses in these sectors.
6. On 15th December 2021 the Government announced a new Covid-19 Additional Relief Fund of £1.5 billion. The fund will be available to replace the legal right to appeal to the Valuation Office Agency on Material Change of Circumstances grounds due to COVID. The scheme has been designed to provide as much support to affected businesses as possible.
7. Billing authorities are responsible for designing the discretionary relief schemes that are to operate in their areas. However, in developing and implementing their schemes local authorities must, if they are funding the relief from the section 31 grant:
 - a) not award relief to ratepayers who for the same period of the relief either are or would have been eligible for the Extended Retail Discount (covering Retail, Hospitality and Leisure), the Nursery Discount,
 - b) not award relief to a hereditament for a period when it is unoccupied (other than hereditaments which have become closed temporarily due to the government's advice on COVID-19, which should be treated as occupied for the purposes of this relief), and
 - c) direct their support towards ratepayers who have been adversely affected by the pandemic and have been unable to adequately adapt to that impact.
8. Billing authorities may not grant the discount to themselves and certain precepting authorities (e.g. a parish or county council). Telephone masts, storage pods and containers, cemeteries, advertising rights and public bodies will also be ineligible for this business rate relief.
9. In total, £2,042,781 has been allocated to the Council for this scheme.
10. Once all ineligible hereditaments have been discounted, 636 hereditaments will be eligible for the fund. It is proposed to cap the amount of relief awarded to each businesses at £25,000. All businesses below the cap will automatically be awarded 28% relief for each hereditament which will be credited against their 2021/22 business rates liability. In order for the Covid-19 Additional Relief Fund to benefit the maximum number of businesses, it is proposed to cap the amount of relief awarded to each business at £25,000, as previously mentioned. Businesses that exceed the cap will be required to complete an online application form before any relief is awarded.
11. The scheme will operate as a hybrid scheme – with some businesses automatically being awarded the relief and others having to apply. This will ensure that those businesses whose relief entitlement is below the cap of £25,000 will receive the relief promptly. A completed application form is required for those businesses that exceed the cap of £25,000 to ensure that they can demonstrate a need for the relief. This will ensure that relief is awarded to those businesses in need. The cap of relief to be awarded to each

business was set at £25,000 to ensure affordability of the scheme to ensure that the maximum number of businesses possible can benefit from the relief.

12. A number of options were considered for the scheme. The reason for implementing this scheme is because it was deemed to be the fairest and most efficient delivery mechanism whilst seeking to support all sectors that we understand to have been affected by the pandemic.
13. Any funding remaining following the closing date of the application process will be distributed by amending the percentage automatically awarded to businesses in order to maximise the funding allocation.
14. The Council's scheme is contained within Appendix 1.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

15. As set out in the body of the report.

POLICY IMPLICATIONS

16. The decision supports the Council's strategic priorities for economy and growth.

DETAILS OF CONSULTATION

17. None

BACKGROUND PAPERS

18. None

FURTHER INFORMATION

PLEASE CONTACT:

**Howard Hamilton-Smith – Head of Finance
and Property**

ALSO:

Amy Johnson – Finance Manager

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BURNLEY BOROUGH COUNCIL

COVID19 ADDITIONAL RELIEF FUND (CARF)

GUIDELINES

Introduction

1. This guidance is intended to businesses liable for business rates in 2021/22 only eligible for a grant from the COVID19 Additional Relief Fund (CARF), announced by the government on the 15th December 2021. Only businesses occupied and liable for business rates on the 1st April 2021 in 2021/22 are eligible to apply for the Fund.
2. The Council has access to relatively limited funds from the government for this fund, which has replaced the legal right to appeal to the Valuation Office Agency on Material Change of Circumstances grounds due to COVID. The scheme has been designed to provide as much support to affected businesses as possible.
3. This guidance sets out the criteria under which businesses will qualify to be eligible for the COVID19 Additional Relief Fund (CARF) and is aligned with the government guidance issued on 15th December 2021 and any revisions, which can be found via [this link](#).
4. The Government wants Local Authorities to exercise their local knowledge and discretion and recognise that economic need will vary across the country, so the Government are setting some national criteria for the relief but allowing Local Authorities to determine which businesses to support within these stated criteria.

Which types of business should the COVID19 Additional Relief Fund prioritise?

5. The government guidance issued on 15th December 2021 gives the above Councils discretion over the COVID Additional Relief Fund, and their decisions on the awarding of relief as part of the Fund will be final.

Scope and Eligibility

6. Billing authorities will be responsible for designing the discretionary relief schemes that are to operate in their areas. However, in developing and implementing their schemes local authorities:-
 - a. must not award relief to ratepayers who for the same period of the relief (eg for the period from the 1st April 2021 to the 31st March 2022) either are or would have been eligible for the Extended Retail Discount (covering Retail, Hospitality and Leisure), the Nursery Discount or the Airport and Ground Operations Support Scheme (AGOSS),

- b. must not award relief to a hereditament for a period when it is unoccupied (other than hereditaments which have become unoccupied temporarily due to the government's advice on COVID-19), and
 - c. should direct their support towards ratepayers who have been adversely affected by the pandemic (in a way that prevents success or development; harmfully or unfavourably) and have been unable to adequately adapt to that impact.
- 7. In line with the legal restrictions in section 47(8A) of the Local Government Finance Act 1988, billing authorities may not grant the discount to themselves or to a precepting authority (eg Town Council, Parish).
 - 8. Telephone masts, storage pods and containers, cemeteries, public bodies and advertising rights will be ineligible for this relief.
 - 9. To be eligible for relief you must be a ratepayer liable and occupying the property for business rates within the geographical area covered by Burnley Borough Council during the financial year 2021/22 (for a period of a day or more) as at the 1st April 2021.
 - 10. If there is no business rates liability or other business rates relief (other than transitional relief or small business rates relief with a rateable value greater than £12k) already granted to the business during the relief period, the business will not be eligible for this relief.

Subsidy Allowance

- 11. There is a requirement for all grants made under this Discretionary Grants fund to be subsidy allowance compliant. Please see further government guidance on this via [this link](#) (Section 19-29).

How relief will be provided

- 12. Local Authorities will be responsible for determining COVID19 Additional Relief Fund (CARF) eligibility, selecting the successful business applicants and then administering and delivering relief to those successful applicants.
- 13. Local Authorities responsible for making relief awards of COVID19 Additional Relief Fund (CARF) to successful business applicants will be those authorities who are business rate billing authorities in England.
- 14. Local Authorities will endeavour, subject to due diligence checks, to make awards as quickly as possible to support successful business applicants, who are struggling financially.

How much funding will be provided to successful businesses

15. Burnley Borough Council has access to limited funds from the government for this scheme and it is expected therefore that most relief awards will be up to 28 per cent.
16. In order for the COVID19 Additional Relief Fund (CARF) to benefit the maximum number of businesses, it is proposed to cap the amount of relief awarded to £25,000 for each business on the rating list covering the geographical area of Burnley Borough Council.
17. For example, a business owns 3 hereditaments each with a rateable value (RV) of £51,000. The amount of relief to be awarded for each hereditament would be £14,280 (28% of the RV). As the business owns 3 hereditaments the total amount of relief to be awarded would exceed the £25,000 cap per business. The business would therefore be required to complete an application form to demonstrate need.

Award of Relief

18. Relief decisions will be made on a delegated basis by designated senior officers based on the approved guidelines.
19. All awards of this relief will be by a credit against the business rates bill. No cash payments will be made.
20. If a business has already paid its business rates in full for 2021/22 the refund will be used as a part payment against the 2022/23 business rates. Should the business request, a refund will be offered to that business.
21. By accepting the relief awarded through this scheme in the form of reduced business rate liability, the Council will accept this as a declaration from the business that they are not committing any fraud and that they are fully complying with any subsidy allowance limits, as well as giving the Local Authority permission to share data to check such compliance and that these guidelines are complied with.
22. As well as meeting the criteria it is the intention for the discretionary relief to support local businesses whose intention it is to continue to trade and do business in the local area after COVID19.
23. If any Government funding allocated to this scheme remains unspent the Council reserves the right to amend the percentage of award to maximise the amount of funding received from the Government.
24. The Council reserves the right to cancel any award of this relief fund if subsequent information comes to light.
25. If any court or enforcement costs have been incurred during 2021/22 by a business that will qualify for this relief it will be entirely at the discretion of the Local Authority whether these are cancelled or not.

25. The scheme will operate as a hybrid scheme – with some businesses automatically being awarded the relief and others having to apply. This will ensure that those businesses whose relief entitlement is below the cap of £25,000 will receive the relief promptly. A completed application form is required for those businesses that exceed the cap of £25,000 to ensure that they can demonstrate a need for the relief. This will ensure that relief is awarded to those businesses in need. The cap of relief to be awarded to each business was set at £25,000 to ensure affordability of the scheme to ensure that the maximum number of businesses possible can benefit from the relief.

Managing the risk of fraud

26. The Council will not accept deliberate manipulation and fraud - and any business caught falsifying their records to gain relief awarded will face prosecution and any relief awarded will be subject to claw back, as may any relief awarded in error.
27. All information is subject to internal and external audit check, as well as Government body check.

Sharing Information

28. By accepting a COVID19 additional relief the business gives authority to the Council to share data for efficient system administration and to protect the Public Purse, subject to the GDPR. This will include sharing data with the Council's agents and other Government Departments.
29. The Councils will be required to share data with Government Departments for monitoring and other reasons. By accepting COVID19 additional relief all recipients give authority for this.

Other Information

30. The Council does not accept any liability for any issues that may arise for businesses because of receiving, or not receiving relief awards under this scheme.

Council Tax Rebate and Discretionary Fund

Report to Executive



DATE	6 April 2022
PORTFOLIO	Resources & Performance Management
REPORT AUTHOR	Howard Hamilton-Smith
TEL NO	01282 477173
EMAIL	Hhamilton-smith@burnley.gov.uk

PURPOSE

1. The purpose of the report is to propose a scheme for the Council Tax Rebate and Discretionary Fund.

RECOMMENDATION

2. It is recommended that the Executive:
 - a) Approves the eligibility criteria as set out in this report.
 - b) Delegates authority to the Head of Finance and Property to waive standing orders and negotiate terms for the administration of the scheme.
 - c) Recommend to Full Council, approval for a budget of £113,585 to fund the administration of the scheme, which will be met from new burdens funding.
 - d) Delegates authority to Head of Finance and Property in consultation with the Executive Member for Resources and Performance Management to agree any amendments to the discretionary scheme criteria.

REASONS FOR RECOMMENDATION

3. The Government announced a package of support to help households with rising energy bills which the Council, as billing authority, has been asked to administer on its behalf.

SUMMARY OF KEY POINTS

4. On 3 February 2022 the Government announced a package of support known as the Energy Bills Rebate to help households with rising energy bills. While these rising costs will affect most households across the country, they are more likely to disproportionately affect those on lower incomes, who tend to spend a higher proportion of their income on utility bills.

5. The support that the Council has been asked to administer is:
6. A £150 non-repayable rebate for households in England in council tax bands A to D, known as the Council Tax Rebate.
7. Discretionary funding for billing authorities to support households who are in need but are not eligible for the Council Tax Rebate, known as the Discretionary Fund.

Council Tax Rebate Scheme

8. The Government has allocated £5,806,950 for this scheme.
9. This support is to provide some immediate relief for rising energy costs, while targeting those most likely to require support, the government expects billing authorities to provide a £150 one-off payment to a liable council tax payer (or a person who would otherwise be liable where the property is exempt) for every household that occupies a property which meets all of the following criteria on 1 April 2022:
 - a) It is valued in council tax bands A to D. This includes property that is valued in band E but has an alternative valuation band of band D, as a result of the disabled band reduction scheme,
 - b) It is someone's sole or main residence,
 - c) It is a chargeable dwelling, or in exemption classes N, S, U or W*, and
 - d) The person who is liable to pay the council tax (or would be were the property not exempt) is not a local authority, a corporate body or other body such as a housing association, the government or governmental body.
10. This means that:
 - a) A property that meets all the criteria but has a nil council tax liability as a result of local council tax support, will be eligible.
 - b) A property that has no permanent resident and is someone's second home will not be eligible.
 - c) An unoccupied property (for the purposes of calculating council tax) will not be eligible.
11. Where eligible council tax payers currently pay their council tax bills by direct debit the Council is not required by the Government to undertake any prepayment checks. However, they have suggested that billing authorities wait until the direct debit payment for April has been received and cleared prior to making the £150 grant payments. This is to reduce the number of payments that will be subject to clawback. Grant payments will be released to eligible households in batches during April and early May, depending on the direct debit payment date of the eligible council tax payer.
12. For all other eligible council tax payers they will be required to submit a claim for the £150 grant payment and provide the Council with the information required to enable payment to be made. The Government has mandated that these payments will be subject to pre-payment checks through the Government's Spotlight portal. Grant payments will be made to eligible council tax payers once all pre-payment checks have been undertaken. Where

eligible council tax payers have not submitted the information required to enable grant payment to be made the £150 will be credited to their council tax account.

Discretionary Fund

13. The Government has allocated £263,100 to fund this scheme.
14. It has recognised that billing authorities may also wish to provide support to other energy bill payers who are not eligible under the terms of Council Tax Rebate scheme and provide some immediate relief for rising energy costs, while targeting those most likely to require support.
15. It is proposed that the Council provides one-off grants under this scheme for the following households:
 - a. Where the property occupied is valued in council tax bands E to H and the council tax payer is in receipt of Council Tax Support. A £150 one-off payment will be made to the liable council tax payer;
 - b. Where the property occupied is valued in council tax bands A to D and the council tax payer is in receipt of Council Tax Support. A £20 one-off 'top-up' payment will be made to the liable council tax payer; or
 - c. Where the property occupied is a house in multiple occupation, sheltered accommodation or other property (excluding student halls), where the tenant is not liable for council tax and where energy costs are included in the rent payable to the landlord (i.e. the landlord is responsible for council tax and energy bills). A copy of a secured tenancy agreement will be required as evidence of eligibility. A £50 one-off payment will be made to the liable rent payer where they are in receipt of one of the following benefits:
 - Universal Credit;
 - Working Tax Credit;
 - Income-based Employment and Support Allowance;
 - Income-based Jobseeker's Allowance;
 - Income Support;
 - Housing Benefit; or
 - Pension Credit.
16. Payment of grants under this scheme will be subject to the same terms identified in paragraphs 11 and 12 above.
17. The application window for the Discretionary Fund will close on the 30 June 2022 or earlier if the funding has been fully utilised.

Scheme Administration

18. The schemes will be administered by the Council's strategic partner, Liberata, as they currently provide the council tax service on behalf of the Council. On this basis, an approval is requested to waive standing orders as the contract value is in excess of £100k. The Government are in the process of calculating the amount of new burdens funding that will be due to the Council to undertake this work and it is anticipated that the funding will cover Liberata's costs.

19. Liberata are currently working with their software provider and the Council to provide a solution that will enable the timely payment of the grants and deal with grant claims whilst ensuring that the Council meets the verification requirements of the Government.
20. Officers will continue to work with Liberata to test the systems prior to implementation and amend any processes as required whilst taking into account changes to Government guidance.
21. The Council's schemes are contained within Appendix 1.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

22. As set out in the body of the report and appendix 1.

POLICY IMPLICATIONS

23. None

DETAILS OF CONSULTATION

24. None

BACKGROUND PAPERS

25. None

FURTHER INFORMATION

PLEASE CONTACT:

**Howard Hamilton-Smith – Head of Finance
and Property**

ALSO:

Amy Johnson – Finance Manager

BURNLEY BOROUGH COUNCIL

COUNCIL TAX REBATE AND DISCRETIONARY FUND

GUIDELINES

Introduction

1. This guidance is intended to administer the Council Tax Rebate and associated Discretionary Fund to eligible households, announced by the Government on 3 February 2022 as part of a package of support for rising energy costs.
2. The guidance sets out the criteria under which households will qualify to be eligible for the support under these schemes and is aligned with the government guidance issued on 23 February 2022 and any revisions, which can be found via [this link](#).
3. The government has announced a package of support known as the Energy Bills Rebate to help households with rising energy bills, worth £9.1 billion in 2022-23. This includes:
 - a) A £150 non-repayable rebate for households in England in council tax bands A to D, known as the Council Tax Rebate.
 - b) Discretionary funding for billing authorities to support households who are in need but are not eligible for the Council Tax Rebate, known as the Discretionary Fund.
4. The Council Tax Rebate will be passed on directly as one-off £150 grants to households that are eligible, under the terms set out in paragraphs 6 to 14.
5. The Discretionary Fund will be passed on directly as one-off grants to households that the Council deems eligible, under the terms set out in paragraphs 23 to 27.

The Council Tax Rebate

Eligibility

6. The Government has recognised that many households will need support to deal with the rising cost of household bills in 2022/23, driven by increasing energy bills. While these rising costs will affect most households across the country, they are more likely to disproportionately affect those on lower incomes, who tend to spend a higher proportion of their income on utility bills.
7. To provide some immediate relief for these rising costs, while targeting those most likely to require support, the Government expects billing authorities to provide a £150 one-off payment to a liable council tax payer (or a person who would otherwise be liable where the property is exempt) for every household that occupies a property which meets all of the following criteria on 1 April 2022:

- a. It is valued in council tax bands A to D. This includes property that is valued in band E but has an alternative valuation band of band D, as a result of the disabled band reduction scheme;
 - b. It is someone's sole or main residence;
 - c. It is a chargeable dwelling, or in exemption classes N, S, U or W*; and
 - d. The person who is liable to pay the council tax (or would be were the property not exempt) is not a local authority, a corporate body or other body such as a housing association, the government or governmental body.
8. This means that:
 - a. A property that meets all the criteria, but has a nil council tax liability as a result of local council tax support, will be eligible.
 - b. A property that has no permanent resident and is someone's second home will not be eligible.
 - c. An unoccupied property (for the purposes of calculating council tax) will not be eligible.
9. For the purpose of the Council Tax Rebate, a household is a person or group of persons occupying a single dwelling, as defined in section 3 of the Local Government Finance Act 1992.
10. Eligibility will be determined based on the position at the end of the day on 1 April 2022. Where the Council has reason to believe that the information they hold about the valuation list, liable taxpayer(s) or residents' circumstances in respect of 1 April 2022 is inaccurate, it will withhold the payment and take reasonable steps to determine the correct information.
11. Where records relating to the liable taxpayer(s) or residents' circumstances in respect of 1 April 2022 are retrospectively updated, the Council will take reasonable steps to pay or clawback payments.
12. Where a property band recorded on a valuation list is amended retrospectively to 1 April 2022, for example as a result of a successful appeal made to the Valuation Office Agency (VOA) that concluded after this date, the Council is not required to pay or clawback payments. The exception is where a property is a new build and awaiting an official banding from the VOA. In these cases, eligibility will be determined based on the official band subsequently allocated by the VOA, where this has an effective date before or on 1 April 2022.
13. Where a review, proposal or appeal pre-dating the announcement on 3 February 2022 is successful after 1 April 2022 and as a result, a property would have been eligible for the rebate, the Council may provide support using the Discretionary Fund.

14. Any disputes about council tax banding should be resolved through the Valuation Office Agency's usual process for reviews, proposals and appeals.

Making Payments

Making payments where the Council holds live direct debit instructions for a liable council tax payer of an eligible household

15. Where the Council holds live direct debit instructions for a liable council taxpayer of an eligible household, it will make an automatic payment as early as possible in the 2022/23 financial year, provided that it is assured that the household is eligible and the bank details have been verified. Where multiple residents of an eligible household are jointly and severally liable for council tax, and the Council holds live direct debit instructions for that household, the full £150 payment will be made to the direct debit account. The Council will exclude any direct debits from automated payments where the name on the bank details does not match a liable party.
16. The grant is being provided on the assumption that the grant recipient is a liable council tax payer (or would have been if the property were not exempt) and that the property met the criteria set out at paragraph 7 on 1 April 2022. If this is not the case, the grant will be liable for recovery. The grant is being provided to support all residents of the household.
17. To prevent erroneous payments requiring clawback, the Council will wait to make the grant payment until after the first direct debit council tax payment for 2022/23 has been taken. This may mean that some payments may be delayed

Making payments where the Council does not hold live direct debit instructions for an eligible household

18. Where the Council does not hold live direct debit instructions for an eligible household, it will make all reasonable efforts to contact the household as early as possible to make them aware of the scheme and invite them to make a claim.
19. The Council is working with its strategic partner, Liberata, to use the existing software solution to administer the application process. Payments will be made by BACS where the Council is able to verify the applicant's bank account details. Where it is unable to verify bank account details it will credit £150 to an eligible household's council tax account.
20. As part of the application process, the claimant will be required to self-certify that they are (or would be in the case of exempt property) a liable taxpayer, that they meet the eligibility criteria at paragraph 7, and that are claiming on behalf of the household, in accordance the Council's powers under section 3(1)(c) of the Council Tax (Administration and Enforcement) Regulations 1992 to request information for the purposes of identifying the liable taxpayer.
21. The Government will not tolerate any council tax payer falsifying their records or providing false evidence to gain access to the Council Tax Rebate or Discretionary Fund. A ratepayer who provides false information or makes false

representation in order to benefit from the Council Tax Rebate or Discretionary Fund may be guilty of fraud under the Fraud Act 2006.

22. The Government has required the Council to undertake pre-payment checks prior to payment of any grant which is not awarded to a live direct debit holder. These should allow it to:
 - a. Satisfy the Council that the person who is applying is entitled to payment; and
 - b. Satisfy the Council that payment details provided belong to an entitled person and relate to the relevant address.

The Discretionary Fund

Eligibility

23. The Government has recognised that billing authorities may also wish to provide support to other energy bill payers who are not eligible under the terms of the core scheme, or to provide carefully targeted 'top-up' payments to the most vulnerable households in bands A to D. The Council has been allocated £263,100 to fund this scheme.
24. To provide some immediate relief for these rising costs, while targeting those most likely to require support, the Council will provide one-off payments for every household that occupies a property and meets any of the following criteria on 1 April 2022:
 - a. Where the property occupied is valued in council tax bands E to H and the council tax payer is in receipt of Council Tax Support. A £150 one-off payment will be made to the liable council tax payer;
 - b. Where the property occupied is valued in council tax bands A to D and the council tax payer is in receipt of Council Tax Support. A £20 one-off 'top-up' payment will be made to the liable council tax payer; or
 - c. Where the property occupied is a house in multiple occupation, sheltered accommodation or other property (excluding student halls) where the tenant is not liable for council tax and where energy costs are included in the rent payable to the landlord (i.e. the landlord is responsible for council tax and energy bills). A copy of a secured tenancy agreement will be required as evidence of eligibility. A £50 one-off payment will be made to the liable rent payer where they are in receipt of one of the following benefits:
 - Universal Credit;
 - Working Tax Credit;
 - Income-based Employment and Support Allowance;
 - Income-based Jobseeker's Allowance;
 - Income Support;
 - Housing Benefit; or

- Pension Credit.

25. Eligibility will be determined based on the position at the end of the day on 1 April 2022. Where the Council has reason to believe that the information they are provided with in connection to the claim is inaccurate, it will withhold the payment and take reasonable steps to determine the correct information.
26. By accepting the grant payment the Council will accept this as a declaration from the recipient that they are not committing any fraud and that they are fully eligible for the payment, as well as giving the Local Authority permission to share data to check such compliance and that these guidelines are complied with.
27. Payment of grants under this scheme will following the same pre-payment verification process as those for the Council Tax Rebate scheme, under the terms set out in paragraphs 15 to 22 above.
28. The application window for the Discretionary Fund will close on the 30 June 2022 or earlier if the funding has been fully utilised.
29. As this scheme has been allocated limited funding the Council reserves the right to close the scheme once the funds have been exhausted.

Managing the risk of fraud

30. The Council will not accept deliberate manipulation and fraud - and any business caught falsifying their records to gain relief awarded will face prosecution and any relief awarded will be subject to claw back, as may any relief awarded in error.
31. All information is subject to internal and external audit check, as well as Government body check.

Sharing Information

32. By accepting the grant payment the recipient gives authority to the Council to share data for efficient system administration and to protect the Public Purse, subject to the GDPR. This will include sharing data with the Council's agents and other Government Departments.
33. The Council will be required to share data with Government Departments for monitoring and other reasons. By accepting the grant payment all recipients give authority for this.

34. The Council does not accept any liability for any issues that may arise for businesses because of receiving, or not receiving relief awards under this scheme.

Pennine Lancashire Building Control – Withdrawal from Joint Agreement

EXECUTIVE COMMITTEE



DATE	6th April 2022
PORTFOLIO	Housing
REPORT AUTHOR	Paul Gatrell
TEL NO	01282 477230
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PURPOSE

1. To seek approval for Burnley Council as a Partner Authority of the Pennine Lancashire Building Control (PLBC) Partnership Agreement, to give notice of withdrawal from membership of the Joint Committee and proceed with all withdrawal arrangements including completion of contractual obligations and settlement of financial commitments.

RECOMMENDATION

2. That the Executive approves the issuing of a written notice of withdrawal of Burnley Council from the PLBC Partnership Agreement.
3. That the Executive delegates authority for completion of all exit arrangements, including but not limited to contractual obligations, settlement of financial commitments and staff transfers to the Head of Housing and Development Control in consultation with the Executive Member for Housing.
4. That the Executive recommends to Full Council that the PLBC Constitution is removed from Burnley Council's constitution (currently Part 3 Appendix B 2d).

REASONS FOR RECOMMENDATION

5. To carry out all necessary steps that will enable the Council to withdraw from the PLBC Partnership Agreement.
6. Blackburn with Darwen Council is the other Partner Authority of PLBC, and by mutual consent of the two parties they are also progressing their approval arrangements to withdraw from the Partnership Agreement.

SUMMARY OF KEY POINTS

7. The PLBC joint service agreement was established in 2009 and created a single shared service for the delivery of statutory Building Control functions, with an integrated strategy and IT solution. Blackburn with Darwen Council and Burnley Council are the only Partner Authorities.
8. As the service has evolved over the years, several challenges have arisen, with key issues identified as follows:
 - a. The service is a statutory service which operates in a competitive market amongst approved inspectors;
 - b. Recruitment and retention of building surveyors has been extremely challenging due to competition from approved inspectors and increasing expectations, causing a shortage of resources within the team and added pressure on individuals;
 - c. The post-Grenfell Building Safety Bill anticipates more responsibility and accountability for Building Control professionals and authorities;
 - d. Despite being a joint service, in practice the team operates as two distinct sub-teams at two separate locations with two separate websites which combine to limit the scope for greater service integration and resource utilisation; and
 - e. Whilst the digitisation of procedures is underway, there are process inefficiencies and differing operating systems within the two office bases.
9. For the reasons set out above, along with the potential to improve customer service and team integration for the Building Control teams within their respective authorities, the recommendation is to progress with a mutually-agreed joint withdrawal from the PLBC agreement. The proposal to seek approvals for withdrawal was discussed and approved by the PLBC joint committee on 20th January 2022. Therefore, each of the member Councils are now requested to formally approve the issuing of withdrawal notices, with further work to be undertaken to finalise exit arrangements.
10. The existing formal agreement allows a Partner Authority to withdraw from membership by giving 24 months notice (or such shorter period of time agreed by the Partner Authorities). As both Partner Authorities have indicated an agreement to mutually withdraw, a suggested date for the formal end of the agreement is 31st March 2023, with each authority anticipated to be working independently by 31st December 2022. Final agreement on timescales is to be delegated to the Head of Housing and Development Control in consultation with the Executive Member for Housing.
11. The alternative option, considered by the PLBC Joint Committee in January 2022, was to work towards addressing the on-going challenges by significantly reconfiguring and restructuring the service. This would involve operating from a single office base, creating a single web presence and working as one team under one set of procedures. This option was not taken forward because it would have resulted in the Building Control teams continuing to be disconnected from their wider Council teams.
12. Officers from both teams have worked positively to develop the current arrangements but as the priorities and operational needs of each Council have evolved since 2009, it is now

apparent in 2022 that the authorities could be better served by re-integrating each Building Control team into their respective services areas within their local authority.

13. The proposed withdrawal will allow for the Burnley and Blackburn with Darwen Building Control teams to be better integrated within their wider respective departments at each authority. This will enable more effective local decisions to be taken regarding new back-office systems, procedures and resourcing whilst continuing to collaborate and support each other whenever necessary.

FINANCIAL IMPLICATIONS AND BUDGET PROVISION

14. Financial implications of the withdrawal are to be determined, with final agreement delegated to the Head of Housing and Development Control. Service costs and income are expected to be proportionate to the Council's share of the existing service and the proposal will not result in adverse financial impacts. Service improvements could result in an increased market share when competing with Approved Inspectors and therefore the Council could see fee income rising over time.
15. Each member authority is required by the PLBC Joint Agreement to continue to meet its share of the financial commitment, liabilities and costs, and contractual obligations, until the conclusion of the commitment or obligation as provided for in the contract. A new budget for the service would therefore need to be agreed from the 2023 / 24 financial year.

POLICY IMPLICATIONS

16. The recommendation will allow for more localised decision-making for the service, such as for the provision of new back-office systems, procedures, service efficiencies and resourcing.

DETAILS OF CONSULTATION

1. None

BACKGROUND PAPERS

17. None

FURTHER INFORMATION

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