



East Lindsey

DISTRICT COUNCIL

REPORT TO:	Planning Policy Committee
DATE:	14 th March 2024
SUBJECT:	Energy Infrastructure Provision
KEY DECISION:	N/A
PORTFOLIO HOLDER:	Cllr Tom Ashton
REPORT AUTHOR:	Simon Milson
WARD(S) AFFECTED:	Infrastructure provision affects all development provided for by the Local Plan for East Lindsey. It therefore has the potential to affect all wards
EXEMPT REPORT?	No

SUMMARY

This report gives a summary of the current national and local Planning policy position in relation to energy generation infrastructure.

RECOMMENDATIONS

That the contents of this report are noted by Members. Whilst no decision is required as part of this report, it is expected that any discussions will inform the direction of the ongoing Local Plan review and relevant issues may be brought back to future Policy Committee meetings for further discussion.

REASONS FOR RECOMMENDATIONS

This report is intended to provide an update to Members on the current policy position in relation to the provision of infrastructure.

OTHER OPTIONS CONSIDERED

N/A

1.0 Policy Context

National Strategic Infrastructure Projects

- 1.1 Starting at the top, the National Strategic Infrastructure Projects (NSIP) are the largest construction and engineering projects that have a national significance. These are not decided by the Council, instead the application for Planning Permission is made directly to the Planning Inspectorate. The Inspectorate then makes a recommendation to the Secretary of State as whether to approve or refuse consent. The Council are consulted during the application process. There is also a requirement for pre-application engagement before the submission of the planning application. There is an interactive map of all NSIP projects that can be found using the link in the footnote.¹
- 1.2 There are 6 National Policy Statements (NPS) concerned with Energy Infrastructure. They cover fossil, renewable, nuclear power generation and the network infrastructure needed to supply and support it.²
- 1.3 A detailed summary of the NSIP process can be found in section 2 of this report.

The National Planning Policy Framework

- 1.4 The National Planning Policy Framework December 2023 (NPPF)³ sets out a presumption in favour of sustainable development. In paragraph 8 it sets out 3 objectives to achieving sustainable development: Economic, Social and Environmental. The explanation of the Economic objective finishes by saying it includes “identifying and coordinating the provision of infrastructure”. However, the NPPF overall makes little reference to conventional energy/electricity generation plant and infrastructure. It is instead chiefly setup to support renewable and low-carbon energy generation.
- 1.5 In paragraph 20 the NPPF states the following about strategic policies in local plans, with specific mention of infrastructure for energy in item b)
- “Strategic policies should set out an overall strategy for the pattern, scale and design quality of places (to ensure outcomes support beauty and placemaking), and make sufficient provision for:*
- a) housing (including affordable housing), employment, retail, leisure and other commercial development;*
- b) infrastructure for transport, telecommunications, security, waste management, water supply, wastewater, flood risk and coastal change management, and the provision of minerals and energy (including heat);***

¹ <https://infrastructure.planninginspectorate.gov.uk/projects/>

² <https://www.gov.uk/government/collections/national-policy-statements-for-energy-infrastructure>

³ https://assets.publishing.service.gov.uk/media/65a11af7e8f5ec000f1f8c46/NPPF_December_2023.pdf

*c) community facilities (such as health, education and cultural infrastructure); and
d) conservation and enhancement of the natural, built and historic environment,
including landscapes and green infrastructure, and planning measures to
address climate change mitigation and adaptation.”⁴*

- 1.6 The NPPF in Section 14 sets out the approach to climate change, flood and coastal flood risk. This section has the most references to renewable and low carbon energy generation.
- 1.7 The NPPF in paragraph 158 sets out the approach that Local Plans should take to climate change and planning for future resilience of infrastructure and possible relocation of vulnerable infrastructure.

*“Plans should take a proactive approach to mitigating and adapting to climate change, taking into account the long-term implications for flood risk, coastal change, water supply, biodiversity and landscapes, and the risk of overheating from rising temperatures. **Policies should support appropriate measures to ensure the future resilience of communities and infrastructure to climate change impacts, such as providing space for physical protection measures, or making provision for the possible future relocation of vulnerable development and infrastructure.**”*

- 1.8 The NPPF goes on to make various references to renewable and low carbon energy production. It states in section 160 criteria that plans should:
- “To help increase the use and supply of renewable and low carbon energy and heat, plans should:*
- a) provide a positive strategy for energy from these sources, that maximises the potential for suitable development, and their future re-powering and life extension, while ensuring that adverse impacts are addressed appropriately (including cumulative landscape and visual impacts); ...”*
- 1.9 Alongside the above, the NPPF provides further policy in relation to factors such as heritage, landscape, biodiversity, best and most versatile agricultural land etc, all of which are also relevant when considering energy projects and which must be considered as part of the overall planning balance. The NPPF is also read in conjunction with the Planning Practice Guidance which provides further insight and information.

The East Lindsey Local Plan (2018)

- 1.10 The East Lindsey Local Plan (Local Plan)⁵ forms the starting point for decision making when considering planning applications, with the NPPF being a material consideration. The Local Plan should be read as a whole, meaning policies are linked and when read together should provide the framework to allow sustainable development to be supported. Alongside the Local Plan, there are a number of Neighbourhood Development Plans (NDP) that must also be taken into consideration.

⁴ Bold formatting added

⁵ <https://www.e-lindsey.gov.uk/localplan2018>

Where an NDP is post-examination stage it begins to gain weight in decision making and when fully 'made' it sits alongside the Local Plan as part of the Development Plan for that local area⁶.

1.11 The Local Plan is underpinned by evidence in the Infrastructure Delivery Plan (IDP) and Water Cycle Study (WCS). These assessed the level of current infrastructure provision and whether the proposed development in the Local Plan could be accommodated. These documents will be refreshed as part of the review. However, they still form part of the evidence base for the adopted Local Plan and should support the level of development it proposes over its lifetime.

1.12 When looking at the Local Core Strategy, initially Chapter 2 "A Sustainable Pattern of Places, Growth and Housing" places an emphasis in its opening text in section 2.9 on ensuring the availability and capacity of existing infrastructure and whether it needs improving.

29. In addition to the settlement pattern, other factors affect decisions and shape the strategy for the location of growth. These also affect the choices about specific sites. These include:

- Sites protected for their biodiversity or geodiversity importance;
- National and local landscape designations;
- Designated and non-designated heritage assets and their settings;
- Physical constraints such as areas liable to flooding;
- Local housing needs;
- Access to services, public transport, etc;
- Climate change factors, such as flooding;
- Existing land use (for example, where development would result in loss of existing uses such as commercial land or land used for community facilities);
- The availability and capacity of existing infrastructure and the scope to improve or expand infrastructure to meet demands arising from new development;
- Access to employment, schools, shops and health facilities.

1.13 **Strategic Policy 27** of the Local Plan covers Renewable and Low Carbon Energy and is shown below. The opening text gives a supportive approach to various different types of technologies and goes on to set out that this will only occur when it will not impact adversely on a range of factors. It continues in paragraphs 14.2 and 14.3 to recognise the sensitivity of the landscape, including the Wolds Area of Outstanding Natural Beauty and its setting, and sets out how impacts should be considered. It references the Council's Landscape Character Assessment as being an important consideration that judgements will be based on.

1.14 Paragraphs 14.4 and 14.5 go on to look at how small and large scale can contribute, but again being mindful of the impacts. It also introduces locational requirements and further environmental considerations.

1.15 Paragraphs 14.6 and 14.7 continue to set out key constraints that need assessing, including landscape, biodiversity and historic assets. 14.6 makes reference to assessing the need to assess the impact on the economy and tourism. 14.7 considers grid connections and recognises that the structures used can have significant impacts that also need to be assessed. It makes reference to the

⁶ <https://www.legislation.gov.uk/ukpga/1990/8/section/70>

potential impact of power lines, with reference to the AONB, and a presumption should be for the unless justification is given and it can be shown what steps have been taken to minimise the impact on the landscape.

- 1.16 Paragraph 14.8 recognises the interest in solar power generation but also the impacts large scale farms can have. It raises the need to prioritise the best use of land and protect against the loss of high-grade agricultural land. Paragraphs 14.9 through to 14.11 looking at wind energy generation and setting out the strategy and appropriate locations. 14.10 and 14.11 set out specific impacts for wind farm development that should be assessed. The final 3 paragraphs set out how considerations will be balanced and how the policy helps to provide sustainable development that will support the transition to a low carbon future.
- 1.17 Clause 1 of the policy sets out 3 types of development where development will be supported where impacts are considered to be acceptable when weighed against the benefits.
- 1) Large-scale renewable and low carbon energy development,
 - 2) development for the transmission and interconnection of electricity,
 - 3) infrastructure required to support such development.

It goes on to set out the 7 key impacts in a-g that should be considered.

- 1.18 Clause 2 of the policy supports wind energy developments where they follow the strategy and are located in the appropriate areas, again subject to the abovementioned criteria.
- 1.19 Clause 3 of the policy recognises the importance and sensitivity of the Wolds Area of Outstanding Natural Beauty. It only supports development in exceptional circumstances and provides 3 subclauses to moderate the impacts.
- 1.20 Clause 4 (incorrectly numbered as 3) sets a presumption that connecting cables will be placed underground or make use of existing or replacement infrastructure along existing routes.
- 1.21 Clause 5 (incorrectly numbered as 4) gives support to small scale and micro renewable energy development, providing it is properly weighed against the impacts.

Strategic Policy 27 (SP27) – Renewable and Low Carbon Energy

1. Large-scale renewable and low carbon energy development, development for the transmission and interconnection of electricity, and infrastructure required to support such development, will be supported where their individual or cumulative impact is, when weighed against the benefits, considered to be acceptable in relation to:

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- a) residential amenity;**
- b) surrounding landscape, townscape and historic landscape character, and visual qualities;**
- c) the significance (including the setting) of a historic garden, park, battlefield, building, conservation area, archaeological site or other heritage asset;**
- d) sites or features of biodiversity or geodiversity importance, or protected species;**
- e) the local economy;**
- f) highway safety; and**
- g) water environment and water quality**

2. Wind energy developments will be supported in the areas shown on the policies map, provided where their individual or cumulative impact is, when weighed against the benefits, considered to be acceptable in relation to the criteria a) to g) set out at Clause 1 above.

3. Development within or affecting the setting of the Lincolnshire Wolds Area of Outstanding Natural Beauty, and landscape areas defined as highly sensitive within the East Lindsey Landscape Character Assessment, will only be permitted in exceptional circumstances, where the development is in the public interest and considering the following:

a) The need for the development, including any national considerations, and the impact of permitting it, or refusing it, upon the local economy; and

b) the cost of, and scope for, developing elsewhere outside the designated area, or meeting the need for it in some other way; and

c) any detrimental effect on the environment, the landscape and recreational opportunities, and the extent to which that could be satisfactorily moderated.

3. The presumption will be for connecting cables to be placed underground, or use made of existing or replacement infrastructure (of the same size and scale) along existing routes to carry any additional base load cabling.

4. Small scale and micro renewable energy development will be supported where their individual or cumulative impact, when weighed against the benefits, is not considered to have an unacceptable impact on residential amenity; the context and setting of any areas of cultural

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or historic importance or heritage assets; and local landscape character and visual qualities.

- 1.22 **Strategic Policy 28** of the Local Plan covers Infrastructure and is shown below. The policy is also combined with S106 Obligations. The supporting text includes general references to various different kinds of infrastructure that is required to aid future sustainability and sets the strategic picture for delivering such development.
- 1.23 Paragraph 15.5 sets out that significant adverse impacts from new infrastructure schemes will be avoided. It goes on to say that impact assessments will be required to look at alternative options, and sets out that major infrastructure schemes include proposals for the transmission of resources across the District such as gas, electricity, telecoms and highways.
- 1.24 Paragraph 15.14 briefly references Electricity distribution and sets out that the providers have not identified any significant issues with delivery in the future.
- 1.25 It can be seen that clause 1 of the policy opens with a supportive statement but with a number of caveats to consider. The policy goes on in Clause 2 to require developments to assess and minimise

impacts. Clause 3 is a general statement of support where there is a specific benefit to local communities. Clauses 4 and 5 look more generally at contributions and capacity.

Strategic Policy 28 (SP28) – Infrastructure and S106 Obligations

1. Infrastructure schemes will be supported provided they are essential in the national interest; contribute to sustainable development, and respect the distinctive character of the district.

2. Infrastructure schemes should be accompanied by an impact assessment that shows how the proposal impacts on the landscape or local setting of the area, including individual and cumulative effects. It should identify what steps have been taken to minimize its effects and the alternative options that have been considered.

3. The Council will support the delivery of infrastructure where it contributes to sustaining local communities.

4. Developer contributions on major schemes (10 or more dwellings or major other development) will be sought towards the delivery of infrastructure where it is shown to be necessary for the development to proceed.

5. The Council will only support proposals for development where it has been shown that adequate capacity is available, or can be provided by the utility providers to meet the additional loads associated with serving the development.

- 1.26 As with the comment about the NPPF, the Local Plan must be read as a whole, and thus whilst a snapshot of the energy policy is given above, there are other policies that are likely to be relevant in the determination of any proposal.
- 1.27 **The level of review for strategic policies 27 and 28**
- 1.28 Officers consider that the approach set out within the Local Plan policies provides the components of a supportive environment for all infrastructure provision, providing its impacts can be mitigated. This would indicate that the Local Plan is still in line with National Policy and could be considered up-to-date for decision making purposes.
- 1.29 Strategic Policy 27 covers Renewable and Low Carbon Energy Generation. It sets out support for such technologies and provides a strategy for the delivery of wind energy development, whilst ensuring that the District's key features and assets are protected. This is broadly in line with paragraph 158 of the NPPF.
- 1.30 Strategic Policy 28 of the Local Plan covers Infrastructure. It opens with a supportive statement but with a number of caveats to consider. Clause 2 goes on to require developments to assess and minimise impacts. This is broadly in line with paragraphs 20 and 160 of the NPPF.

2.0 Nationally Significant Infrastructure Projects (NSIP)

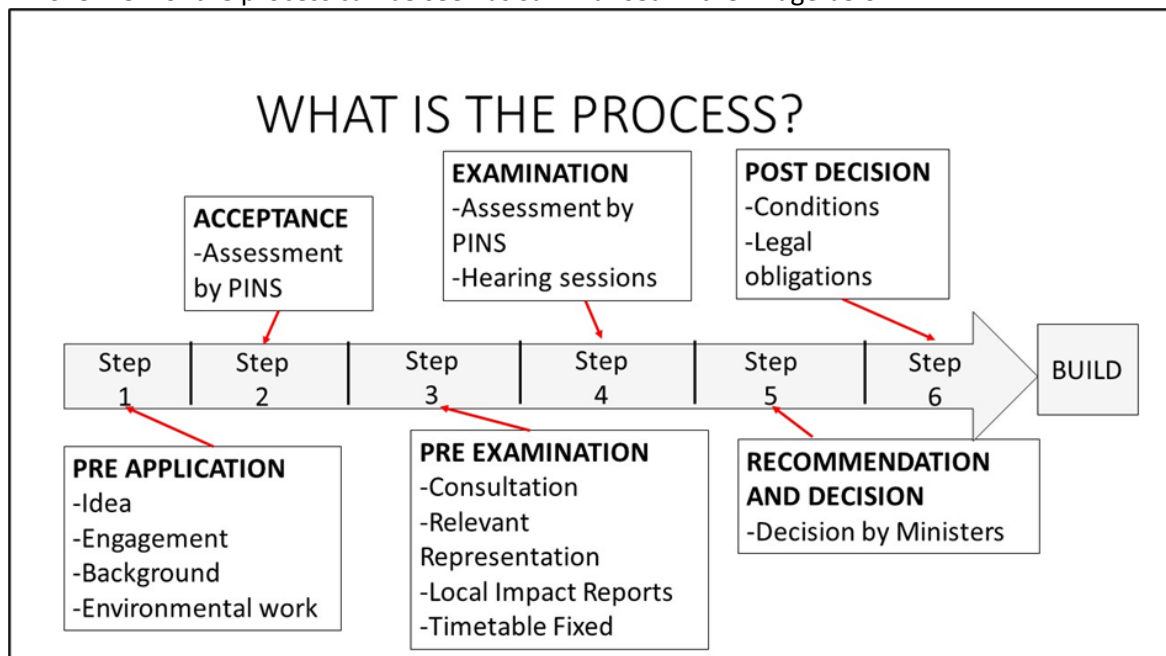
2.1 The following sections provide Members with a high-level overview of the NSIP process, and how the Council responds to such proposals. Across the Partnership there is an array of experience of such projects, including where proposals are located within the Partnership area, and those which are not but where the Council is engaged as part of the process.

2.2 NSIPs result from the Town & Country Planning Act 2008, with the aim of creating a streamlined, simplified and consolidated consenting process for larger schemes – they can also include land acquisition and other consents. Resulting permissions are granted by the Secretary of State as a Development Consent Order (DCO) following examination by the Planning Inspectorate (PINS - Examining Authority).

2.3 The Council, as Local Planning Authority, is a statutory consultee in the process, as is Lincolnshire County Council. Any comments we make must be taken account of by the decision-maker, as must any other comments made by statutory/non-statutory bodies and the public. The Council may also be notified about projects located within other Districts but where it is considered there may be a direct or in-direct impact from the proposal. As such, the level of involvement can vary from a “no comment”/no participation approach, through to being a key party within the Examination process.

2.4 What is the process?

2.5 An overview of the process can be seen as summarised in the image below:



2.6 The process is intended to be front loaded, with developers required to undertake pre-application engagement and consultation. This can mean projects are talked about or discussed for at least a year before formal submission and in some cases, this can be numerous years. At this stage, proposals may be typically discussed on a ‘commercially sensitive’/confidential basis, until such time as the developer commences more widespread consultation and engagement.

- 2.7 Throughout the pre-application state it is common for “non-statutory” consultation to be undertaken in advance of statutory consultation. This is an early engagement stage and there is no requirement for Councils to respond, albeit these are the earliest opportunity to provide comments. This is intended to identify issues early and enable opportunity for the developer to seek to respond to issues in advance. Often at this stage, there will only be a minimal level of information available, as further technical work is ongoing. Often the developer will host a website and use other means of enabling all parties’ various ways to respond. At this stage, typically the level of consultation and engagement will be widespread, as the precise location and detail of proposals are unknown – for example ‘corridors’ or ‘search areas’ may be used as part of the consultation which are then narrowed down and refined as the proposals develop and are shaped.
- 2.8 If the proposals progress, they may then move into a formal consultation stage. This is a statutory requirement. This is often accompanied by receipt of more technical information, including a Preliminary Environmental Issues Report (PEIR). This is often when the first technical documents are shared widely for comment.
- 2.9 Following the above consultation, the developer may formally submit to PINS. Once the application has been submitted, PINS will review and if accepted PINS will undertake further consultation on the scheme where it will seek the views of the Council as Local Planning Authority. At this stage, the detail of the scheme and its impacts will be clearer, and often an array of technical reports are placed in the public domain. At this stage, any party may make a Relevant Representation and register as an Interested Party. This stage usually takes at least 3months from acceptance.
- 2.10 From this point on, PINS set a very strict process with various timescales which must be met. They may undertake various requests for more information, clarifications, or views from interested parties, the Council(s) and other consultees as well as the Applicant.
- 2.11 More detail on the process, and emerging documents in relation to projects registered with PINS can be found on the PINS website⁷. As set out earlier, the above website also provides an interactive map which shows projects which PINS are aware of which have been agreed can come forward through the NSIP process.
- 2.12 It should also be noted that it is possible for projects to request that they are considered by PINS as an NSIP, even where they fall below the established thresholds. Reasons for such requests include projects that cross multiple local authority boundaries or ones that require multiple consents. Often, they will see the support of the Council for this approach at an early stage. In most cases this is considered reasonable as it allows proposals to be considered on a more coordinated basis, as opposed to each authority reaching its own decision which can often cause more complexity and result in time, cost and burden to all parties including the Council.
- 2.13 How can Members engage in the process?**

⁷ <https://infrastructure.planninginspectorate.gov.uk/application-process/the-process/>

- 2.14 Members can make comments at the pre-application stage and acceptance stage directly to the Developer and/or PINS. At the earlier stages in the process (particularly the non-statutory consultation stage), it is easier to make more wide-ranging comments as this is prior to detail and specific impacts being set out more fully.
- 2.15 Comments on particular proposals can be ‘passported’ as part of any formal response from the Council (as Local Planning Authority). Such comments can be made via the Portfolio Holder.
- 2.16 However, the Council’s response must be guided and influenced by the usual planning remit – i.e., established planning policy, material considerations, and with regard to the evidence presented. Therefore, comments will often be more refined or focused, particularly as the proposals progress through the process⁸
- 2.17 It must however be remembered that there can often be numerous stages of consultation and engagement, particularly at pre-application stage where the Developer may undertake multiple rounds depending on how the proposals are revised and refined and following outcomes from background technical work.
- 2.18 It should also be noted that the Council does not host the relevant information on its website. At non-statutory stage, this will be done by the developer. From the statutory stage, this will be done via PINS and often by the developer as well.
- 2.19 How are responses to formal consultations made by ELDC?**
- 2.20 Responses to formal consultations are an Executive function, which is Delegated to the Assistant Director – Planning to return on behalf of the Council. A Planning Officer is assigned to the project, and will undertake a review of the available information, and relevant planning policies. They will then compile a response on behalf of the Council (as Local Planning Authority) which is reviewed prior to being issued. This will typically include specific references to key policies or requirements of our Local Plan, as well as local supporting evidence.
- 2.21 This is much in the same way as comments are made on proposals that fall outside the Councils usual planning remit – such as comments on Minerals & Waste proposals which are handled by LCC and where the Council is only a consultee. Where necessary, Planning Officers may bring in additional technical expertise to support the process and enable informed comments to be made. On projects such as this it is not uncommon to enter a Planning Performance Agreement (PPA) with the Applicant/Developer to secure contributions towards appropriate resourcing, so that the Council is not left carrying this burden. Noting specifically that the Council receives no formal fee for an NSIP proposal.
- 2.22 If Members wish to relay comments, they can do so via the Portfolio Holder, or the Planning Officer. Where they may be summarised or attached as necessary. Members must however be aware that

⁸ <https://infrastructure.planninginspectorate.gov.uk/application-process/participating-in-the-process/>

we are required to have regard to the relevant policies, evidence and considerations. If Members wish to make wider statements on behalf of communities or groups, they are encouraged to do so via the wider, direct to the Developer or PINS process which is open to all. This is important as it enables the Developer to understand specific issues and attempt to work with those groups/individuals to try and find solutions or at least better understand and comment on the issues raised.

- 2.23 For example, on the Boston Alternative Energy Facility, the project team spent considerable time working with the local fisherman and river users to allay their concerns and ensure that the submission contained sufficient information for the Examiner to make an informed judgement on issues pertaining to river use.
- 2.24 As the process moves forward, Planning Officers prepare various documents as required by the process including Review of Consultation, Local Impact Reports, Statements of Common Ground, and will also discuss particular issues and requirements of the draft DCO and any S106 elements.
- 2.25 To engage in this process, a ‘fleet of foot’ approach is required as often there is a need to respond to queries raised by PINS or to additional information provided by the Developer within short timescales – this is particularly relevant once the Hearing sessions commence as part of the formal Examination. As set out earlier, the timescales and procedures are very strict and set by PINS, and thus the Council has no control.⁹

CONCLUSION

- 3.0 Members are advised to note the policy position set out, and the high-level approach to NSIPs as set out in the above report.

EXPECTED BENEFITS TO THE PARTNERSHIP

N/A

IMPLICATIONS

SOUTH AND EAST LINCOLNSHIRE COUNCIL’S PARTNERSHIP

The report sets out the policy position only. There are no direct implications arising from this report.

CORPORATE PRIORITIES

⁹ <https://infrastructure.planninginspectorate.gov.uk/legislation-and-advice/advice-notes/advice-note-two-the-role-of-local-authorities-in-the-development-consent-process/#1>

none

STAFFING

none

CONSTITUTIONAL AND LEGAL IMPLICATIONS

none

DATA PROTECTION

none

FINANCIAL

none

RISK MANAGEMENT

Any relevant risks have been highlighted and addressed in the above report. No outstanding unmanaged risks remain.

STAKEHOLDER / CONSULTATION / TIMESCALES

None prior to Committee

REPUTATION

none

CONTRACTS

none

CRIME AND DISORDER

none

EQUALITY AND DIVERSITY/ HUMAN RIGHTS/ SAFEGUARDING

none

HEALTH AND WELL BEING

none

CLIMATE CHANGE AND ENVIRONMENTAL IMPLICATIONS

none directly arising from this report

ACRONYMS

None

APPENDICES <i>(If none then insert the word 'None' and delete the below text/boxes).</i> Appendices are listed below and attached to the back of the report: -	
None	

BACKGROUND PAPERS <i>(If none then insert the wording 'No background papers as defined in Section 100D of the Local Government Act 1972 were used in the production of this report.' Also delete the below text/boxes.)</i> Background papers used in the production of this report are listed below: -	
Document title	Where the document can be viewed
<i>No background papers as defined in Section 100D of the Local Government Act 1972 were used in the production of this report.</i>	

CHRONOLOGICAL HISTORY OF THIS REPORT	
None	
Name of body	Date

REPORT APPROVAL	
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