



Rushcliffe
Borough Council

When telephoning, please ask for: Democratic Services
Direct dial 0115 914 8320
Email democraticservices@rushcliffe.gov.uk

Our reference:
Your reference:
Date: Thursday, 2 May 2024

To all Members of the Cabinet

Dear Councillor

A Meeting of the Cabinet will be held on Tuesday, 14 May 2024 at 7.00 pm in the Council Chamber, Rushcliffe Arena, Rugby Road, West Bridgford to consider the following items of business.

This meeting will be accessible and open to the public via the live stream on YouTube and viewed via the link: <https://www.youtube.com/user/RushcliffeBC>
Please be aware that until the meeting starts the live stream video will not be showing on the home page. For this reason, please keep refreshing the home page until you see the video appear.

Yours sincerely

Gemma Dennis
Monitoring Officer

AGENDA

1. Apologies for Absence
2. Declarations of Interest

[Link to further information in the Council's Constitution](#)

3. Minutes of the Meeting held on 9 April 2024 (Pages 1 - 8)

4. Citizens' Questions

To answer questions submitted by citizens on the Council or its services.

5. Opposition Group Leaders' Questions

To answer questions submitted by Opposition Group Leaders on items on the agenda.

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Opening hours:
**Monday, Tuesday and
Thursday**
8.30am - 5pm
Wednesday
9.30am - 5pm
Friday
8.30am - 4.30pm

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Rushcliffe Borough
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NON-KEY DECISIONS

6. Revised Contaminated Land Inspection Strategy 2024-2029 (Pages 9 - 28)

The report of the Director – Neighbourhoods is attached.

7. Management of Open Spaces in New Developments (Pages 29 - 48)

The report of the Director of Development is attached.

8. Rushcliffe Carbon Offsetting Framework (Pages 49 - 56)

The report of the Director – Neighbourhoods is attached.

9. Revised Empty Homes Strategy 2024-2029 (Pages 57 - 92)

The report of the Director – Neighbourhoods is attached.

10. Review of Smoke Control Areas (Pages 93 - 98)

The report of the Director – Neighbourhoods is attached.

Membership

Chair: Councillor N Clarke

Vice-Chair: Councillor A Brennan

Councillors: R Inglis, R Upton, D Viridi and J Wheeler

Meeting Room Guidance

Fire Alarm Evacuation: In the event of an alarm sounding please evacuate the building using the nearest fire exit, normally through the Council Chamber. You should assemble at the far side of the plaza outside the main entrance to the building.

Toilets: Are located to the rear of the building near the lift and stairs to the first floor.

Mobile Phones: For the benefit of others please ensure that your mobile phone is switched off whilst you are in the meeting.

Microphones: When you are invited to speak please press the button on your microphone, a red light will appear on the stem. Please ensure that you switch this off after you have spoken.

Recording at Meetings

The Openness of Local Government Bodies Regulations 2014 allows filming and recording by anyone attending a meeting. This is not within the Council's control.

Rushcliffe Borough Council is committed to being open and transparent in its decision making. As such, the Council will undertake audio recording of meetings which are open to the public, except where it is resolved that the public be excluded, as the information being discussed is confidential or otherwise exempt.



MINUTES OF THE MEETING OF THE CABINET

TUESDAY, 9 APRIL 2024

Held at 7.00 pm in the Council Chamber, Rushcliffe Arena,
Rugby Road, West Bridgford
and live streamed on Rushcliffe Borough Council's YouTube channel

PRESENT:

Councillors N Clarke (Chair), A Brennan (Vice-Chair), R Inglis, R Upton, D Virdi and J Wheeler

ALSO IN ATTENDANCE:

Councillors R Bird, T Birch, E Georgiou, N Regan, J Walker, L Way, T Wells and G Williams

OFFICERS IN ATTENDANCE:

D Banks	Director of Neighbourhoods
G Dennis	Monitoring Officer
P Linfield	Director of Finance and Corporate Services
K Marriott	Chief Executive
H Tambini	Democratic Services Manager

59 Declarations of Interest

There were no declarations of interest made.

60 Minutes of the Meeting held on 12 March 2024

The minutes of the meeting held on Tuesday, 12 March 2024 were agreed as a true record and signed by the Chairman.

61 Citizens' Questions

Question from Isabel Shouler to Councillor Inglis.

“Do you not agree that 1 hour free parking will be detrimental to the businesses of Bingham?”

Councillor Inglis responded by thanking Ms Shouler and advised that the Council had been assessing a range of tariffs for both Needham and Newgate Street cars parks, which as part of a total package of measures would aim to improve parking to better support town centre economic vibrancy. This work would be discussed in more detail this evening as part of Agenda Item 7, which would include full consideration of both 1 and 2 hour free parking in Newgate and Needham Street, and the charging structure for additional hours.

62 **Opposition Group Leaders' Questions**

Question from Councillor Birch to Councillor Inglis

“The basis for the recommendations in the 'Bingham Car Parking Project Update' report is the data accrued by traffic data collection company, ITP. The methodology they used to obtain their data consisted solely of 'in person' surveys of car park users.

Do you not agree that this methodology shows blatant sampling bias, where those residents who are actively avoiding the car parks, because of years of being unable to find spaces, are not represented in the data, and therefore the results do not reflect the true nature of Bingham's parking crisis?”

Councillor Inglis stated that he did not agree, as the report clearly stated that in addition to commissioning on-site surveys the Council had conducted an online survey, which had been well publicised on social media and via press releases including coverage by the BBC . As a result of this promotional work, the survey had received over 1,500 responses and this information was used to help inform the package of measures presented in the report this evening.

Councillor Birch asked a supplementary question to Councillor Inglis.

“With regards to the charging options that have been presented tonight, option 5 has caused public outrage and has been opposed by all local representatives. Given the potential for option 5 to detrimentally affect local businesses, and impose further financial burdens on residents, might Cabinet be inclined to reassess and go for option 4, thereby prioritising the well being of local residents and the local business community over short term financial gain?”

Councillor Inglis reiterated that details would be explained when Item 7 was considered later in the meeting.

Question from Councillor J Walker to the Leader, Councillor Clarke.

“Despite a generally favourable report from our Peer Challenge colleagues, it feels like the responses/actions are a done deal. Almost like the theme in the report of the Borough talking 'to' its residents rather than in collaboration with, has still not been taken and runs quite deep, as is evident even in response to the suggestions, with no mention of any wider engagement.

Will all Councillors and residents get the opportunity to offer suggestions on how we can all make the changes suggested in this report and proactively engage in the process of improvement?”

The Leader thanked Councillor Walker and advised that the responses and actions were designed to highlight work that was underway, which the Peer Team were unable to see, as well as future improvements that the Council could work on. The feedback had been welcomed and there was a proposal to include an engagement section in the next Communications Strategy, and any Councillors or residents that wanted to submit comments were very welcome to

do so. The Leader stated that the Council did have a programme of engagement on a wide range of policy items, as well as its biennial residents survey. The next survey would be delivered to every household in the Borough in the June edition of Rushcliffe Reports and the Council would be delighted to receive more feedback from residents. Whilst developing the new Economic Growth Strategy, comments would also be welcomed, and the Leader reminded everyone that the Bingham Car Parking survey had also encouraged engagement.

Councillor Walker asked a supplementary question to the Leader.

“Would the Communications Strategy come to scrutiny to provide another opportunity for engagement?”

The Leader advised that initially the Strategy would be reviewed and it was likely that it would be renamed the Engagement and Communications Strategy, to reflect that. Following its adoption, it would then be available for scrutiny.

Question from Councillor Way, on behalf of the Leake Independent Group to the Leader, Councillor Clarke.

“With reference to Appendix B, Key Recommendations, page 4, Governance/Performance/Culture, Item 7 states ‘RBC should consider undertaking a comprehensive review of its scrutiny function, the role and number of overview and scrutiny groups, processes and procedures, aligned with progressing RBC’s Corporate Strategy, with Councillor engagement at its core’.

The subsequent response states that a review was carried out in 2018. As this is six years ago, and predates the last two elections, where new Councillors have joined, and bearing in mind that this must have been a topic raised many times to warrant this recommendation, and is covered at some length on pages 16 to 17 of the report, is it not time a new review takes place and the scrutiny process is itself scrutinised?”

The Leader thanked Councillor Way and advised that a review was undertaken between September 2018 and February 2019 by the Centre for Public Scrutiny (CfPS), which was now the Centre for Governance and Scrutiny, and that had been reported to Council in March 2019. The independent review included desk research, observations of meetings, a Councillor survey, and many interviews. The Leader stated that the CfPS had recommended a single scrutiny overview group, with task and finish groups to investigate specific topics. This model of scrutiny was widely used in larger councils and very different to what had been operating well at Rushcliffe for many years, which was recognised by the review team. Therefore, a transitional arrangement was approved by Council, which had a smaller Overview and Scrutiny Group that reviewed corporate items on a cyclical basis, managed requests for scrutiny and work programmes of the three themed scrutiny groups. An internal review of this arrangement was scheduled for 12-18 months time. The Leader confirmed that the transitional arrangements were reviewed and reported to Corporate Overview Group in September 2020, when it was concluded that the transitional arrangements were a significant

improvement on the previous model and that they should be maintained. Views of both Councillors and officers were sought as part of this review and were detailed in the report. The Centre for Governance and Scrutiny ran a Scrutiny Improvement Review programme and it had also published a self-evaluation toolkit, which could be used if it was felt a review was needed. Further training for Chairs and Vice-chairs was planned for this year to focus on quality of debate and questioning as well as managing the meeting and that would hopefully result in more effective meetings.

Councillor Way asked a supplementary question to the Leader.

“The question about scrutiny had strong links to paragraph 2 on page 16 of the Feedback Report and quoted “Officers for example can take Councillors’ questions as criticism, when Councillors often just want to know how or why the Council responds to various situations. This can lead to Councillors asking fewer questions for fear of offending officers, hindering their understanding of how Council operates and relations with officers” and that this was quite noticeable sometimes in scrutiny meetings. What steps could be taken to address this issue to promote better working relationships and understanding between officers and Councillors.

The Leader hoped that continued training for scrutiny would encourage constructive questioning, with constructive criticism and assistance in suggesting new ideas, and it was important that all Councillors agreed to have those conversations to ensure continued benefits for residents.

63 LGA Corporate Peer Challenge

The Leader and Cabinet Portfolio Holder for Strategic and Borough-wide Leadership, Councillor Clarke presented the report of the Chief Executive, outlining the LGA Corporate Peer Challenge Feedback Report and the Council’s initial response to those recommendations, together with the resulting action plan.

The Leader stated that the Peer Challenge process should be valued by councils, as it shared experiences from its peers, to identify, where necessary, any possible improvements that could be made. The Leader advised that many interviews had taken place, and that had led to the production of a very supportive and complimentary Feedback Report, which in particular had complimented the effective management of the Council’s finances.

In seconding the recommendation, Councillor Brennan welcomed this positive report, and stated that it was interesting to note the suggested areas for development and improvement. It was also particularly satisfying that the collective efforts of both Councillors and officers in creating a Council that could deliver on its priorities and strategies had been recognised. Councillor Brennan thought that the process had been very helpful in providing opportunities to explore in depth how the Council delivered its priorities and how it could improve going forward. She was particularly keen on the team recognising the Council’s strategic and place leadership in respect of working and influencing partners, as even with relatively small resources, Rushcliffe had a credibility to bring partners along and to help shape their policies for the

benefit of the Borough. The Peer team had also acknowledged new innovations, such as the Economic Development Strategy, and how that could bring investment into the Borough. Councillor Brennan stated that the process had highlighted that Rushcliffe was a well performing Council and had given it plenty of things to think about going forward.

Councillor J Wheeler welcomed this positive report, stated that the Peer Challenge team had been invited by the Council, and referred to the importance of having external reviews. The report highlighted all the good work being done by officers and Councillors, and although it was known that Rushcliffe was a very well run Council, having being shortlisted last year for Council of the Year, it was always good to look at ways to improve. Councillor Wheeler welcomed the action plan and referred specifically to the importance of training and advised that this would continue to be a priority.

Councillor Upton welcomed this excellent report, which the Council should be proud of.

It was RESOLVED that:

- a) the LGA's feedback report as detailed in Appendix A to the report be accepted; and
- b) the Council's action plan and response to the recommendations as detailed in Appendix B to the report be accepted.

64 Bingham Car Parking Project Update

The Cabinet Portfolio Holder for Environment and Safety, Councillor Inglis presented the report of the Director – Neighbourhoods, which provided an update on the work of the Bingham Car Parking Strategy Group over the last six months.

Councillor Inglis advised that the published report was a recommendation, and that he had listened to all the feedback, from Bingham Town Councillors, the public and business owners, and read the comments on Bingham Social media sites. He referred to a revised recommendation, altering the recommendation in D and stated that the table at paragraph 4.9, which was also referenced in recommendations B,C and D had a revised tariff.

Councillor Inglis agreed that parking in Bingham had been an issue for several years. The Bingham Car Parking Strategy Group was established in September 2023, to better understand the current situation, specifically in Bingham, to explore short to medium term solutions to improve parking, by changing the length of stay and charges to existing car parks, to prompt behaviour change, freeing up capacity for short stay parking. The Group, investigated not only Rushcliffe car parks, it looked at a complete strategy for all of Bingham, working in partnership with representatives from Bingham Town Council and the County Council, and that challenging work was continuing. Councillor Inglis thanked everyone on the Group for their hard work and dedication, and in particular Rushcliffe's Corporate and Commercial Projects Officer.

Cabinet was advised that a three day survey was commissioned to ITP, an independent sustainable transport planning and research consultancy, to obtain the current data alongside a public consultation survey, which concluded that the high majority of car park users stayed for under two hours, the highest percentage under 1 hour and 50% of those under 30 minutes, with just a small percentage of long stay, and the main use was for shopping. The Group discussed all options for potential tariffs, with the general consensus leaning towards tariff 4, to be considered by officers. Subsequently to that meeting, and from within the Group, tariff 5 was proposed, based on the data for 1 hour to 2 hour users that had the potential of freeing up more spaces and this was discussed with Group members in taking it forward. It was noted that option 5 was deemed most appropriate to prompt the behaviour change for freeing up capacity for short stay parking that was recommended in the report for an increased churn. However, following publication of the report, some concerns had been expressed via social media and emails to the Council regarding the original report proposal to introduce a charge after 1 hour.

Councillor Inglis stated that he wanted the Group to achieve the right solution so that residents and visitors could park more easily and confirmed that he and fellow Cabinet members had carefully considered the recent feedback and he hoped that by altering and recommending option 4 rather than option 5, within the table at 4.9, it would now be more widely accepted and would be reviewed in 12 months.

Cabinet noted that the tariff would apply between 7am and 7pm, which in effect, offered free evening parking from 5pm. The revised free 30 minutes and times of operation in both Rushcliffe and County Council owned bays around the Marketplace should also generate a higher turn around for very quick trips. Councillor Inglis confirmed that long stay options for business owners was not being overlooked, with the opportunity to use 30 spaces at the Arena car park on a charged annual permit basis.

In conclusion, Councillor Inglis hoped that by reacting to the feedback, residents and businesses would accept that everyone wanted the best solution, to maintain and increase the vitality and viability of the Town Centre, together with a need to manage parking provision, to ensure that it encouraged short stay rather than all-day parking, alongside the need to recover the associated car park running and maintenance costs to the Council.

In seconding the recommendation, Councillor Upton stated that he personally used to regularly visit Bingham; however, over the last ten years he had found it increasingly difficult to find a car parking space, and sometimes had to park on residential streets and he hoped that the proposed changes in the report would improve the situation and free up car parking spaces.

Councillor Viridi reiterated that in choosing this option, the expected associated revenues were unlikely to cover both revenue and capital costs as highlighted in paragraphs 4.11 and 4.12 of the report. However, the Council remained committed to being both prudent and responsible in respect of its finances, and recovering costs remained good financial practice. Councillor Viridi stated that a review in 12 months would be helpful to see if positive changes had taken

place.

In supporting the revised recommendation, Councillor J Wheeler referred to the importance of listening to feedback and given the enthusiastic response from businesses regarding the permits at the Arena, it was hoped that this would give more churn capacity, as ultimately everyone wanted the same outcome. It was hoped that this would provide the right balance and ensure that Bingham continued to thrive.

The Leader echoed comments made and stated that Cabinet had listened to feedback, he had spoken with several business owners and those feelings and opinions were clear. The Leader reminded everyone that money was not the driver in this proposal, it was about freeing up car parking spaces to help businesses and he also reiterated that the Arena car park would be available for long term parking, with a chargeable permit. It was noted that the County Council would also be reviewing on-street parking, alongside this, in preparation for the proposed changes here, and he was confident that there would be a coordinated approach and hoped that this would be a good example of collaborative working. The Leader referred to the 12 month review and hoped that it would be successful.

It was RESOLVED that:

- a) the work carried out by the Bingham Car Parking Strategy Group be recognised;
- b) reducing the length of stay in the Council's parking bays in Bingham Marketplace to 30 minutes, as set out in the revised paragraph 4.9 of the report be approved;
- c) changing restrictions on market days to allow spaces to be made available to the public when they are not in use by market traders, as set out in the revised paragraph 4.9 of the report be approved;
- d) changes to Newgate and Needham Street Car Parks to introduce charging for parking after 2 hours, as set out in sections C and D in the revised paragraph 4.9 of the report be approved;
- e) establishing a permit scheme at Bingham Arena, creating circa 30 spaces for long stay, to be made available for a fee to town centre businesses, as set out in the revised paragraph 4.9 of the report be approved; and
- f) the proposal for Nottinghamshire County Council to reduce the length of stay in their parking bays in Bingham Marketplace to 30 minutes, as set out in the revised paragraph 4.9 of the report be supported.

Revised Sections C and D Paragraph 4.9

C. Newgate Street – Change to short stay	106 spaces – currently 12 hours free (no return within 3 hours)
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See Appendix A	Up to 2 hours = free 2-3 hours = £1 3-4 hours = £5 4-12 hours = £10
D. Needham Street – Change to longer stay	40 spaces – currently 2 hours free (£20 for up to 12 hours)
See Appendix A	Up to 2 hours = free 2-3 hours = £1 3-4 hours = £5 4-12 hours = £10

The meeting closed at 7.36 pm.

CHAIR



Cabinet

Tuesday, 14 May 2024

Revised Contaminated Land Inspection Strategy 2024-2029

Report of the Director – Neighbourhoods

Cabinet Portfolio Holder for Environment and Safety, Councillor R Inglis

1. Purpose of report

- 1.1. The Strategy provided within Appendix A is a revision of the Council's Contaminated Land Inspection Strategy last reviewed in 2018.
- 1.2. It is a requirement for the Council to review its Contaminated Land Inspection Strategy periodically. In general, very little has changed since the last review. The Strategy proposes to primarily use the planning regime to investigate and remediate contaminated sites within the Borough.

2. Recommendation

It is RECOMMENDED that Cabinet approves the Contaminated Land Inspection Strategy 2024 - 2029.

3. Reasons for Recommendation

The revised Strategy details how the Council will review the land within the Borough for contamination, reflecting the changes which have occurred.

4. Supporting Information

- 4.1. Contaminated land is land that poses a significant risk to people, underground waters, surface waters, ecological systems and property because of substances contained within it.
- 4.2. Local authorities are required by law to inspect their areas to identify contaminated land. If contaminated land is found, the Council must take steps to control the risks caused by the contamination. Essentially, the legislation is aimed at finding land which is so contaminated that it needs to be cleaned up in the interest of the public and the wider environment.
- 4.3. In December 2013, DEFRA announced that funding for site investigations under the Contaminated Land Capital Grants Scheme would be withdrawn. With the changes in funding, investigation and remediation costs now fall entirely to the local authority except perhaps for emergency cases and even then, any financial help from DEFRA is subject to internal budget clearance and

the funds may simply not be available. The Council currently has no budget for undertaking contaminated land investigations for example soil samples.

- 4.4. The proactive investigation of contaminated land under Part IIA of the Environmental Protection Act 1990 will, therefore continue to be extremely limited. This Strategy proposes that the responsibility to fund the majority of such work will fall on the landowner and their insurance companies through the planning regime. It should be noted that the Council will continue to investigate reports of contamination which do occur from time to time. These will generally be resolved directly with the landowner, although in extreme cases the Council may need to take immediate and direct action, for example should the contamination arise on Council owned land.

5. Alternative options considered and reasons for rejection

No alternative options considered. We are unable to carry out our statutory enforcement responsibilities without a Strategy being in place.

6. Risks and Uncertainties

None other than where an emergency situation arises and remediation is required.

7. Implications

7.1. Financial Implications

There could be associated costs where an emergency situation arises and remediation is required. If this involves private land, action will be taken to recover the cost from the landowner. For Council owned land it would be necessary to utilise contingency budgets or in-year efficiencies. Staff costs are contained within existing budgets.

7.2. Legal Implications

The legal implications are discussed broadly within this report and Appendix A. This Strategy seeks to ensure the Council meets its legal requirements to identify and remediate contaminated land within its area.

7.3. Equalities Implications

An Equality Impact Assessment has been completed and no significant impact has been identified.

7.4. Section 17 of the Crime and Disorder Act 1998 Implications

None identified.

7.5. Biodiversity Net Gain Implications

None identified.

8. Link to Corporate Priorities

The Environment	Ensuring the proper remediation of contaminated land has environmental benefits
Quality of Life	Ensuring the proper remediation of contaminated land supports the protection of public health
Efficient Services	None
Sustainable Growth	None

9. Recommendation

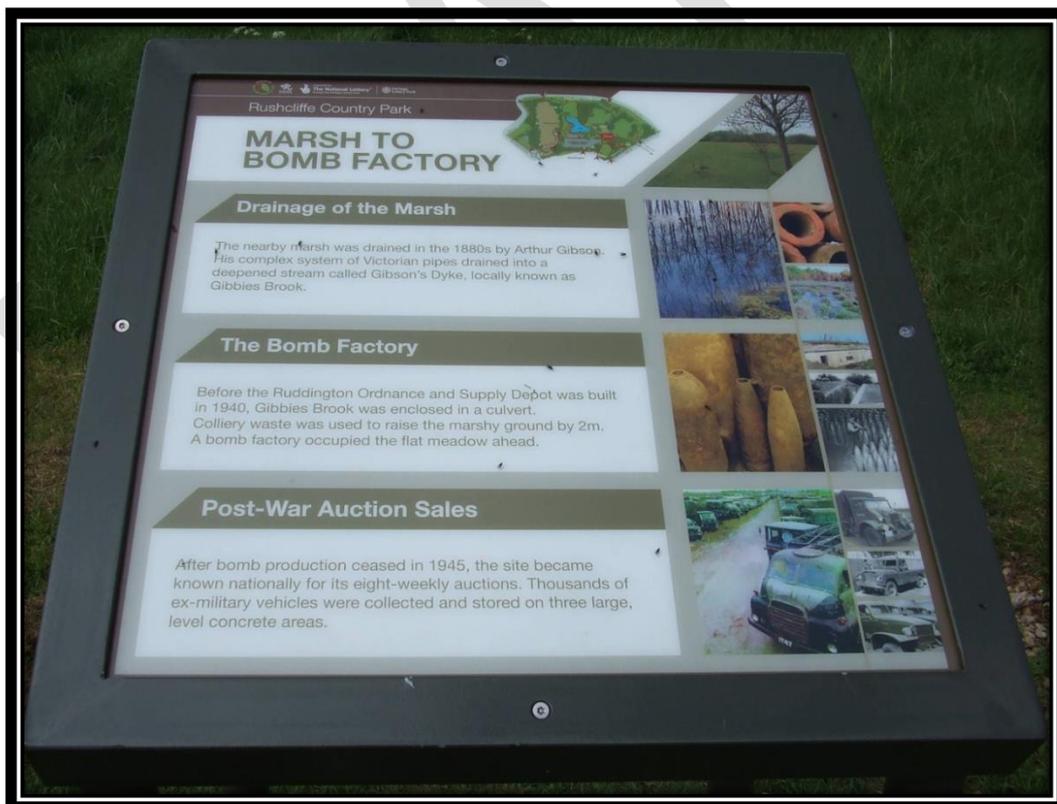
It is RECOMMENDED that Cabinet approves the Contaminated Land Inspection Strategy 2024 - 2029.

For more information contact:	Geoff Carpenter Service Manager – Public Protection 0115 914 8229 gcarpenter@rushcliffe.gov.uk
Background papers available for Inspection:	Report to Cabinet 10 July 2018 ‘Revised Contaminated Land Strategy’
List of appendices:	Appendix A - Revised Contaminated Land Strategy 2024-2029 Appendix B – Equality Impact Assessment

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Rushcliffe Borough Council



Contaminated Land Inspection Strategy 2024-2029

Executive Summary

This document is a revision of the Council's Contaminated Land Inspection Strategy last reviewed in 2018. This revision follows a routine five yearly review. The overall basis of the Strategy remains unchanged from the previous Strategy in that the Planning Regime will primarily be used to deal with land contamination issues in the Borough. This approach followed the decision by central government in 2013 to withdraw funding under the Contaminated Land Capital Grants Scheme used to support Local Authorities in undertaking site investigations and remediation under Part 2A of the Environmental Protection Act 1990 (the Part 2A regime).

With the changes in funding, investigation and potentially remediation costs under the Part 2A regime now fall entirely to the Local Authority except perhaps for emergency cases and even then, any financial help from Defra is subject to internal budget clearance and the funds may simply not be available. These reductions in funding have also occurred at a time of significant cuts to Local Authority Budgets.

The UK has a legacy of land contamination arising from past industrial development. Various industrial practices have led to substances being in, on or under land such as tars, heavy metals, organic compounds, and mining materials. In addition, landfilling of waste sometimes took place without adequate precautions against the escape of landfill gases and leaching of materials.

This Strategy document details how Rushcliffe Borough Council, under regulations inserted into the Environmental Protection Act 1990, will inspect the land in its Borough for contamination. After consultation, the Strategy was published in 2024. It details how the Council will take a rational, ordered, and efficient approach to this inspection.

Department for Environment, Food & Rural Affairs (Defra) have indicated that they now expect the vast majority of land contamination to be remediated through the planning process, where (after remediation) as a minimum, land should not be capable of being determined as Contaminated Land under Part 2A of the Environmental Protection Act 1990.

The investigation of potentially contaminated land under Part 2A of the Environmental Protection Act 1990 will now be extremely limited. It is likely that for future contaminated land investigations and remediation, the responsibility to fund the majority of such work will fall on the landowner and their insurance companies.

The Council has used all available information and a risk-based approach during the initial screening process and will continue to do so in the detailed inspection of sites to identify Contaminated Land. A rolling inspection programme will be undertaken, running for the duration of this strategy, with the Council producing a public register of any land designated as contaminated.

The process of investigating and remediating land will ensure that all land in the Borough is suitable for use and does not pose unacceptable risks to people, the environment, water, and property.

This revision to the Strategy has been written to reflect this change in emphasis and update on progress made to date.

1.0 Introduction and Overview

Industrial change and demographic shift during the 20th century resulted in the need for large-scale re-organisation of our towns and cities. Industries moved out or disappeared altogether leaving large, 'Brownfield', gaps in our urban landscape. Inevitably, these changes have left behind a legacy of land contamination, which in some cases may be harmful.

1.1 National Objectives of the Contaminated Land Regime

The overarching objectives of the Government's policy on contaminated land and the Part 2A regime are:

- To identify and remove unacceptable risks to human health and the environment.
- To seek to ensure that contaminated land is made suitable for its current use.
- To ensure that the burdens faced by individuals, companies and society are proportionate, manageable and compatible with the principles of sustainable development.

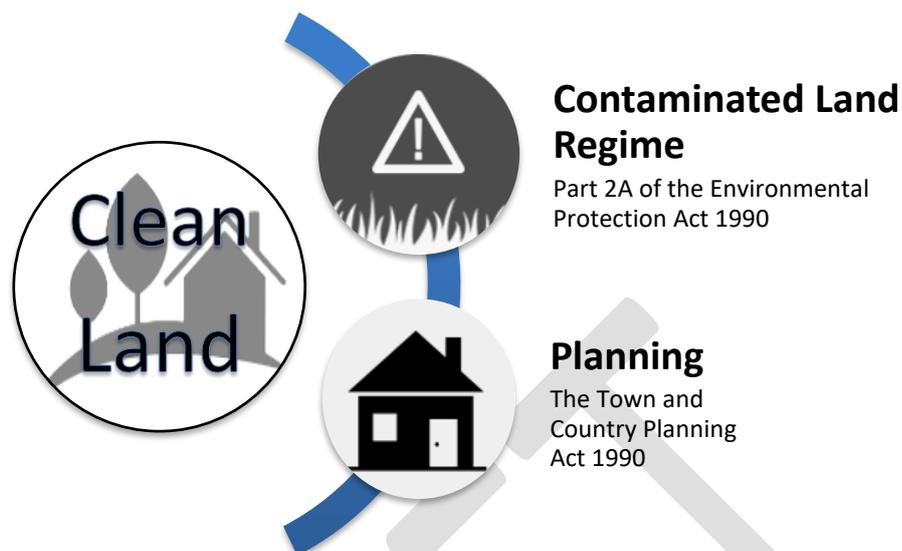
The objectives outline the '*suitable for use approach*' with respect to the remediation of contaminated land and achieving sustainable development. This means that the risk is assessed in the context of a specific use with the aim of maintaining an acceptable level of risk at minimum cost, thereby, "*not disturbing social, economic and environmental priorities.*"

The regime provides a means of dealing with unacceptable risks posed by land contamination to human health and the environment, and enforcing authorities should seek to find and deal with such land. Under Part 2A the starting point should be that land is not contaminated land unless there is reason to consider otherwise. Only land where unacceptable risks are clearly identified, after a risk assessment has been undertaken in accordance with Statutory Guidance, should be considered as meeting the Part 2A definition of contaminated land.

Enforcing authorities should seek to use Part 2A only where no appropriate alternative solution exists. The Part 2A regime is one of several ways in which land contamination can be addressed.

Department for Environment, Food & Rural Affairs (Defra) have advised that they now expect the vast majority of land contamination to be remediated through the planning process, where (after remediation) as a minimum, land should not be capable of being determined as Contaminated Land under Part 2A.

As such land contamination is largely addressed using two routes:



Other legislative regimes may also provide a means of dealing with land contamination issues, such as building regulations (Part C); the regimes for waste, water, and environmental permitting (PPC); and the Environmental Damage (Prevention and Remediation) Regulations 2009.

DRAFT

1.2 General Policy of Rushcliffe Borough Council

Rushcliffe Borough Council welcomed the introduction of Part 2A of the Environmental Protection Act 1990 which complements the Council's own corporate aims and objectives.

Rushcliffe's current Corporate Strategy was published in December 2023, giving the following four priorities for the Council:

1. The Environment

The Council knows that the natural environment is precious and not something anyone can afford to take for granted. The Council is fully committed to playing its part in protecting the environment today and enhancing it for future generations.

2. Quality of Life

Residents' quality of life will always be a priority for the Council. Quality of life is all about how residents feel about living in the Borough, its environment, and the community facilities they can access.

3. Sustainable Growth

Rushcliffe is determined to play its part in shaping the future of the Borough ensuring the needs and aspirations of Rushcliffe residents are met in all future developments.

4. Efficient Services

As an organisation it is always the Council's intention to deliver the best services for residents in the most efficient way possible.

1.3 The Neighbourhoods Service Plan

The goals and priorities from the Corporate Strategy are developed into key actions within the Neighbourhoods Service Plan.

“To consistently provide services which protect and enhance the local environment, promote housing choice and minimise the risks to the safety, health and well-being of our citizens”

Two key aims of the service that are relevant are:

- To protect the local environment from harm;
- To protect the health, well-being and safety of residents, visitors, and workers.

In the context of contaminated land, the aim is to investigate and where appropriate ensure land is remediated that may already be contaminated.

In December 2013, Defra announced that funding for site investigations under the Contaminated Land Capital Grants Scheme would be withdrawn. Consequently, the Council’s ability to fund remediation works is now extremely limited. The focus of any investigations will therefore be directed towards the highest priority sites and those posing a significant risk to public health.

1.4 Rushcliffe Local Development Framework

The National Planning Policy Framework sets out the Government’s Planning Policies for England and how these are expected to be applied. It sets out the Government’s requirements for the planning system and it provides a framework within which local people and their accountable councils can produce their own distinctive local and neighbourhood plans, which reflect the needs and priorities of their communities.

Planning law requires that applications for planning permission must be determined in accordance with the development plan unless material considerations indicate otherwise. The National Planning Policy Framework must be taken into account in the preparation of local and neighbourhood plans and is a material consideration in planning decisions.

One of the important core principles of the framework is to encourage the effective use of land by reusing land that has been previously developed (brownfield land).

The inspection of the Borough will identify areas of potentially contaminated land, which may be developed, awaiting development, derelict, protected or green belt. This may result in the need to re-examine past development control files or identify development routes for contaminated sites, which may subsequently impact on the Local Development Framework.

1.5 Strategy Priorities and Objectives

The Part 2A regime requires that where a local authority considers that there are reasonable grounds for believing that any land may be contaminated, it shall cause the land to be inspected for the purpose of identifying whether it is contaminated land.

Authorities must act in accordance with guidance issued by the Secretary of State which has been published by Defra.

The statutory guidance makes clear that Authorities must produce a formal contaminated land inspection strategy document. It must set out how and when land which merits inspection, will be identified in an ordered, rational, and efficient manner and in what time scale.

The Council's priorities in dealing with contaminated land will be:

- To protect human health;
- To protect controlled waters;
- To protect designated ecosystems;
- To prevent damage to property;
- To prevent any further contamination of land;
- To encourage voluntary remediation prior to taking enforcement action;
- To encourage re-use of brownfield land.

In order to provide a focus for future actions, the following objectives have been established:

- To ensure that the Strategy is compatible with the Council's Corporate Policies, sustainability, development and community objectives.
- To ensure that planning policies and procedures deal effectively with any land contamination where development takes place and to render it suitable for its intended use.
- To make information readily available to all relevant services to enable potential liability issues associated with their own land to be fully assessed.
- To ensure that the Council is aware of any associated potential land contamination liabilities, prior to proposed acquisition or disposal.
- To provide a mechanism whereby the Strategy is reviewed on a regular basis to allow for changes in statutory guidance and corporate policy.

2.0 Characteristics of Rushcliffe

The Borough of Rushcliffe is situated in the Southeast of Nottinghamshire, covers 157 square miles, and has a population of 119,000. Its area stretches from the River Trent to the Leicestershire borders to the east and the south, and northwards to within a few miles of Newark.

The largest town is West Bridgford with a population of 44,100 (including Gamston & Edwalton), and it is separated from the City of Nottingham by the River Trent. Other major settlements include Bingham, Cotgrave, Radcliffe on Trent, Keyworth, Ruddington and East Leake, and throughout the Borough there are approximately 50,000 dwellings.



2.1 Geology

Geology plays an important role in the establishment of pollutant linkages between the source and receptor. It is therefore necessary to establish the underlying geology within Rushcliffe.

Rushcliffe is situated upon superficial deposits of clay, sand, gravel, alluvium and on bedrock of mudstone, sandstone and carboniferous limestone. There are coal measures, gypsum beds and a geological feature called the Westbury bed which is associated with uranium mineralisation and the radioactive gas, radon. There are two geological faults called the Harlequin Fault and the Flawforth Fault and a small number of minor complex faults.

2.2 Topography

Much of Rushcliffe is rural and agricultural. The western half of the Borough is characterised by the Wolds, with higher undulating land in the south. The remainder of the Borough is flatter and lower with the rivers Trent, Soar and Smite forming shallow valleys running through the Borough. There are mixed areas of woodland, except for the north-eastern part and the area west of Ruddington which are characterised by an open, flat landscape where many trees and hedgerows have been removed. Other prominent features are Gotham Hill, Hickling Standard, Wilford Hill, Barton Gap and Cropwell Bishop Gap.

2.3 Land use and industry in Rushcliffe

Most of Rushcliffe is rural and agricultural, with areas of mixed woodland.

Brick clay has been extracted in the past, and the main sites were situated at Harlequin (Radcliffe on Trent), West Bridgford and Wilford. Sand and gravel has been extensively extracted at Holme Pierrepont and Bassingfield. At the present the only active site is at East Leake.

Gypsum has been extracted in many areas of Rushcliffe as early as the 17th Century. Early workings were based around outcropping gypsum and there are many pits and shafts, particularly around the East Bridgford areas. Later methods of extraction used pillar and stall methods with mines at Barton, East Leake, Gotham and Thrumpton. Quarrying for gypsum was carried out on a large scale at Cropwell Bishop until 1995, and British Gypsum at East Leake is the only active site currently extracting mined gypsum.

Cotgrave colliery opened in 1964, but production ceased in 1993 and the site has been developed for industrial, residential use and recreational use. There is the possibility that in the past coal was extracted on a small scale elsewhere in the Borough, but there are no records of such activities.

Oil is currently extracted at Rempstone and there are other small fields at Cropwell Bishop and Langar, but production is relatively small. Exploratory drilling has also been carried out near Radcliffe in Trent.

Although mainly rural, there are areas of light industry spread about the Borough, with industrial sites at Bingham, Bunny, Cotgrave, Keyworth, Langar, Normanton on Soar, Ruddington, West Bridgford and Wilford.

The Borough has 28 processes currently permitted under the Environmental Permitting Regulations 2010; these include Ratcliffe on Soar Power Station and Tarmac Cement Works at Barnstone.

There are also four large closed landfill sites in the Borough, and several smaller filled areas, but others may be present throughout the Borough.

2.4 Waterways

The River Trent forms the western boundary of the Borough with the River Soar to the South West. The Rivers Devon, Smite and Fairham and Kingston Brooks meander across the central and eastern parts of the Borough. The Grantham canal, now disused, bisects the Borough and runs into the River Trent near Lady Bay Bridge.

Most of the land adjacent to the rivers in the Borough is classed as floodplain, with major flooding in 1947 and more recently in 2000, 2012, 2023 & 2024. River water quality in the Borough is classed as fair to very good.

2.5 Hydrogeology

There are no principal aquifers, only secondary and B designated for the bedrocks in the borough. There are no Environment Agency groundwater protection zones in the Borough.

There are a small number of private water supplies, mainly serving single properties with springs or shallow wells. There are also a small number of borehole supplies, but only one is used for human consumption.

2.6 Protected sites

The Borough has many protected sites, including 8 Sites of Special Scientific Interest (SSSIs). Full details can be found on our Nature Conservation Strategy webpage [Nature Conservation Strategy - Rushcliffe Borough Council](#)

It is likely that some contaminated land sites will have been colonised by wildlife which are legally protected. Consequently, prior to remediation measures being implemented, it will be necessary to ensure that appropriate action is taken to ensure that the legislation protecting certain species of wildlife is complied with. The main species likely to be found in the Borough, identified as being protected by the Wildlife and Countryside Act 1981 (as amended), are badgers, bats, great crested newts, water voles and breeding birds.

3.0 Strategic approach to the identification of contaminated land

The Council is required to take a strategic approach to inspecting land in its area for contamination. Therefore, it is necessary to consider both the extent to which any specified receptors are likely to be found in the district and the history, scale and nature of industrial or other potentially contaminative uses.

This work was carried out in the early 2000s and 1873 potential sites were identified along with relevant receptors and these were prioritised on a risk basis into a 'prioritised list'. The vast majority of these sites were very low risk and included farms, ponds that had been filled, electrical substations and sites where remediation had already taken place and land had been re-developed.

3.1 Action Plan 2024-29

The updated action plan (Appendix I) represents the progress that is anticipated in the context of current resources and expertise available to the Council in the next 5 years. It is the intention to keep this Strategy under regular review so that performance can be monitored within the Neighbourhoods Service Plan.

As of 2024, two sites have been formally classified as contaminated land within the framework and definitions of Part 2A of the Environmental Protection Act 1990 and placed on the Public Register. One of these sites was made suitable for use by full remediation and the other has been secured to prevent any receptors coming into contact with the contamination. A significant number of sites have been dealt with through the planning process, and under the current economic climate, this will remain the most appropriate means of dealing with land contamination, and only the most serious and urgent sites dealt with through the Part 2A regime.

3.11 Investigation of land identified through the development control process

The Land Contamination Risk Management (LCRM) was published by the Environment Agency in 2020 and replaced the Model Procedures for the Management of Land Contamination (CLR11). Both have been developed to provide the technical framework for applying a risk management process when dealing with land affected by contamination.

The process involves identifying, making decisions on, and taking appropriate action to deal with land contamination in a way that is consistent with government policies and legislation within the UK.

Each phase of the risk assessment process will conclude by assessing whether any contaminant linkage(s) exists, and if so whether it is considered to be 'significant'. If it is considered that any such linkage exists then the inspection process will move onto the next phase of risk assessment ultimately reaching a proposal for remediation and/or risk management, if required.

The Environmental Health Service and the Development Control Service will continue their close working relationship to ensure that all land highlighted as a potential site of contamination is subject to the required risk assessment, site investigation and remediation to ensure it is suitable for the proposed use.

Potentially contaminated land will continue to be identified and remediated through the planning process according to good practice. Recommendations will be made for conditions to be attached to any sites identified as requiring assessment relative to the proposed use of the site. A booklet “A Guide to Developing Land within Nottinghamshire – Guidance for Landowners and Developers” has been revised and is available on the Councils website.

3.12 Complaints

A complaint regarding any suspected land contamination will be dealt with following the same procedure as other service requests. The Council does not normally undertake any investigation based on anonymously supplied information and this general policy will be adopted for land contamination issues. This policy does not, however, preclude investigation of an anonymous complaint in exceptional circumstances. An initial desktop study will likely be undertaken, and further action is only likely if it appears that the site may be deemed an ‘urgent site’.

3.13 Dealing with Urgent Sites

Urgent action will be taken when the Council is satisfied that there is imminent risk of serious harm. The Council will consider undertaking remediation in urgent cases where it is the enforcing Authority and is of the opinion that the risk would not be mitigated unless by the Council’s voluntary action. In the case of a Special Site, the Council will declare the land contaminated and notify the Environment Agency who will then be responsible for the remediation.

3.14 Review of Prioritised List

A review of the list of potentially contaminated sites will take place during the period of this strategic document to determine if any of these require ‘urgent action’ in line with the action plan attached as Appendix I. Potential sites will be reviewed as a desktop exercise focusing on the defined risks developed through the original risk prioritisation model and updated with any new information that has more recently come to light. Where sites are identified and are to be developed they will be dealt with through the planning regime and re-risked accordingly. Only sites that are considered to be the highest priority and likely to be posing an imminent risk of serious harm will be considered for further inspection and remediation.

Appendix I – Action Plan 2024 – 2029

As it is likely the majority of sites impacted by land contamination will be dealt with via the planning regime, we will explore options to ensure land dealt with this way can be recorded on our data management system and cross referenced with the prioritised list of sites. This will ensure the prioritised list of sites is kept up to date and we can record the number of sites dealt with via the planning regime each year.

Work can then commence on assessing the current highest priority sites to see if further detailed and intrusive investigations are required. It is likely that the highest priority sites will take the longest to assess and by definition are the sites most likely to require further work.

Period	Action
2024	Review previous work and assess the top 5 priority sites
2025	Assess the top 6-10 priority sites
2026	Assess the top priority 10-20 sites
2027	Assess the top priority 20-35 sites
2028	Assess the top priority 35-50 sites

Environmental Health Service
Rushcliffe Borough Council
Rushcliffe Arena
Rugby Road
West Bridgford
Nottingham
NG2 7YG

www.rushcliffe.gov.uk

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Equality Impact Assessment Form

Name and brief description of proposal/project / policy / service being assessed:

Contaminated Land Strategy

Information used to analyse the effects of equality.

Policies / documents used for analysis.

Assessment Group	Could particularly benefit (X)	May adversely impact (X)	How different groups could be affected: Summary of impacts	Details of actions to reduce negative or increase positive impact (or why action not possible)
People from different ethnic groups			No significant impact on any particular ethnic group	
Men, women (including maternity/pregnancy impact), transgender people			No significant impact	
Disabled people or carers			No significant impact	
People from different faith groups			No significant impact	
LGBTQIA + e.g. heterosexual, homosexual, bisexual, transgender.			No significant impact	
Older or younger people			No significant impact	

page 7

Other (marriage/civil partnership. Looked after children/care experienced adults, cohesion/good relations, vulnerable children/adults)			No significant impact	
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Outcome(s) of Equality Impact Assessment (EIA): *(delete as appropriate)*

No major change need

Arrangements for future monitoring of equality impact of this policy/proposal/project:

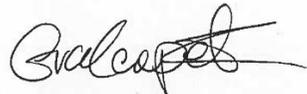
*Note when assessment will be reviewed (e.g. review assessment in 6 months or annual review).
Not required*

Names of officers who conducted EIA and date

Geoff Carpenter 11/4/24

Approved by: Geoff Carpenter

Date: 11/4/24



(manager signature)

page 28



Cabinet

Tuesday, 14 May 2024

Management of Open Spaces in New Developments

Report of the Director – Development and Economic Growth

Cabinet Portfolio Holder for Planning and Housing, Councillor R Upton

1. Purpose of report

- 1.1. This report sets out the Council's current position with regards to the management of open spaces on new developments within the Borough, with detail provided about concerns reported by Councillors and residents concerning the practices of private management companies.
- 1.2. The report summarises the issues as the Council understands them and considers what role the Council can play in improving the situation for residents. The report also outlines what is happening nationally to improve management company practices, as there is currently no regulation for the governance of management companies.
- 1.3. This report is seeking Cabinet's approval for the proposed future approach to the management of open spaces on new developments.
- 1.4. This issue has been considered most recently at Growth and Development Scrutiny Group on 3 January 2024. Further detail on this is provided in section 4.4.

2. Recommendation

It is RECOMMENDED that Cabinet:

- a) reaffirms the Council's position not to adopt open spaces on new developments due to the significant financial burden this entails;
- b) supports the proposal for the Council to take a more active role working with developers and management companies to encourage good practice, as outlined in section [4.36];
- c) requests that Growth and Development Scrutiny Group reviews progress against the proposal set out section [4.36] in spring 2025; and
- d) lobbies the Government to regulate the governance of management companies to ensure transparency, remove charges unrelated to the

management of open spaces, mandate engagement with homeowners and to expedite the adoption of the Leasehold and Freehold Reform Bill.

3. Reasons for Recommendation

- 3.1. As set out in the report, the practices of management companies and arrangements for the management of open space on new developments are a cause of concern for some residents. The Council has taken this on board in a review of current practices. Rushcliffe Borough Council is not unique in the way open spaces are managed, with this approach adopted across the country.
- 3.2. While the Council historically adopted new open space, due to the increased complexity of open spaces and the risk to the Council's financial position, officers cannot recommend that the Council revert to adopting open spaces.
- 3.3. Since commencing this project, there has been a significant movement nationally to improve management company practices in the form of the forthcoming Leasehold and Freehold Reform Bill and the New Homes Quality Board. However, there is still a role for Rushcliffe to play in working with developers and management companies to promote good practice. This role is set out in section [4.36] of this report.

4. Supporting Information

Background

- 4.1. Historically, the Council adopted open space on housing developments with no cost to developers or residents of that development. Open space at this time was generally small in scale and grassed land with trees. Over time, the Council continued to adopt open space on new housing developments but sought a commuted sum from the developer that covered the first 15 years of the costs associated with the maintenance and management of the open space. After 15 years, the responsibility became a financial obligation for the Council. Whilst the Council offered to adopt these open spaces, there was a negotiation with the developer about the value of the commuted sum and some developers decided to retain the open space.
- 4.2. In more recent years, in consideration of the financial burden to the Council of increasingly complex and greater quantum of open space and associated infrastructure, the Council has stopped adopting new open spaces. Currently developers are required to submit an Open Space Scheme as part of the planning process. This requires the method for securing the management and maintenance of the open space by an 'appropriate organisation' and that management and maintenance of the open space should be through a 'management company or by transfer to some other appropriate organisation', with suitable provision for funding the future management and maintenance. This process does not allow for the Council to have a say on who the management company/appropriate organisation should be. This process is now common practice among local authorities.

- 4.3. It is generally the case that developers pass the maintenance responsibility onto a management company with the financial responsibility for paying the management company passed on to the residents of the new developments.

Growth and Development Scrutiny Group January 2024

- 4.4. This issue has been considered most recently at Growth and Development Scrutiny Group on 3 January 2024. The outcomes of this discussion are captured in table 1. The recommendations set out in table 1 were presented by officers as ways in which the Council can play an active role in improving outcomes for residents locally, while awaiting the outcome of work, which is taking place at a national level.
- 4.5. Members of Growth and Development Scrutiny Group expressed the feeling that the Council should have a greater role in the management of open spaces than it currently has. This is a complex issue which the Group wishes to consider again. It is proposed that the Group reviews progress against the proposals set out in section 4.36 of this report, in spring 2025.

Table 1 - Growth and Development Scrutiny Group January 2024 Recommendations

Recommendation	Comment
a) Acknowledges the complexities of the management of open spaces and the multiple factors at play leading to no simple solution	Growth and Development Scrutiny Group supported this recommendation.
b) Accepts the conclusions arrived at regarding the financial risks to the Council in pursuing the adoption of open spaces or acting as the management company and supports the conclusion arrived at.	Growth and Development Scrutiny Group did not support this recommendation. Further detail on this is presented to Cabinet for consideration in this report, with particular detail included in sections 4.25
c) Supports the proposal for the Council to take a more active role working with developers at the Planning stage to establish the Council's expectations regarding the service expected for its residents.	Growth and Development Scrutiny Group supported this recommendation. To return to scrutiny. This role is outlined in section 4.36 of this report.
d) Seeks to raise the general issues and concerns raised by residents on new housing estates with developers and management companies to raise the profile of the issues being experienced.	Growth and Development Scrutiny Group supported this recommendation.

<p>e) Investigate the legal position on whether a commuted sum to cover maintenance for 15 years could be legally enforced by Rushcliffe Borough Council</p>	<p>This was an additional recommendation added and supported by Growth and Development Scrutiny Group.</p> <p>The Council’s Monitoring Officer has considered this and confirms that the Council cannot forcibly adopt open space on new developments. The Council can offer to adopt spaces with a commuted sum paid by the developer but cannot force the developer to do this.</p> <p>If the developer were to agree to hand the open space over to the Council, the calculation of any commuted sum would be a matter for negotiation. Once a developer signs a s106 agreement then they would be legally bound by the terms as per any contract and the Council would have various legal remedies to enforce any breach.</p>
<p>f) Investigate the work carried out by Stratford on Avon District Council and invite a guest speaker from the District Council to attend a Growth and Development Scrutiny Group meeting</p>	<p>This was an additional recommendation added and supported by Growth and Development Scrutiny Group.</p> <p>RBC officers have spoken with officers from Stratford, who confirmed that their Cabinet took a decision in 2020 that the Council would adopt open space (in the event that a Town or Parish Council do not). It has taken a number of years for Stratford to work through the complexities associated with implementing this decision.</p> <p>In April 2024 Stratford published a Supplementary Planning Document (SPD) setting out their approach to the management of open spaces.</p> <p>The SPD sets out that:</p> <p>Where the Parish/Town Council do not accept the transfer, the District Council will consider the management of certain types of public open space (not including SUDs, allotments, community gardens), with a 30-year commuted sum. This will be subject to ensuring the open space can be effectively maintained under the current management programme in operation. Where any of these types of spaces cannot be managed by the Town/Parish Council or District Council, they are to be retained by the developers or transferred to a management company.</p>

	<p>While Stratford has established a willingness to adopt certain types of open space under the right circumstances, this approach still leaves developers free to hand open space over to management companies and creates an even more mixed picture for residents in terms of who maintains what and at what cost.</p> <p>NB Stratford will only take on land with a 30-year commuted sum.</p>
<p>g) Provide a detailed forecast for revenues received by Rushcliffe Borough Council from an example development (for example Fairham) over the 15-year period.</p>	<p>This was an additional recommendation added and supported by Growth and Development Scrutiny Group.</p> <p>Officers have provided more information in section 4.25, which demonstrates the financial impact of adopting an open space on the scale of Fairham.</p> <p>Whilst housing growth results in additional Council Tax receipts this also creates additional demand on statutory Council services which the Council Tax receipts are not sufficient to cover. The maintenance of open spaces would be an additional (and discretionary) service, the costs of which would have to be found from new revenue streams.</p>

Residents' Concerns

4.6. Concerns have been reported by residents, which can be broadly captured under the following three themes:

- **Transparency and fairness** – While it appears that most residents are aware of a service charge upon buying their new home, a number have stated that they were not aware of the variety of charges they would be subject to, which do not directly relate to the maintenance of open spaces. In some cases, homeowners are charged for external home improvements. In other cases, permission of the management company is required, along with a fee, when a homeowner re-mortgages or sells their home, as a result of a covenant placed on the house deeds. While all of this will have been included in contracts signed by the purchaser, it appears the information is not always presented in a sufficiently transparent and user-friendly way.
- **Quality of Maintenance** – A number of residents have reported dissatisfaction with the quality of maintenance work carried out, or reportedly not carried out in some cases. Examples have been shared of poor quality or careless work taking place, and also where work is not taking place in line with the agreed maintenance schedule.
- **Poor customer service with no right to challenge or hold to account** – Reports have been shared of poor customer service with regards to

resolving complaints; however, more significantly, residents have reported frustration that freeholders do not have the same rights as leaseholders, which means there is currently no access to redress schemes or mechanism for taking a case against a management company to tribunal or an ombudsman.

- 4.7. These concerns and reports are mirrored across the country and are being considered by Government with an intention to legislate to improve homebuyers' experience.

The Council's Powers

- 4.8. From a planning perspective, the Council's powers are limited. As explained above, developers are required to secure the management and maintenance of an open space by an 'appropriate organisation'. This process does not allow for the Council to have a say on who that appropriate organisation should be. With regards to other planning powers, officers have considered the use of planning conditions and obligations.
- 4.9. A local planning authority should only grant permission subject to conditions where those conditions are required to make the development acceptable in planning terms. Most approvals have conditions relating to the time frame to start a development and materials to be used. Conditions must be fair, reasonable and practicable and tailored to tackle specific problems.
- 4.10. A planning obligation is a tool, in the form of a legal agreement otherwise known as a section 106 agreement which commits the developer to specific actions to minimise the impact of the development on the local community (for example, to carry out tasks which will provide community benefits and can include the payment of sums of money).
- 4.11. It is important to note that with either of these tools, there are tests to be met in order for it to be appropriate for officers/Planning Committee members to attach either a condition to a permission or impose a contractual requirement on the developer in the section 106 legal agreement. The National Planning Policy Framework makes clear that planning conditions should be kept to a minimum, and only used where they satisfy the following six tests: 1. necessary; 2. relevant to planning; 3. relevant to the development to be permitted; 4. enforceable; 5. precise; and 6. reasonable in all other respects.
- 4.12. It is important to consider how the Council would enforce any lack of compliance with a condition or obligation. The Council would have to pursue prosecution or a court injunction, action which the Council could not undertake lightly. The Council would be required to evidence a breach which would be a significant and costly undertaking which could be deemed disproportionate to the scale of the issue.
- 4.13. Neither conditions nor obligations are currently felt to be appropriate tools to bring to bear in response to concerns about management company practices.

UK Government Position

- 4.14. In 2017, the Government announced an intention to legislate in this area, particularly with regard to freeholder rights.
- 4.15. Leaseholders who pay service charges in England and Wales have a statutory right to challenge unreasonable service charges and the standard of work carried out. Freeholders do not currently have an equivalent statutory right.
- 4.16. In November 2023, the Leasehold and Freehold Reform Bill was introduced to parliament. The Bill seeks to grant freehold homeowners on private estates the same rights of redress as leaseholders by extending equivalent rights to transparency over their estate charges and to challenge the charges they pay by taking a case to a Tribunal, just like existing leaseholders.
- 4.17. In February 2023, the Competition and Markets Authority (CMA), an independent non-ministerial department, launched a market study into housebuilding in England, Scotland and Wales, a significant focus of which has been on private management of public amenities on housing estates. In November 2023, the CMA published for consultation a working paper on this topic. The paper can be viewed here - [CMA market study](#). The goal of the consultation is to provide greater protection to households living under current private management arrangements.
- 4.18. The Council submitted a response to this consultation in support of providing greater consumer protection to households.
- 4.19. In February 2024, the CMA published its final report, in which it expresses concerns around estate management charges. The report can be viewed here - [CMA market study final report](#). The CMA has made three recommendations to Government:
- Requiring councils to adopt amenities on all new housing estates.
 - Introducing enhanced consumer protections for homeowners on existing privately managed estates.
 - Establishing a New Homes Ombudsman and setting a mandatory consumer code so homeowners can better pursue homebuilders over any quality issues they face.
- 4.20. The CMA does not suggest how the mandatory adoption of amenities should be funded and, in the report, recognises concern about how councils will finance adoption, suggesting that the Government will need to consider how best to ensure that appropriate funding is provided to local authorities.
- 4.21. Following publication of the report the Council wrote to Secretary of State for Department of Local Government, Housing and Communities, Michael Gove MP, on 4 March 2024, urging the Government to investigate further and put in place some regulatory controls to manage estate management companies. This letter can be viewed in full in Appendix B.

4.22. A response was received, dated 17 April 2024, which states that the Government will be considering the CMA’s findings and recommendation and will respond formally to the CMA within 90 days of its February 2024 Report. This response can be viewed in Appendix C.

RBC adoption of Open Spaces on New Developments

4.23. Prior to the CMA’s report, officers considered whether the Council could reverse its position and revert to adopting public open spaces on new developments. This approach would provide the Council with control over the maintenance of open spaces. Residents would not be required to pay a fee to a management company.

4.24. When the Council historically adopted new open spaces, it did so with a commuted sum paid by the developer. This commuted sum was intended to cover maintenance for 15 years, with the financial burden falling on the Council after this. The sum was calculated based on maintenance of hard and soft landscaping along with a sum for sustainable drainage systems. However, it did not allow for play areas, allotments and existing woodlands, which introduce additional maintenance costs, and staff time and expertise. This was also at a time when requirements for public open space were less extensive than they are now. National Planning Policy has led to an increase in the overall quantum of open space and complex nature of facilities on new housing estates than historically.

4.25. In considering whether it would be possible for the Council to revert to adopting open spaces, officers have considered, as an example, the commuted sum that would be required were it to adopt the open space at the Fairham development. Fairham will have 97ha of green infrastructure (excluding play provision, sports pitches, allotments), 110ha in total. The open space at Fairham will be 1.4 times the size of Rushcliffe Country Park in Ruddington, with the addition of sports provision, allotments, more play areas, and substantial areas of watercourse and balancing ponds all of which will be maintenance intensive. Based on the Council’s historic commuted sum calculation, taking into account the latest RPI index, the sum would be in excess of £11m (see figure 2). This is without the additional costs for watercourses and paths which would increase it further. This would be intended to cover maintenance for 15 years, after which time the Council would be responsible for maintenance which would present a significant financial liability.

Figure 2 – estimated commuted sum calculation for Fairham:

Description	Quantity	Rate	Total
Total area of open space	1,101,900 m ²	£10.20	£11,239,380
Hard Surfacing	Not currently known m ²	£44.62	?
Open Watercourses	Length not currently known	£152.10	?
Dry Balancing Area	Number not currently known	£6,692.41	?
Wet Balancing Ponds	Number not currently known – estimate of 20	£16,731.00	£334,620
Total			£11,574,000

4.26. The Council will receive additional income from the new homes at Fairham via Council Tax (note – the Council receives 10% of Council Tax, with the remainder going to fund Nottinghamshire County Council, Adult Social Care, Combined Fire Authority and Police). Council Tax generated is considered as part of the overall Medium Term Financial Strategy along with other funding streams and finances expenditure across the Borough, so cannot be considered as ‘additional’ income, which could be used to cover the maintenance of the open space at Fairham. Council Tax income alone is not sufficient to fund the Council’s services, hence the need for additional income streams and even with additional income streams, the Council is projecting a budget deficit. If the Council were to take on responsibility for the maintenance of open space at Fairham alone, just one of the upcoming new developments, this deficit would increase, as set out in figure 3.

Figure 3 – Budget deficit position with addition of maintenance responsibility for Fairham

	2026/27	2027/28	2028/29
Council Tax Base Growth 1.6% pa (included in income)	48,505.50	49,281.60	50,070.10
Council Tax Income (included in income below) £'000	8065	8437	8818
	2026/27 Estimate (£'000)	2027/28 Estimate (£'000)	2028/29 Estimate (£'000)
Income	(37,936)	(38,410)	(39,192)
Expenditure	39,193	39,663	40,281
Deficit	1,257	1,253	1,089
Fairham Open Space maintenance +3% inflation (based on estimated £11m commuted sum)	800	824	849
Revised Budget Deficit	2,057	2,077	1,938

4.27. While the above example reflects the picture were the Council to be financially responsible for the open space from 2026/2027 rather than at the end of 15 years once the commuted sum had expired, it clearly demonstrates the pressure that a financial obligation of this scale would put the Council under and there is no reason to expect that this would be any less of pressure in 15 years.

4.28. This is just one example of the developments that are being completed across the Borough. It is important to note that while Fairham is currently the largest development forthcoming, Gamston SUE delivers a greater number of houses and combined, they only represent 50% of the housing growth expected across the Borough by 2041. If the Council changed its position, it is difficult to see how this could be affordable.

4.29. If the Council did decide to adopt open space, developers currently would be under no obligation to agree to this arrangement. Developers would be in a

position to consider whether to hand the open space over to the Council with a commuted sum, or to a management company, requiring no financial contribution from the developer. Where the developer to agree to a commuted sum, it would affect viability of the scheme, offsetting other obligations, such as s106 and CIL contributions and affordable housing numbers being reduced.

- 4.30. As referenced at 4.13, the complexity of open spaces is far greater than maintaining soft landscaping and it would not be appropriate for the Council to consider accepting responsibility for key infrastructure that would better sit with other agencies, e.g. Local Lead Flood Authority, Severn Trent Water, NCC Highways.

Proposed Role for RBC

- 4.31. Consideration has been given to where the Council might more effectively use its influence to improve the situation for residents, where it lacks planning powers, or the finances to take a more active approach.
- 4.32. Officers have met with both management companies and developers this year to better understand their perspective in relation to the concerns raised by residents. This has been a constructive experience, with management companies and developers alike both keen to build good relationships with the Council and our residents to ensure they have a positive experience in their new homes.
- 4.33. Officers have been pleased to learn that the majority of developers are already registered with [The New Homes Quality Board \(NHQB\)](#), an independent body set up to create a framework to ensure new homes are built to a high standard and good customer service is provided by developers. The NHQB is particularly relevant to transparency of estate management arrangements, requiring developers to:
- In describing the new home, properly inform and not mislead consumers including in relation to management services and service charges.
 - Provide an affordability schedule of any costs that are likely to be directly associated with the tenure and management of the new home over the 10 years following the sale.
- 4.34. While non-statutory, 90% of all large and medium housebuilders are signed up, and up to the 80% of all new builds in England, Scotland and Wales will be delivered under the requirements of the NHQB. By registering, developers are also signing up to the New Homes Ombudsman Service – a new route for disputes.
- 4.35. The protections set out under the NHQB go a long way to addressing concerns raised from residents about transparency and access to an Ombudsman service. The Council will be speaking to developers at planning stage and encouraging them to register with NHQB if they are not already.

- 4.36. The Council is committed to working more proactively with developers and management companies at a much earlier stage than has been done historically, to establish our expectations regarding the service we expect our residents to receive. Specific actions the Council is committed to include:
- Officers to develop a Supplementary Planning Document, which will include guidance on open space provision, management and maintenance. This is expected to be considered by the Local Development Framework Group in 2024.
 - Officers to look into developing a 'Good Practice Code', which developers could be asked to sign up to. This would set out the Council's expectations around the developer's appointment of an appropriate management company.
 - Management companies to be invited to join Development Boards.
 - The Council to make contact with management companies on behalf of existing residents' groups with concerns or disputes, and where appropriate convene a meeting with a view to achieving positive resolution.
- 4.37. See Appendix A for more detail on these actions.
- 4.38. The Council is also committed to continuing to lobby the Government to regulate the governance of management companies to improve practices, particularly in regard to:
- transparency – ensuring that homeowners know the full extent of their obligations and the charges they will be subject to and clear itemised invoicing;
 - reasonable charges - removing charges which are not directly related to the management of open spaces e.g. fees for remortgaging; and
 - engagement with homeowners – ensuring homeowners have access to good quality information and clear lines of communication for resolving issues and complaints, regular meetings and the right to establish Residents' Management companies.

Conclusions

- 4.39. This is a subject that is being considered at national level. The Leasehold and Freehold Reform Bill clearly sets out an intention to legislate to provide freeholders on new estates greater powers and protections, which would address many of the concerns reported by Rushcliffe residents.
- 4.40. The recently published [CMA market study final report](#) clearly reflects concerns about estate management charges and practices, which the Council does not in any way dispute. The Council shares these concerns and wholly supports the recommendations regarding enhanced consumer protections and a New Homes Ombudsman. However, as is presented above and acknowledged in the CMA report, the Council is not in a financial position to adopt amenities on new housing estates. If the CMA's recommendations are supported by

Government, then consideration will need to be given by the Government to how they will be funded.

- 4.41. Whilst regulation and legislation need to come from Central Government, the Council recognises it has a role in improving outcomes locally. Whilst the recommendations do not support the Council adopting open space, it is clear the Council can play a much more active role at the outset of proposed developments to influence and encourage management companies to adopt fair and transparent processes and arrangements.
- 4.42. With regard to existing residents, the Council can raise concerns with the developers and management companies in order to seek a better service for these residents.
- 4.43. Officers are continuing to work to understand exactly what the Council's role can be moving forward and what can be done locally to have the most impact for residents. The action set out in paragraph 4.32 gives a clear sense of the direction of travel. The scope of this work will continue to grow and evolve as officers work more closely with developers and management companies and as greater changes occur nationally.

5. Alternative options considered and reasons for rejection

- 5.1. As outlined above, officers have explored the option of reverting to adopting public open space on new developments. For the reasons detailed, this is not believed to be financially possible. Equally, even if the Council were willing to adopt open space, the Council could not force the adoption of open spaces, it is a choice for developers to make.
- 5.2. Officers have considered whether RBC could adopt public open spaces on new developments by establishing its own management company or creating a new in-house service. These options were outlined in the report to Growth and Development Scrutiny Group in January 2024. Although there would be some advantages to residents in ensuring proper governance, quality of work, transparent costs and a clearly defined complaints procedure, the financial risk is too significant to ignore and does not outweigh the benefits.

6. Risks and Uncertainties

The risk to the Council of becoming more involved in a matter which is technically not its responsibility, is managing expectations in how much the Council can influence going forward and retrospectively. As outlined in the report, the Council has little power in this regard but is committed to encouraging good practice and advocating for residents. There is, of course, the risk that management companies and developers will not choose to engage with the Council on this topic, although engagement to date does not suggest that this would be the case.

7. Implications

7.1. Financial Implications

Paragraph 4.25 highlights the potential financial implications of the introduction of the management of open spaces. This considerably worsens an existing projected budget deficit position in the medium term, with efficiencies already required. Currently this is not affordable, sustainable or prudent.

7.2. Legal Implications

There are no legal implications associated with the recommendations. As is detailed in the report, the Council does not have the legal power to oblige developers to hand over open space with a commuted sum, this is a matter for negotiation with individual landowners/developers.

7.3. Equalities Implications

The recommendations aim to improve the experience of all new home owners in relation to management companies.

7.4. Section 17 of the Crime and Disorder Act 1998 Implications

Not applicable.

7.5. Biodiversity Net Gain Implications

Not applicable.

8. Link to Corporate Priorities

The Environment	Well-managed open spaces on new developments have a positive impact on the environment, increasing the amount of green space in the Borough and improving biodiversity.
Quality of Life	The improvement in management company practices will have a significant positive impact of the quality of life of Rushcliffe residents living on new estates.
Efficient Services	Were the Council to adopt open spaces, this would have a significant impact on the Council's ability to deliver efficient services. By taking a more active role in working with developers and management companies, the Council will work to improve the experience for our residents without impacting on existing Council services.
Sustainable Growth	Ensuring the management companies operate fairly and transparently on new development is key to our commitment to sustainable growth.

9. Recommendation

It is RECOMMENDED that Cabinet:

- a) reaffirms the Council's position not to adopt open spaces on new developments due to the significant financial burden this entails;
- b) supports the proposal for the Council to take a more active role working with developers and management companies to encourage good practice, as outlined in section [4.36];
- c) requests that Growth and Development Scrutiny Group reviews progress against the proposal set out section [4.36] in spring 2025; and
- d) lobbies the Government to regulate the governance of management companies to ensure transparency, remove charges unrelated to the management of open spaces, mandate engagement with homeowners and to expedite the adoption of the Leasehold and Freehold Reform Bill.

For more information contact:	Leanne Ashmore Director of Development and Economic Growth lashmore@rushcliffe.gov.uk 0115 914 8578
Background papers available for Inspection:	Growth and Development Scrutiny Group - January 2024
List of appendices:	Appendix A – 2024 actions Appendix B – Letter to Secretary of State for Department of Local Government, Housing and Communities. Appendix C – Response to letter to Secretary of State for Department of Local Government, Housing and Communities

Action	Comments
<p>Officers to develop a Supplementary Planning Document, which will include guidance on open space provision, management and maintenance.</p>	<p>Draft of the SPD to be reviewed by the Local Development Framework Group in 2024.</p> <p>The draft SPD will then be published for a period of statutory public consultation. Draft SPD, including any appropriate post-consultation amendments, would then likely be in a position to go to Cabinet for it to be considered for adoption. Once adopted, the SPD would be used in the determination of relevant planning applications.</p>
<p>Officers to look into developing a 'Good Practice Code', which developers could be asked to sign up to. This would set out the Council's expectations around the developer's appointment of an appropriate management company.</p>	<p>While the NHQC serves this purpose, Officers can explore whether there is value in creating a local code which reinforces the NHQC and adds additional expectations based on the experiences which have been reported to Officers e.g. extraneous fees unrelated to the management of open spaces.</p> <p>The Council will not be able to insist that developers sign up to a code and would not be able to refuse Planning Permission on this basis, but developers would be expected to explain if they were unwilling to sign.</p>
<p>Management Companies to be invited to join Growth/Development Boards.</p>	<p>This has already taken place for the Fairham and Bingham Developments. The relevant management companies will be invited to join the development boards, ensuring that RBC can establish expectations at an early stage and hold management companies to account more effectively moving forward.</p> <p>Where Growth/Development Boards are not in place, Officers will engage relevant management companies at the earliest opportunity to build positive relationships and establish expectations.</p>

<p>The Council to make contact with management companies on behalf of existing residents’ groups with concerns or disputes, and where appropriate convene a meeting with a view to achieving positive resolution.</p>	<p>There is activity happening nationally and locally which is expected to improve the situation significantly for house buyers moving forward. However it is clear that there have been historic issues which may not necessarily be addressed or resolved.</p> <p>The Council cannot commit to acting as an advocate for residents on an individual case by case basis. However, the Council can seek to make contact with management companies on behalf of residents’ groups representing estates and convene a meeting with resident representatives and management company representatives to try and resolve historic issues.</p>
<p>The Council to make contact with other agencies e.g. Nottinghamshire County Council in their role as Highways and Local Flood Authority</p>	<p>While the terms ‘open spaces’ is used throughout the report, the spaces referred to include not only green open space, but also hard surfaces, footpaths, waterways, sustainable drainage systems and other infrastructure.</p> <p>There is clearly a role for other agencies and authorities to be working collaboratively with the Council to advocate for best practice in the management and maintenance of relevant infrastructure.</p>

When telephoning, please ask for:

Cllr Neil Clarke

Telephone no:

0115 9148349

Email:

cllr.nclarke@rushcliffe.gov.uk

Our Reference:

Your Reference:

Date: 4 March 2024

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The Right Honourable Michael Gove MP
Secretary of State for Department of Local Government, Housing and
Communities

Dear Mr Gove,

Re: The CMA study on the housebuilding market

I hope you are well.

The Competition and Markets Authority has now published its housebuilding market study. It “found substantial concerns about estate management charges”. Among other advice to government it recommends “requiring councils to adopt amenities on all new housing estates”.

Clearly the reason that local councils do not adopt amenities on all new housing estates is because we cannot afford to do so. However the study highlights the issues facing homeowners in this unregulated arena which include homeowners having to pay high fees and charges to the management companies, including if they wish to sell their homes or install a shed in their garden.

Here is a link to the CMS press release for your convenience:

<https://www.gov.uk/government/news/cma-finds-fundamental-concerns-in-housebuilding-market>

I am writing to ask that your officials urgently investigate this matter further and put in place some regulatory controls to manage these estate management companies. I look forward to hearing your response.

Best wishes,



Cllr Neil Clarke
Leader

Postal address
Rushcliffe Borough
Council
Rushcliffe Arena
Rugby Road
West Bridgford
Nottingham
NG2 7YG

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Department for Levelling Up,
Housing & Communities

Baroness Scott of Bybrook OBE

*Parliamentary Under Secretary of State for Social
Housing and Faith*
2 Marsham Street
London
SW1P 4DF

Our reference: MC2024/06370

Cllr Neil Clarke
Rushcliffe Borough Council
Rushcliffe Arena
Rugby Road
West Bridgford
Nottingham
NG2 7YG

17th April 2024

Dear *Neil,*

CMA housebuilding market study

Thank you for your letter of 7 March addressed to Rt Hon Michael Gove MP regarding the Competitions and Market Authority (CMA) housebuilding market study. I have been asked to reply.

The Government welcomes the CMA's final report following its full market study into housebuilding.

In 2022, the Secretary of State wrote to the CMA supporting the suggestion of a full market study, the first since 2008. The Government will now take away and carefully consider these findings and recommendations and formally respond within 90 days.

The CMA's recommendations can help industry, the government, and regulators to make sure the market is operating effectively and working well for consumers.

I appreciate you taking the time to write.

Yours sincerely,

BARONESS SCOTT OF BYBROOK OBE

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Cabinet

Tuesday, 14 May 2024

Rushcliffe Carbon Offsetting Framework

Report of the Director – Neighbourhoods

Cabinet Portfolio Holder for Planning and Housing, Councillor R Upton

1. Purpose of report

- 1.1. On 10 March 2020, Cabinet agreed a target to become carbon neutral by 2030, from the Council's direct operations, and adopted a Carbon Management Action Plan to monitor progress against the target.
- 1.2. To achieve this target, the Council's Carbon Management Action Plan, which is currently set across eight broad themes, has several projects underway to decarbonise the Council's property assets, fleet vehicles and update the Council's policy and regulation framework. It is accepted that, due to the nature of the Councils' operations, to achieve carbon neutral status, some carbon offsetting will be required. Based upon a 90% reduction in emission from the measured 2008/09 baseline, a residual 360 tonnes of carbon emissions would remain and this would need to be offset/sequestered.
- 1.3. The report sets out a Framework for the Council's carbon offsetting requirements to achieve this target.

2. Recommendation

It is RECOMMENDED that Cabinet:

- a) approves the Carbon Offsetting Framework for the repurpose or acquisition of land or partner with other agencies to deliver carbon offsetting in the Borough of Rushcliffe; and
- b) delegates responsibility to the Director – Neighbourhoods in conjunction with the Council's S151 Officer to implement the Carbon Offsetting Framework, in accordance with the Council's Acquisitions and Disposals Policy and Financial Regulations.

3. Reasons for Recommendation

- 3.1. In December 2021, Cabinet adopted the Climate Change Strategy 2021-2030. The Strategy reaffirmed the Council's commitment to be carbon neutral from the Council's operations by 2030. It also included a confirmation of its commitment to be "Net Zero" as a Borough by 2050, in line with national

government targets. The wording of the Strategy was strengthened, at this time, to recognise the ecological crisis.

- 3.2. Even if all the actions contained in the Carbon Management Action Plan are successfully implemented, there will still be some requirement for carbon offsetting and, therefore, this Framework represents an important component of the Council's Carbon Management Action Plan to achieve the commitment to be carbon neutral by 2030. The Framework's focus on offsetting within the Borough of Rushcliffe also supports the establishment of a range of habitats to promote ecological recovery.

4. Supporting Information

Framework background

- 4.1. The Council's Senior Ecologist has undertaken a comprehensive study of the habitats in the ownership of the Council and has determined that the Council owns 170.4 hectares of natural habitats within its property portfolio.
- 4.2. The habitats have been split into tree cover; shrub, scrub and hedgerow; natural/low management grasslands; and wetland/aquatic habitats. The conclusion of this study has determined that the total carbon dioxide sequestered on Rushcliffe Borough Council property portfolio per year is 1724.27 T CO_{2e}.
- 4.3. The offsetting sequestration of the Council's habitats has been factored into the Council's own operating emissions and has determined that after the Council has decarbonised as much as it can, it will still produce carbon from its daily operations, e.g., the buildings, fleet vehicles, and materials the Council purchases or uses.
- 4.4. The Council will need to offset (sequester) this carbon to meet its Net Zero by 2030 commitments and, with the existing habitat created factored into the targets, additional land for offsetting will be required to achieve the target.
- 4.5. Action to increase sequestration of carbon will be undertaken, by:
- Assessing our own property portfolio and increase carbon sequestration by planting/managing property to maximise sequestration. This may include working with tenants of Council property to end tenancies or agree new management of tenanted land and planting on public open space.
 - Working with partner organisations e.g., public authorities, charities etc. to seek opportunities to undertake planting for sequestration on their estate.
 - Seeking to purchase/acquire land (e.g., long term lease or land to be transferred to the Council as planning gain) for use as land for planting for carbon sequestration.
- 4.6. We are additionally promoting carbon sequestration to landowners within the Borough, working with partners, to address the Borough-wide carbon footprint.

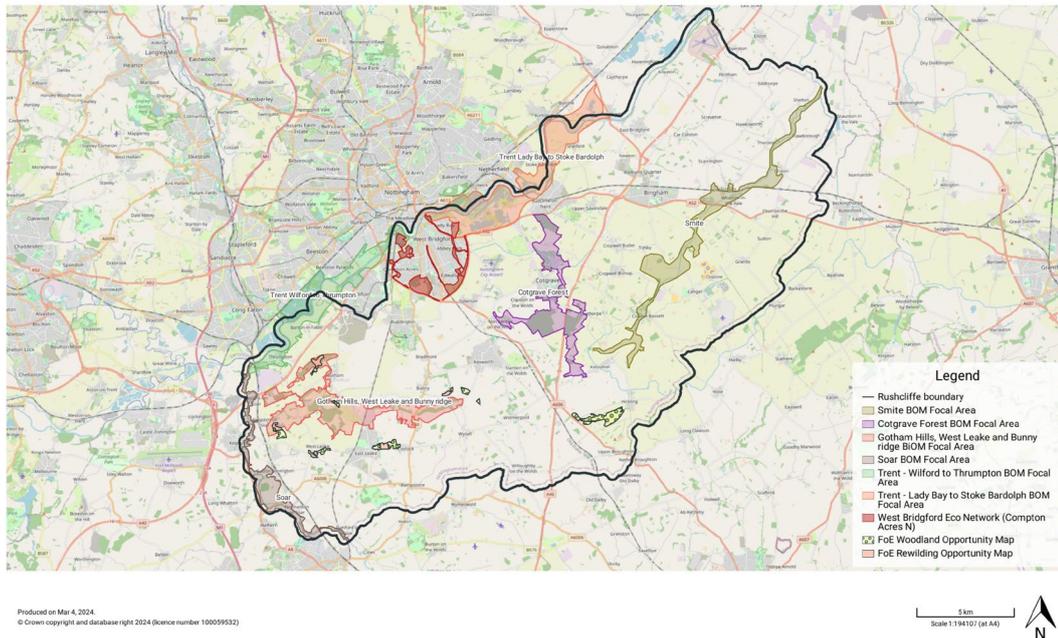
- 4.7. Carbon can be sequestered by natural habitats such as woodland, meadows and wetlands. Mixed species woodland that are provided over long time scales, sequester more carbon than other habitats (other than coastal habitats).
- 4.8. Officers have calculated that the authority will require approximately 40 hectares of additional woodland, over its current woodland holdings and a further 10 hectares of meadow or wetland to offset its carbon emissions from its own operations as a sustainable mixed approach to offsetting.
- 4.9. A mixed approach is desirable because newly planted woodlands do not sequester carbon for approximately five years. Therefore, to meet the 2030 target, the Council needs to plant new woodlands as soon as possible. This Framework provides the mechanism for the Council to do this.

Framework Principles – what to plant

- 4.10. Woodland will provide the best carbon sequestration. However, to gain the best biodiversity gains, this should be provided alongside other habitats including meadows, wetlands and hedgerows. Where native woodland already exists, the highest biodiversity gains are provided by allowing woodland to naturally develop instead of planting woodland; however, this takes longer for the woodland to establish.
- 4.11. It is better, therefore, to have a mixed approach planting trees and allowing natural regeneration, cutting areas to provide shrubs and herbaceous species, cutting other areas as grassland, and creating ponds and wetlands.

Framework Principles – where to plant

- 4.12. Considering the focal areas identified in the Biodiversity Opportunities Mapping Report for Rushcliffe, the aspiration of the Environment Agency for increased riverside wet woodland, the increased multiple benefits of urban fringe areas, and a study of woodland opportunities produced by Climate Action, a series of priority areas for offsetting have been identified across the Borough.
- 4.13. The map below identifies areas predicted to provide the best opportunities for 're-wilding'. These areas will provide the best opportunities for both carbon sequestration and biodiversity. These areas, or adjacent areas, should be a priority for acquisition within the Framework.



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- 4.14. The Framework also takes into consideration existing uses, in particular existing agricultural land and land availability. Therefore, any acquisition of land for offsetting is proposed to go through the Council's Acquisitions and Disposals Policy, setting out the opportunity, the sequestration potential, its existing uses and financial value.
- 4.15. The Council will also revisit its own estate to establish if there are opportunities to increase its offsetting potential. The Council will also seek to develop programmes to work with farmers, landowners, statutory providers, and third-sector providers to deliver nature-based carbon sequestration on land within Rushcliffe.

5. Alternative options considered and reasons for rejection

- 5.1. The Council could choose not to develop a Carbon Offsetting Framework; however, it has been established that the Council will need to offset 360 tonnes of carbon per annum to achieve its Net Zero carbon commitments from its own operations by 2030 and therefore the 'do nothing' option is rejected.
- 5.2. The Council could choose to acquire land outside of the Borough of Rushcliffe where lower land values could be achieved; however, this would not contribute to the Council's recognition of the ecological crisis and its commitment to improve habitats across the Borough. This option is therefore rejected in preference for creating habitats within the Borough's boundaries where the majority of the carbon has been produced.

- 5.3. The Council could choose to offset carbon as a purely financial exercise by buying or trading in carbon credits where the Council's emissions would be offset by a third-party provider. This would not provide the leadership role which the Council wishes to achieve in improving and enhancing the habitats across the Borough as part of the Council's corporate commitment to the environment and is therefore rejected.

6. Risks and Uncertainties

- 6.1. The pressures on agricultural land have never been greater, in addition to food production, the increasing pressures from housing development, renewable technologies such as solar and wind, biodiversity net gain and carbon offsetting present the risk of increasing land values into the future.
- 6.2. To mitigate this risk, the Council needs to ensure that we have a robust framework in place, where buying land for offsetting is only pursued as a last resort, when all other offsetting options have been exhausted and that the land represents the best opportunity for offsetting. This will be cross referenced with the Acquisitions and Disposals Policy, therefore mitigating the risk of removing the most productive agricultural land.
- 6.3. As with any acquisition there is a risk of increased maintenance costs. The maintenance cost contained within section 7 have been determined with the information that we have available to us at the current time. Therefore, ongoing evaluation of the maintenance costs of our own estate and future land for acquisition needs to be carefully considered and a site-specific risk assessment needs to be undertaken at the point of acquisition. The site-specific risk assessment should include but not be limited to items such as site security, fly tipping, environmental factors etc.

7. Implications

7.1. Financial Implications

- 7.1.1. The average price for agricultural land in 2023 within the East Midlands was approximately £21.6k per hectare (£9k per acre) according to Savills UK (Newsco Insider Limited, 2023). In Rushcliffe, this value is often inflated by the demand for development. Costs are likely to increase in the future as the demand for land for biodiversity net gain and carbon offset impact the market.
- 7.1.2. Careful consideration needs to be given to future revenue costs. The cost for planting woodland with tree whips by a contractor, equates to approximately £8k per hectare (Woodland Trust, 2023) with maintenance and replacement costs of £2.5k per hectare for the first five years. Various funding support schemes are available for tree planting and ongoing management, and these will be actively pursued to mitigate any revenue impact arising from offsetting.

- 7.1.3. Going forward, the maintenance costs referred to in paragraph 7.1.2 would decrease with ongoing costs of approximately £1k every five years (at 2023 prices).
- 7.1.4. The original Climate Change Reserve was established at £1m. The projected balance at the end of 2023/24 is £228k. The 2024/25 budget will see the reserve topped up by £850k from New Homes Bonus (£750k) and additional Government Grants (£100k). The projected balance at the end of 2024/25 is £805k.
- 7.1.5. A nominal allocation of £100k per annum could be set aside from the Climate Change Reserve to provide a budget for the acquisition of land for offsetting over the next five years. Each opportunity would need to go through the Council's Acquisitions and Disposals Policy to ensure financial compliance and a Capital Appraisal should be drafted to support amendment to the Capital Programme with the corresponding release from the Climate Change Reserve. However, it should be noted that the allocation of £500k over the next five years would be insufficient to acquire 50ha outright (at current prices £1.08m would be required) so all other options would need to be exhausted to achieve the offsetting target.
- 7.1.6. There is pressure on this reserve going forward as the Council strives to meet its commitment to achieve a carbon neutral target by 2030. The nominal allocation of £100k per annum for carbon offsetting, whilst this can be contained in the balance available, will add to this pressure. In the outturn report for 2024/25 and future years, any underspends will be assessed with a view to identifying a top-up to the Climate Change Reserve. A further option will be to, as part of the Council's MTFs, identify £100k per annum of 'headroom' to help replenish the Climate Change Reserve and support land acquisition for carbon offsetting.

7.2. Legal Implications

- 7.2.1. In 2019, the Government passed legislation to commit the UK to a legally binding target of Net Zero emissions by 2050. The target requires the UK to bring all greenhouse gas emissions to Net Zero, compared with the previous target of at least 85% reduction from 1990 levels. The Council's Carbon Management Action Plan supports this aim at a local level.
- 7.2.2. Public bodies (including local authorities) must consider what they can do to conserve and enhance biodiversity in England, as per The Natural Environment and Rural Communities Act 2006 and enhanced under The Environment Act 2021.

7.3. Equalities Implications

Tackling climate change through reducing emissions has the potential to benefit groups vulnerable to heat, flooding and air pollution.

7.4. Section 17 of the Crime and Disorder Act 1998 Implications

There are no implications arising from this report that impact on community safety in respect of Section 17 of the Crime and Disorder Act 1998.

7.5. Biodiversity Net Gain Implications

This work is complimentary to the work on Biodiversity Net Gain.

8. Link to Corporate Priorities

The Environment	This work will enhance the environment in Rushcliffe by reducing carbon impacts while supporting biodiversity
Quality of Life	Through an improved environment, a benefit to quality of life will be achieved
Efficient Services	This work seeks to balance the cost of carbon impacts
Sustainable Growth	Land for carbon sequestration beyond the Council's direct carbon emissions will help to reduce carbon impacts through growth and development

9. Recommendation

It is RECOMMENDED that Cabinet:

- a) approves the Carbon Offsetting Framework for the repurpose or acquisition of land or partner with other agencies to deliver carbon offsetting in the Borough of Rushcliffe; and
- b) delegates responsibility to the Director – Neighbourhoods in conjunction with the Council's S151 Officer to implement the Carbon Offsetting Framework, in accordance with the Council's Acquisitions and Disposals Policy and Financial Regulations.

For more information contact:	David Banks Director - Neighbourhoods Tel: 0115 9148438 dbanks@rushcliffe.gov.uk
Background papers available for inspection:	Newsco Insider Limited, 2023, online at https://www.insidermedia.com/news/midlands/farmland-values-increase-as-demand-surges-savills , accessed 15/04/2024 Woodland Trust, (2023) MoreWoods, Woodland Trust online at https://www.woodlandtrust.org.uk/plant-trees/trees-for-landowners-and-farmers/morewoods/ accessed 13/12/2023
List of appendices:	None

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Cabinet

Tuesday, 12 May 2024

Empty Homes Strategy 2024-2029

Report of the Director – Neighbourhoods

Cabinet Portfolio Holder for Planning and Housing, Councillor R Upton

1. Purpose of report

- 1.1. At its meeting on 12 February 2019, Cabinet approved the Council's first Empty Homes Strategy, which is now due for renewal.
- 1.2. The Empty Homes Strategy is a key document detailing the Council's approach to dealing with empty homes.

2. Recommendation

It is RECOMMENDED that Cabinet:

- a) approves the revised Empty Homes Strategy (2024-2029); and
- b) authorises the Director – Neighbourhoods to make minor revisions to the Strategy during its lifespan in accordance with the Constitution.

3. Reasons for Recommendation

The existing Empty Homes Strategy will shortly expire. This Strategy underpins all of the work the Council does to bring empty properties back into use and consequently a revised strategy is required.

4. Supporting Information

- 4.1. This is Rushcliffe Borough Council's second Empty Homes Strategy, following on from the implementation of its first in 2019, covering the period of 2019 through to 2024. This Strategy aims to give an understanding of the issues vacant properties can cause, how they impact residents and communities, and how the development and successes of the previous Strategy can shape and determine the Council's approach in its intention to bring more empty homes back into use.
- 4.2. The Strategy looks at why homes become empty, what advice and assistance is available to empty home owners, and how the Council intends to use the range of powers at its disposal in order to effect change and prompt action.

- 4.3. Across Rushcliffe, Council Tax records show there are currently 889 empty homes (December 2023). Of these, 498 have been empty for six months or more and are classed as long-term empty, equating to 1.64% of the Borough's housing stock.
- 4.4. Empty homes can be detrimental to the lives of local residents and communities for a number of reasons. A single empty home can blight a street or community, reduce surrounding property values and be a catalyst for nuisance to local residents. Empty homes can also attract vandalism, fly-tipping and other criminal activity, ranging from the minor to the extremely serious, but all increasing crime and the fear of crime, as well as having a detrimental impact on the local community. They also represent a risk for the emergency services and put added pressure on Council departments such as Housing and Environmental Health.
- 4.5. The Communities Scrutiny Group considered the effectiveness of the existing Empty Homes Strategy at its meeting on 20 July 2023, and were highly supportive of the approach taken.
- 4.6. At the same time as developing the first Empty Homes Strategy, the Council recruited its first ever dedicated Empty Homes Officer (0.6fte). The Strategy identified that the benefits of tackling empty homes are widespread, including:
- assisting in meeting housing need
 - improving housing stock conditions
 - assisting with a reduction in crime and the fear of crime
 - regenerating blighted areas and detrimental effects on local communities
 - identifying those empty properties subject to Empty Home Premiums
 - generating additional income through the New Homes Bonus (NHB) (although no longer expected to be received after 2024/25).
- 4.7. Since its inception, much has been done to develop procedures and protocols, research the location of empty homes and formulate methods of tracing their owners. Time was also invested in building relationships with local contractors and researching other agencies who could assist with getting empty homes back into use. An empty homes specific webpage was built to provide a first point of reference for both the public and empty homeowners alike.
- 4.8. There are no significant changes to legislation that this review needs to take into account; however, it does provide an opportunity to review progress and assess the effectiveness of the existing processes.

Key Achievements

- 4.9. The following activities have been undertaken during the last four years since the introduction of the Empty Homes Strategy:
- protocol and procedure documents have been completed to develop and enhance the Council's range of stricter enforcement options, including

Enforced Sales, Empty Dwelling Management Orders and Compulsory Purchase Orders

- positive media coverage on the Council's Twitter and Facebook pages, along with Rushcliffe Reports highlighting the work the Council is doing to tackle empty homes, as well as encouraging owners to come forward for assistance
- an informative and accessible webpage has been developed, providing a single point of reference for complainants and empty homeowners, highlighting information on how to report, complain or seek support in relation to empty homes
- established relationships with key internal partners such as Revenues, Benefits and Planning to ensure that relevant and accurate data is shared to best enable their functions
- developed an empty homes database to record, monitor and categorise all reports and complaints. This allows the Empty Homes Officer to accurately record and track statistics, but also for the prioritisation of workload and the focusing of resources. The database is split into categories dependant on a number of factors. These categories are the priority cases, probate cases, those owned by housing associations or companies, and properties owned by private individuals. Those recorded on the priority list, have been scored and assessed on a number of criteria to create a rating that prioritises each case on its own merits.

4.10. Since the adoption of the Empty Homes Strategy in 2019, 83 long-term and problematic empty homes that would have otherwise remained empty indefinitely have been brought back into use, involving the active intervention and/or enforcement by the local authority. The Council has set an internal target of bringing 10 properties back into use annually.

4.11. The standard metric defines a 'long term empty' as a home that has been empty for six months or longer. As of April 2019, this figure for Rushcliffe was 511 homes. This included properties registered with Council Tax as empty, but also those where complaints had been received concerning those not registered as unoccupied but considered vacant by the Empty Homes Officer. This figure had reduced to 465 in April 2023. Monthly statistical monitoring shows the number of empty homes is relatively static, with roughly 10% of cases becoming occupied, balanced with the addition of a further 10% of newly empty properties.

5. Alternative options considered and reasons for rejection

No alternative options considered. We are unable to carry out our statutory enforcement responsibilities without a Strategy being in place.

6. Risks and Uncertainties

Failure to approve a revised Empty Homes Strategy would undermine the Council's ability to deal with problematic properties across the Borough.

7. Implications

7.1. Financial Implications

- 7.1.1. The Council receives additional income through Empty Home Premiums. For 2023/24 this amounted to £405,169 in additional Council Tax premiums (£30k Borough Council share)
- 7.1.2. The cost of the Empty Homes Officer is included in existing budgets.
- 7.1.3. All costs incurred by the Council whilst carrying out its enforcement operations including undertaking works in default following non-compliance with a statutory notice will be recovered in full from the property owner.
- 7.1.4. Any actions pertaining to the Strategy, with financial implications such as the acquisitions of Empty Homes will require the approval of the Council's Section 151 Officer and Finance Portfolio Holder and will be considered in relation to the Council's overall financial position and corporate priorities.
- 7.1.5. Any reduction in the premium levied or any grace periods granted would reduce the Council Tax income due to the Council.
- 7.1.6. Any changes to the Policy that affects the Council's ability to take enforcement action will delay the recovery of costs incurred by the Council and on recovery of Council Tax arrears.

7.2. Legal Implications

There are no legal implications associated with this report. As set out above, costs incurred including those relating to legal procedures are recovered from the property owner.

7.3. Equalities Implications

An Equalities Impact Assessment has been carried out and is provided in Appendix 2.

7.4. Section 17 of the Crime and Disorder Act 1998 Implications

Empty and unoccupied homes in the Borough can attract those with criminal intent. Additionally, these properties can have a negative effect on the fear of crime within a neighbourhood and suggest that an area is more prone to crime all of which have a negative impact on our residents' quality of life.

7.5. Biodiversity Net Gain Implications

No impact.

8. Link to Corporate Priorities

The Environment	Protecting the local environment by minimising environmental crime
Quality of Life	The visual appearance of the Borough is an important factor in terms of the quality of life felt by residents. Unsightly, neglected and run-down properties contribute to a feeling that a neighbourhood is unsafe which also has a bearing on quality of life
Efficient Services	Additional charges linked to Empty and Unoccupied homes in the Borough provides additional income which is used to take positive action in this area.
Sustainable Growth	None

9. Recommendation

It is RECOMMENDED that Cabinet:

- a) approves the revised Empty Homes Strategy (2024-2029); and
- b) authorises the Director – Neighbourhoods to make minor revisions to the Strategy during its lifespan in accordance with the Constitution.

For more information contact:	Geoff Carpenter Service Manager – Public Protection 0115 9148229 gcarpenter@rushcliffe.gov.uk
Background papers available for Inspection:	Report to Communities Scrutiny Group 20 July 2023 “Review of the Empty Homes Strategy and Council Tax Implications”.
List of appendices:	Appendix 1 – Revised Empty Homes Strategy 2024- 2029 Appendix 2 – Equalities Impact Assessment

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Rushcliffe Borough Council Empty Homes Strategy 2024 - 2029



Contents

1. Introduction

2. Background to Empty Homes

- 2.1 What is an empty home?
- 2.2 Why do properties become and remain empty?
- 2.3 Challenges presented by empty homes
- 2.4 Why empty homes matter

3. The National Context

4. The Local Context and Corporate Objectives

- 4.1 Statistics and definitions
- 4.2 Priority Properties
- 4.3 Probate Cases
- 4.4 Housing Associations and Companies
- 4.5 Private Individuals
- 4.6 Second Homes
- 4.7 Unoccupied Exemptions
- 4.8 Properties empty under six months
- 4.9 Returned to use with intervention
- 4.10 Returned to use without intervention
- 4.11 Meeting Corporate Objectives

5. Our Progress and Successes: 2019-2024

- 5.1 Employment of an Empty Homes Officer
- 5.2 Development and implementation of the database
- 5.3 Tools and resources
- 5.4 Numbers brought back into use
- 5.5 Enforcement
- 5.6 Case progression and council tax debt recovery

6. Strategy Aims and Objectives: 2024-2029

- 6.1 Aims and Objectives
- 6.2 Objective 1: To maintain accurate information of empty homes in the Borough
- 6.3 Objective 2 - To raise awareness of Empty Homes and promote the Strategy
- 6.4 Objective 3 - Provide advice, assistance and guidance to landlords and property owners
- 6.5 Objective 4 - Reduce the number, and return problematic empty homes back in to use
- 6.6 Objective 5 - To maximise income opportunities including Council Tax, New Homes Bonus and Enforcement Debt Recovery

7. Our Approach to Tackling Empty Homes

- 7.1 Investigate, Engage, Encourage, Enforce
- 7.2 Advise, Support & Assist
- 7.3 Council Tax Premiums on Empty Homes
- 7.4 Maximise income opportunities
- 7.5 New Homes Bonus (NHB)
- 7.6 Debt Recovery
- 7.7 Enforcement
- 7.8 Empty Dwelling Management Orders (EDMO)
- 7.9 Enforced Sale
- 7.10 Compulsory Purchase Order (CPO)
- 7.11 Additional Statutory Powers
- 7.12 Unclaimed CPO / Enforced Sale Money

Appendix A: Empty Homes Action Plan 2024 – 2029

Appendix B: Empty Home Scoring and Rating System

Appendix C: Statutory Enforcement Options

1.0 Introduction

This is Rushcliffe Borough Council's second Empty Homes Strategy, following on from the implementation of their first in 2019, covering the period of 2019 through to 2024. This strategy aims to give an understanding of the issues vacant properties can cause, how they impact residents and communities, and how the development and successes of the previous strategy can shape and determine the Council's approach in its intention to bring more empty homes back into use.

The strategy looks at why homes become empty, what advice and assistance is available to empty home owners, and how the Council intends to use the range of powers at its disposal in order to effect change and prompt action.

Empty homes can be detrimental to the lives of local residents and communities for a number of reasons. A single empty home can blight a street or community, reduce surrounding property values and be a catalyst for nuisance to local residents. Empty homes can also attract vandalism, fly-tipping and other criminal activity, ranging from the minor to the extremely serious, but all increasing crime and the fear of crime as well as having a detrimental impact on the local community. They also represent a risk for the emergency services and put added pressure on council departments such as Housing and Environmental Health.

Homes can become and remain empty for a number of reasons. Whether financial pressures, legal or administrative delays, or pending refurbishments, empty homes and their owners often face challenging and difficult circumstances that prevent properties from being utilised fully. Supporting owners in overcoming such hurdles where it is their intention to do so, and tackling those empty homes where there are no reasonable prospects of positive action from their owners, will positively impact our residents, both by increasing the housing supply but also the wider community for whom empty homes often cause the most problems.

Across Rushcliffe, Council Tax records show there are currently 889 empty homes (Dec 2023), of which 498 have been empty for six months or more and are classed as long-term empty. Equating to 1.64% of the Borough's housing stock, this represents a significant waste of a limited resource, at a time which housing supply is not meeting an increased demand. Of this, Council Tax records show 142 properties are currently liable for the Empty Homes Premium, meaning they have remained empty for a period of two years or more. However, statistical information is limited, and it is recognised that there are a number of empty homes where full Council Tax is being paid and the property has not been registered as being empty. Similarly, records show that Rushcliffe currently has 192 second homes, reported as such by their owners in order to obtain discounted Council Tax charges. Our work during the previous strategy period, shows that many of these should in fact be classed as empty, and complaints received would support attempts to have many of them reclassified.

The benefits of implementing an Empty Homes Strategy are wide ranging, and can be categorised as social, regenerative, financial and strategic. In supporting these key areas through bringing empty homes back into use, this strategy aims to:

- assist in meeting housing need
- improve housing conditions
- assist with a reduction in crime and the fear of crime
- regenerate blighted areas
- increase Council Tax collection rates and empty home premiums
- generate additional income through the New Homes Bonus (NHB)

The case for dealing with empty homes is a compelling one, not only from a neighbourhood improvement and housing perspective, but also as a financial incentive both for the owners of empty homes, and for the authority.

The Empty Homes Strategy 2024-2029 outlines the Council's intentions in supporting and assisting owners of empty homes, along with the available tools and possible enforcement options at the authority's disposal should support and negotiation prove insufficient. In tackling the most challenging of cases, it is the Council's aim to reduce the numbers of empty homes across the Borough, regenerate unused and vacant properties, and reinvigorate communities for the benefit of our residents.

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2.0 Background to Empty Homes

2.1 What is an Empty Home?

A dwelling is considered to be a long-term empty home if it has been unoccupied for 6 months or longer. Privately owned long-term empty homes are the focus of this strategy, but concerns will be highlighted to public bodies and housing associations (registered providers) where an empty home they own requires attention.

Empty homes can be found in all areas, wards and locations across the Borough, and are not necessarily semi-derelict, boarded up or causing a problem. There are also large numbers of homes which naturally become empty for periods of time, perhaps due to transactional processes, being between tenants, or when an owner passes away and the probate process delays a possible transaction. When a dwelling remains empty for a significant period of time, is attracting unwanted attention or is the subject of a complaint to the authority, it would be considered a high priority case in line with the rating system attached as *Appendix B*. Throughout the period of the previous strategy, the analysis and collection of empty homes data, as well as referrals and complaints received, determined that there were approximately 50 priority properties, representing 10% of all long-term empty homes in the Borough.

Whilst these properties are often recorded as empty through their Council Tax accounts, it is also often the case that second homes, those that qualify for an unoccupied exemption, or even where a property is reported as occupied, can be referred to the authority as empty and unoccupied. All referrals, complaints and notifications are recorded and investigated as empty homes, until such time that our enquiries find that the property is in fact occupied or otherwise sufficiently used.

2.2 Why do homes become and remain empty?

There are a number of reasons why properties could become and remain empty. These include:

- The property is difficult to sell or let due to its physical state and condition
- It is currently being renovated, or the owners has plans to refurbish or develop the property
- The owner does not have the capacity/finances/time/skills to manage or maintain the property
- The property has been or is in the process of being repossessed
- Probate – Where the previous owner has passed away, leading to an often time-consuming administrative procedure
- The owner is being cared for elsewhere, is in hospital or has been moved into a home/care
- The property has been abandoned by the owner and the owner is untraceable
- Land banking, when a property is left empty due to speculative investment, through acquiring a property
- Inheritance, where probate has been granted and the beneficiary is yet to decide on future plans
- Where the property is adjoined to or forms part of a business, and the owner does not wish to let or sell
- Accidental landlords, where partners co-habit leaving the second property empty
- Due to an ageing population, older property owners may move into alternative older person's accommodation for care or support needs. They may choose not to sell the property which may result in the property remaining empty for the short or long term.

It is important that the Council understands why individual properties become and/or remain empty, along with the owner's circumstances and intentions in order for us to tailor and deliver our support and assistance appropriately.

2.3 Challenges Presented by Empty Homes

Dealing with an empty home is not always straightforward. Each property, its owner, their circumstances and intentions are all unique. For example:

- A property may be used as a second home, and so not occupied on a permanent basis, but is still in use.
- It may be that non-residential space often found above shops is being used for storage or other business related matters, and although not immediately obvious it is in use.
- There may be properties awaiting planning permissions and work is unable to commence whilst this is being sought. This may include specialist permissions if they are a Listed Building or located in a Conservation Area.
- A property may be owned by a number of different people or companies.
- The property may be subject to legal proceedings such as probate, divorce settlements or proceeds of crime restrictions.
- Although it is now compulsory in England to register any property which changes ownership or has a mortgage taken out against it for the first time, properties which have not changed ownership since that time may not be registered with the Land Registry and information regarding the property will not be available from this source.
- It may not be immediately evident who the owner of a property is or where they are, as they may have moved away with little information available to trace them.
- Some properties are deliberately kept empty by the owner for specific reasons such as for their children when they leave home or elderly relatives who are in care. Some are kept empty until the owner feels the housing market is suitable to sell the property at the price they want.
- The emotional attachment associated with a property, formerly a family home or owned by parents, can often lead to the reluctance or reticence to take action, or deal with a property immediately.

Some owners are often simply reluctant to engage with the Council and believe that as the property is privately owned the Council do not have the right to require action to return it to use. They may be unaware or have no concern for the affect the property has on the local area and surrounding properties. These are properties which are likely to be left empty for many years, fall into disrepair, and be the subject of future complaints and action.

Subsequently, it is considered that the Local Authority are best placed to tackle the issues that empty homes present. With a range of professional experience across departments, legislative powers and tools at their disposal, the Council is able to provide a vehicle for a solutions based approach that benefits all parties involved.

2.4 Why Empty Homes Matter?

The Council often receive complaints relating to empty homes from local residents, who rightly object to unsightly disused properties. There are resulting implications for the Council's Environmental Health team who have to use staff time and resources to investigate and intervene, deal with pests, general dilapidation, overgrown gardens, damage to neighbouring properties, anti-social behaviour and other issues.

For the local community, empty homes can have a direct impact on adjoining properties through issues such as damp and structural problems. Alongside this, unsightly properties can be detrimental to neighbouring house prices and can result in a lack of pride and investment in the area. The possibility of empty homes attracting unwanted attention can cause anxiety and ongoing concern for local residents. Empty Homes undermine the communities' confidence in the area, resulting in problems for neighbouring properties, leading to involvement from the Local Authority.

For empty homes owners, leaving a property standing empty can become costly and be a source of unnecessary anxiety. By remaining empty and increasing in deterioration, the additional risk of vandalism and crime can lead to a property being difficult to insure, which could ultimately result in high repair costs or even mean a complete loss of asset.

Even the general deterioration of an unlive in property will result in costs. Deterioration by lack of maintenance, insurance, council tax and premiums, utility standing charges and mortgage payments, all increase the financial liability of leaving a property empty, and one which can often become insurmountable for the owners. By renting or selling the property, not only are the above issues resolved, but there is the added advantage of gaining regular rental income or the capital generated from the sale of a property.

There is also an environmental impact of leaving homes empty. It has been estimated that it would take the equivalent of about 75 acres of land to build 900 homes. This could be greenfield sites of open land that local people value, whereas it would be more efficient and sustainable to make best use of existing dwelling stock available.

Empty homes returned to use as domestic dwellings increase the availability of homes, including potentially affordable homes. Instead of being a source of concern these homes can be transformed from a wasted resource into a home for an individual or family in housing need. There are many individuals and families in housing need and the utilisation of empty homes could prevent some of these people from facing issues such as homelessness and overcrowding or provide a first home for a local person.

Returning empty homes to use can help eliminate these issues and ensure that house prices in the neighbourhood are protected from preventable reductions. Improving an area can also encourage investment in the local economy, and a return of any lost pride in the community created by a single empty home.

3.0 The National Context

Since 2010 the Government has placed considerable emphasis on the importance of returning empty homes to use. Statistics published in October 2023 by the Department for Levelling Up, Housing and Communities, put the number of empty homes in England in at 480,845. Of these, 269,009 were classed as long-term empty homes (empty for longer than six months). Representing 1.89% of the country's total housing stock, the total number of empty homes has risen in recent years, similarly to that of long-term empty homes, showing that 1.06% of the country's housing stock has been empty for six months or more.

Having introduced the Empty Homes Premium in 2013, granting local authorities the power to implement additional levies for properties that remain empty for longer periods, the number of properties liable for such premiums have increased year on year, resulting in 75,803 properties being reported as being liable for the premium in October 2023. Aimed at incentivising the reoccupation of property by implementing the premium and removing available discounts, local authorities are able to set the levels of the premium locally and obtain approval at full council level prior to implementation. Announced in 2022 and aiming to disincentive empty homes owners further, the Government's Levelling Up Bill has proposed reforms to the Council Tax discount and premium levels, enabling councils to charge the empty homes premium at 12 months instead of 24, along with introducing a premium for second homes at a rate of 100% after a 12 month period.

Coupled with this, in 2011 the Government introduced the New Homes Bonus, allowing councils to benefit financially by increasing their net dwellings through building new homes, and bringing back into use those which had remained empty. Under the scheme, the Government match-funded Council Tax receipts for each additional property added to their net dwelling stock for a seven year period, and therefore incentivised local authorities to both build housing and bring those empty back into occupation. Whilst this incentive still applies, its payment mechanism has reduced significantly in recent years, meaning that councils have been rewarded less for their efforts.

In 2023, The Local Government Association (LGA) in conjunction with The Empty Homes Network, produced a guidance and best practice report entitled "Empty Homes | A practical approach for Councils on dealing with empty homes". Amongst practical and operational guidance for councils, the report recommended that in order to increase engagement and success in bringing empty homes back into use, local authorities should consider:

- developing their understanding and wider prioritisation of the definitions of empty homes, and broadening the scope of empty homes work to include properties classed as second homes and those with an unoccupied council tax exemption
- employing a dedicated resource where possible, in order to progress from a reactive approach to tackling empty homes, through to a proactive approach
- ensure officers and practitioners are equipped and supported with the relevant tools and resources, often already at the council's disposal, such as delegated powers and authority to take enforcement action
- taking a proactive approach to engaging with empty home owners at an earlier stage, where properties are known to have been empty for two or three months, rather than initiating contact after six months
- moving towards wholly proactive approach to empty homes work, where local authorities often operate a reactive service due to resource, staffing or financial constraints.

In publishing this report, the recommendations offered recommended routes of progression and complimented those published in the Empty Homes, House of Commons Briefing Paper No.3012, released in June 2018, which suggested:

- Local authorities should have an empty homes strategy for their area, with the aspiration to reduce the number of long-term empty homes.
- Local authorities and social housing providers should seek funding and allocate resources to buy and refurbish empty properties for people in housing need.
- Local authorities should take a casework-based approach with owners of long-term empty properties to encourage, advise and support them to bring homes back into housing use. Employing dedicated empty homes staff can ensure that the council is able to act on information about homes, and build up expertise in working with owners, including taking enforcement action where necessary.

Whilst there is currently no Government-led national strategy to deal with empty homes, the legislation and ability for councils to implement a number of measures places the emphasis on Local Authorities to propose and deliver solutions locally that suit them and their residents.

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4.0 The Local Context and Corporate Objectives

4.1 Statistics across Rushcliffe

To date, the Council Taxbase, released annually in November, is the only available method to determine the number of empty homes both across Rushcliffe and nationally. However, it is accepted that this method does not provide a full and accurate account of the number of empty homes in the Borough.

To overcome this, a detailed and comprehensive database has been developed throughout the previous strategy period in order for the authority to track and monitor data across all empty homes categories and definitions. Whilst this has allowed for accurate and up to date statistical reporting, it has also provided the foundation from which cases can be prioritised, properties can be assessed and scored, and reports can be compiled based on wards, length of time empty, and ownership status.

Operationally, long-term empty homes are properties that have become and remained empty for a period of six months or longer. Widely accepted nationally, the definition 'long-term' originates from the council tax term used to class a property once an initial discount period had ended. These discounts are no longer applied to accounts across Rushcliffe upon properties becoming vacant.

Across all categories and classes of empty homes, Rushcliffe currently has a total of **574 long-term empty homes**, categorised within the authority's database in four areas: Priority Properties; Probate Cases; Housing Association and Company owned properties; owned by Private Individuals.

Whilst these categories cover various aspects of a properties circumstance or ownership, the development of the database has allowed the council to investigate and approach each category in a tailored way, based on the available information.

4.2 Priority Properties

Consisting of the most prominent empty homes, those empty for the longest periods and those where the authority have received complaints or referrals, the local authority currently have an active list of **48** Priority cases. In prioritising the caseload, this allows the Empty Homes Officer and wider team to focus their efforts and capacity and focus further investigation procedures to those that require attention or prompt concern.

These properties may initially be recorded within the database under an alternative category, however, a referral, complaint, a significant deterioration in condition or an urgent health and safety concern, would warrant the property being escalated to a priority level case. This list can also include occasions where a property is referred to the authority, but records show that this may not be the case, such as where an owner has failed to register a property as empty, or where a property has been removed its council tax banding.

Of the current list of priority cases, the properties listed can be broken down as follows:

- 10 properties are currently being charged some level of empty homes premium
- 5 properties are at various stages of the probate process
- 5 properties are owned by either housing associations or companies
- 35 properties would be classed as being owned by private Individuals
- 4 properties are classed as Second Homes for council tax purposes
- 2 properties fall under a council tax unoccupied exemption
- 3 properties are fully exempt from Council Tax having been delisted

4.3 Probate Cases

The cases recorded on the authorities database as probate cases, are those which have been through the probate process and their period for Class F exemption has elapsed. These properties are now in the ownership or responsibility of their beneficiaries or estate executors and are no longer under the restrictions that the probate process may impose.

Currently, Rushcliffe have **33** active cases falling into this category, in addition to any that fall into the above definition held within the priority case category.

4.4 Housing Associations & Companies

Of the 574 long-term empty homes currently held within Rushcliffe's active database, **137** of these are showing as being owned by either a registered company, by a Housing Association or registered provider. Of this number, 23 are currently being charged some level of empty homes premium having been empty for a period of two years or longer.

These properties are categorised as such, as correspondence with either a housing association or company is likely to be with a secretary or senior figure within the organisation, and therefore any correspondence is adapted to suit.

4.5 Private Individuals

The largest category on the database, the number of empty homes owned by private individuals total **354**. The most likely source of quick-wins, or where houses are naturally brought back into use, this category includes 21 properties currently being charged some form of empty homes premium, with the total number being in addition to any properties owned by private individuals held on the priority list.

4.6 Second Homes

Although not included within the council's total or long-term empty homes figures, referrals and complaints are often made to the council concerning properties classed as second homes for council tax purposes. For this reason, the number of second homes is monitored and tracked by the empty homes officer within the database, and any future referrals received where the property is classed as a second home is subsequently moved over to be considered a priority case where applicable.

Current figures show that Rushcliffe have **189** second homes, in addition to any second homes currently being investigated as a priority property.

4.7 Unoccupied Exemptions

Similarly to second homes, properties falling under an unoccupied exemption category are not included within the authority's wider empty homes statistics, but their condition and vacancy may warrant a complaint and further investigation in the future. Therefore, these properties are also monitored within the wider database, and include instances of properties that are currently going through probate, where the owner is in prison or property has been repossessed, and in other cases such as where an owner has moved to provide or receive care.

Currently, there are **573** properties across the Borough that qualify for an unoccupied exemption, in addition to the number held within the priority case category.

4.8 Properties Empty Under 6 Months

Whilst it is considered best practice to monitor figures and consider properties as long-term empty after a six-month period, Rushcliffe go one step further by also tracking the number of

properties empty for six months or less. Currently standing at **370** cases, this information is held within the database in order to monitor properties reaching the six month stage, and in order for Rushcliffe to proactively prepare for those when they get to this period. The consideration of these figures also allow for proactive approaches to owners, as well as being able to identify trends or large blocks of properties that may be under development or nearing completion.

4.9 Returned to use – With Intervention

Having adopted the first empty homes strategy in 2019, Rushcliffe have consistently performed above the targets set within the strategy, at **10** properties brought back into use annually. In the financial year 23/24, this target was met prior to December 2023, and includes properties where the local authority have played an active role in bringing an empty home back into use. Through the implementation of the empty homes premium, discussions with the owner, or where offers of support and negotiation have been regular with an owner, these properties would be counted as an intervention by the authority that has aided the return to use of a property.

4.10 Returned to use – Without Intervention

Where properties are naturally brought back into use or have become occupied after a period of vacancy without intervention, these properties are logged within the database in order to ascertain trends or patterns, having previously been logged within the database. During the financial year 23/24 to date, **410** properties have been returned to use without council intervention, that had previously been empty for six months or more.

4.11 Meeting Corporate Objectives

Whilst returning empty homes to use will not solve a wider housing supply issue, they can often be the quickest and most cost-effective way of increasing the supply of good quality, safe and affordable housing. Reducing the requirement to build on greenbelt land, regenerating brownfield sites and reinvigorating communities, bringing empty homes back into use can play a significant part in meeting the Council's wider corporate objectives, and benefitting the residents of Rushcliffe.

This strategy, its aims and objectives, links with a variety of council documents, strategies and plans as outlined below.

- [Rushcliffe's Corporate Strategy 2024 -2027](#)
- [Rushcliffe's Housing Delivery Plan 2022 - 2027](#)
- [South Nottinghamshire Homelessness and Rough Sleeper Strategy 2022-2027](#)
- [Rushcliffe Borough Council's Corporate Enforcement Policy](#)
- [Statement of Community Involvement, 2019](#)
- [Council Tax Recovery and Enforcement Policy 2023](#)

5.0 Our Progress and Successes: 2019-2024

5.1 Employment of an Empty Homes Officer

Having implemented its first Empty Homes Strategy in April 2019, Rushcliffe employed its first ever dedicated Empty Homes Officer (0.6fte). During the early stages in their position, work was carried out to develop procedures and protocols, research the location of empty homes and formulate methods of tracing their owners. Time was also invested in building relationships with local contractors and researching other agencies who could assist with getting empty homes back into use.

An empty homes specific webpage was built on the Council's website to provide a first point of reference for both the public and empty homeowners alike, along with the introduction of an online reporting tool which allows direct and anonymous referrals to be made to the authority.

5.2 Development and implementation of the database

Crucially, a comprehensive empty homes database to record, monitor and categorise all reports and complaints was developed, allowing the empty homes officer to accurately track statistics, but also for the prioritisation of workload and the focusing of resources. The database is split into categories dependant on a number of factors. These categories are priority cases, probate cases, those owned by housing associations or companies, and properties owned by private individuals. Those recorded on the priority list, are scored and assessed on a number of criteria, to create a rating that prioritises each case on its own merits.

5.3 Tools and resources

Over the period of the previous strategy, various relationships with internal and external partners have been developed, in order to support the work to advise and guide empty home owners. These include colleagues in planning, environmental health, regeneration and council tax, as well as estate agents, auctioneers and contractors for valuation and professional advice. These have proved crucial in returning a number of empty homes back into use and has enabled the authority to build trust and enhance their reputation with owners.

The authority has also explored and agreed in principle, the use of Capital Funding for the lease, acquisition, and enforcement of returning empty homes back into use.

5.4 Numbers brought back into use

Since the adoption of the Empty Homes Strategy in 2019, 83 long-term and problematic empty homes that would have otherwise remained empty indefinitely, have been brought back into use involving the active intervention and or enforcement by the local authority.

During the same period, a significant number of other properties have been brought back into use without direct formal local authority intervention, but with assistance from positive media campaigns, support and advice in the way of letters, phone calls and signposting.

5.5 Enforcement

During the period of the previous strategy, 61 formal enforcement notices were served to alleviate, remove, or improve issues surrounding condition, appearance, safety, and vermin relating to empty homes. Works in default have been carried out on several properties because of non-compliance, with subsequent debt recovery processes pursued to ensure that any expenditure was repaid.

In the same period, one Enforced Sale success saw a long-term empty home sold at auction, with the refurbishment and subsequent sale of the property achieved. The decision to proceed with the Enforced Sale of three further properties across the Borough has also been agreed, with a combined length of time empty of 22 years. This will encourage the properties back into use as well as recover significant debt owed to the Council.

5.6 Case progression and council tax debt recovery

There are currently 48 properties on the empty homes database classed as a priority. These are properties considered to be the most challenging, have been empty for the longest period, be in the worst condition, or have been the subject of a number of complaints. These cases are the focus of the empty homes officer's time to pursue and progress cases to a successful resolution.

Of the 48, 8 properties are expected to be returned to use within the next three months. The active engagement of the empty homes officer with the owners, often including enforcement action taken, means that they are now on the market for sale, rent, or actively being refurbished, and approaching the stage of being ready for reoccupation.

Owners are engaging with the empty homes officer on a further 20 properties on the priority list. Positive negotiations and engagement have meant that steps to bring these properties back into use are ongoing and moving forward in a positive direction.

Empty Dwelling Management Orders (EDMO) are being considered for three properties across the Borough, having been empty for a combined estimate of 50 years. EDMO's give councils the right to possess a private unoccupied property that has been vacant for at least two years, make any necessary upgrades, manage the property, and rent it out for a period of seven years to recover its costs. Any such acquisitions will require the approval the Council's Section 151 Officer and Finance Portfolio Holder and considered in relation to the Council's overall financial position and corporate priorities.

Enforcement action including the serving of formal notices, works in default and prosecution, are also in progress with all the top 10 cases recorded on the priority list. This has been necessary as negotiations have stalled, failed, or engagement from the owners has not been forthcoming.

Over 30 '*Reduced VAT*' letters have been supplied to owners to support and encourage property refurbishment to bring them back into use, and to enable works to be carried out with a reduction in VAT liability. This scenario involves a reduction from 20% VAT to 5% on certain refurbishment works, where properties have remained empty for over two years.

Over the course of the previous strategy period, the Empty Homes Officer, in conjunction with colleagues in Council Tax, were successful in the recovery of approximately £100,000 in Council Tax arrears, having pursued owners of empty homes with significant debts outstanding. This was achieved through the sale of a number of properties, along with charging orders and debt recovery processes being followed. Having accrued significant interest over the arrears period, the recovery and payment of these debts would not have been achieved without the persistence of the officers involved and would likely have resulted in the debts remaining in place indefinitely had they not been actively pursued.

6.0 Strategy Aims and Objectives: 2024-2029

6.1 Aims and Objectives

Irrespective of why a property has become and remained empty, and despite the owner's current circumstances, it is always the Council's primary intention to work with an empty home owner where possible, in order to support, and where required, facilitate action to reach the owner's ultimate intentions.

However, it is critical to remember that each property, owner, personal circumstances and reason for why the property became and has remained empty are all different, and therefore each property and owner have to be treated individually and based on the information that is available. Whilst some reasons and circumstances can be more sensitive or challenging than others, it is important for the authority to be committed to the principles and aims of the empty homes strategy and recognise that an empty property can result in problematic situations for their neighbours and communities.

Owners must be made aware that whilst the Council would prefer to work with them in bringing their plans to fruition, inaction is not an option. By owning an empty property, they have a responsibility for it and must act accordingly.

The Action Plan for progressing towards the overall aims is included at *Appendix A* and acts as a continuation of the work carried out in the previous strategy period to further develop the tools available, enhance the support and guidance Rushcliffe offer as an authority, and make further progress in bringing empty homes back into use across the Borough. The Action Plan identifies 5 key objectives for this strategy period.

6.2 Objective 1: To maintain accurate information of empty homes in the Borough

The continued development and maintenance of the existing empty homes database will play a pivotal part in the Council's efforts to tackle empty homes and enable further steps to be taken to reduce numbers across the Borough. Holding key information, this database allows targeted correspondence to be delivered, allowing the relevant officer to conduct cyclical data cleanse exercises to ensure the information is up to date.

Complaints and referrals received regarding empty homes, will be logged accordingly to ensure that they are investigated and prioritised effectively, and 'risk rated' in conjunction with the scoring matrix found in *Appendix B*. Although the matrix score will be the principal guide to the order in which properties are dealt with, there may be exceptions based on local circumstances, severity and nature of a complaint, or immediate issues requiring urgent attention.

The largest source of information is received through a regular, often monthly, review of all council tax information. As a result of the previous empty homes strategy, relationships and opportunities for data sharing have been developed with Council Tax colleagues to ensure that up to date account information is obtainable, enabling an effective and efficient tool for both departments.

It is expected that this collaborative arrangement will continue and develop further, to include the involvement of the empty homes officer at such time that the Council Taxbase (CTB1) submission is compiled, to ensure that data reported nationally is as accurate and up to date as possible.

6.3 Objective 2: To raise awareness of Empty Homes and promote the Strategy

At a time of increased housing demand, the issue of empty homes is gaining more exposure. Having been high on the political agenda for some time, recent developments, media articles and demands for further action mean that the issue has become increasingly highlighted in the public sphere.

The Council intends to continue to highlight the issues empty homes locally through all available and relevant channels, and at the appropriate opportunity. Internally, ensuring colleagues are aware of the issues caused by empty homes, as well as what the Council offer to their owners will ensure that colleagues can also provide relevant referrals and information when in discussions with residents. Externally, the Council will continue to share the benefits of bringing empty homes back into use with the general public, as well as exploring opportunities to develop their offer of support to empty home owners.

The Council will also use their participation in National Empty Homes Week (*administered by [Action on Empty Homes](#), and held annually in February/March*) as a platform to increase awareness of issues surrounding empty homes, but also to celebrate the successes that the Council's interventions have created. Using social media, local press, Rushcliffe Reports, as well as internal communication channels, Empty Homes Week presents a perfect opportunity to share good news stories, the successes of the strategy thus far, but also the chance to reach out to empty home owners and make the Council's presence known.

The general public, our partners and internal colleagues will be encouraged to report all empty homes and will be given advice on the tell-tale signs to look out for.

6.4 Objective 3: Provide advice, assistance and guidance to landlords and property owners

As exposure of the empty homes issue continually develops, as do the opportunities and methods to bring them back into use. As there are currently no national initiatives or schemes designed to support empty home owners, Local Authorities are afforded the opportunity to design and deliver initiatives that would help support the need of local people with local solutions.

Whilst Rushcliffe doesn't currently operate a financial mechanism of loans, grants or direct funding to support the return to use of empty property, such schemes should be explored and considered should the finances be made available, either locally or nationally, during the period of this strategy.

Other non-financial avenues of support will also be explored, considered and procured, but it is often the case that such innovation is dependent on the individual needs and circumstances of the owner, and therefore it is often found that these need to be procured or acquired as and when the need is identified.

Often acting as the first point of service, the Empty Homes pages of the Council's website will be continually updated and enhanced, in order to provide an overview of our activities, but also to provide details of the options, advice and support we are able to offer as an authority for those who own empty homes. As a result of the previous strategy, the web pages were developed to include offers of support, policy and protocol documents, as well as a tool for the public to report empty homes anonymously to the local authority, which has since proved successful.

6.5 Objective 4: Reduce the number, and return problematic empty homes back in to use

The process to bring empty homes back into use, and see the numbers of cases reduce, starts with the investigation and prioritisation of referrals, accurately within the authority's database. All complaints and referrals from residents are treated as a priority, and then scored accordingly using the rating matrix. In order to build trust and a positive reputation of the service, such complaints will be followed through, and complainants informed of the process as a whole as well as the priority status of their complaint subject.

After the initial information gathering exercise, regular and persistent engagement with empty home owners using existing resources and letters will allow every opportunity for empty home owners to respond and engage with the Council. Subsequently, council processes and procedures will enable such engagement to be recorded and monitored, with further action and or interventions planned where necessary.

As every empty home case is different in terms of its history and owner circumstances, the opportunity to further the tools and support offering the council have will be constantly reviewed, and where gaps in such support are identified, solutions will be sought in order to see these filled. It is also the aim of the strategy to inform other wider council strategies and policies, and to encourage further support of the council's efforts to bring empty homes back into use where applicable.

The database will be used to regularly appraise the available enforcement options for all empty homes and pursue the relevant action when suitable for those deemed to be a priority, and more urgently where immediate attention and action is required as a result of a referral or complaint. Where previously agreed progressive steps have stalled, or when a lack of engagement with the authority leads to the decision to pursue action further, prior efforts to appraise suitable enforcement action will ensure a swift and reasonable process through to the service of notice.

Although considered and used as a last resort, enforcement action should be a consideration throughout the investigation and support stages, in order to display that every effort and opportunity has been given to the owners prior to such action being taken. It is the authority's target that **10 prioritised** empty homes will be brought back into use annually throughout the period of this strategy.

6.6 Objective 5: To maximise income opportunities within Council Tax, New Homes Bonus and Enforcement Debt Recovery

Through empty homes work, and the developing working relationship with Council Tax colleagues, this strategy aims to identify and maximise debt recovery, both through council tax charges and arrears, and through land charges registered as a result of works in default.

Where enforcement action has been carried out, we will pursue all cases in conjunction with colleagues, and where appropriate, recommend subsequent action in collaboration with colleagues in Legal Services to consider Enforced Sales where necessary.

Working with Revenue & Benefits, existing empty homes with large amounts of council tax arrears should be identified and added to the list of priority properties with immediate effect.

As a result of maintaining an accurate database, expand work with Revenue and Benefits to ensure all cases of empty homes are up to date, and that the CTB1 submission is produced to reflect internal knowledge and datasets. This would ensure that any potential income opportunity provided by the New Homes Bonus is maximised in preparation for its submission in September.

Finally, to identify, track and pursue cases of empty homes where they have previously been removed from the council tax listing, resulting in no charges being applicable for the subject property. Having such cases brought back to use at the earliest opportunity, will therefore increase the expected revenue and number of chargeable dwellings for the authority.

7.0 Our Approach to Tackling Empty Homes

7.1 Investigate, Engage, Encourage, Enforce

The process adopted and that proved to be successful over the period of the previous strategy, can be simplified into four stages; Investigate, Engage, Encourage and Enforce.

The process of bringing an empty home back into use begins with the **Investigation** stage. By exploring the details surrounding property ownership, recent occupancy history, property values and possible reasons behind the vacancy, the empty homes officer is able to begin building a wider picture of the current circumstances in order to best decide on the possible future support and assistance required by the owner. This also enables the empty homes officer to tailor their initial correspondence and language based on their findings.

Secondly, the **Engage** stage uses template or bespoke letters to contact owners which have been developed to inform owners of the benefits of bringing their properties back into use, why the Council get involved, and the potential options that they have moving forward. These communications will escalate in seriousness from the first informal advice letter to a final warning actively presenting the possibility of enforcement action being undertaken to ensure the property is returned to use. These template letters are quick to print and send, allowing the empty homes officer to deal with a large volume of empty home owners, particularly useful as part of the data cleanse process undertaken prior to the Council Taxbase submission

In many cases these letters are successful, prompting a response from the property owner that leads onto the third stage in the process. If template letters are unsuccessful then visits will be carried out in an attempt to engage with property owners and provide bespoke support. Due to its nature, this work is detailed and can be time consuming, but its success often reduces the need for further enforcement action. If this approach fails to produce the desired outcome, it provides the groundwork and justification for legal action.

Having achieved initial contact with an owner, the next step is to understand their personal and property's circumstances and **Encourage** them to share their future plans for the empty home. This then allows the empty homes officer to intervene, if necessary, with suitable assistance and support tools at their disposal. This may be in the form of simply arranging for a property valuation, or enlisting a contractor to supply a schedule of works for refurbishment. However, this all depends on the circumstances and future plans of the owner.

Finally, where engagement is lacking, or previously agreed steps and actions have not been forthcoming, the Empty Homes Officer will progress to the **Enforce** stage, where avenues and opportunities will be explored to pursue formal action to remove problematic or dangerous features of a property or look to more stricter enforcement powers to have the property removed from the possession of its current owner. Whilst such actions are always considered a last resort, they are considered throughout the process to build a thorough and comprehensive case file should the actions of the authority come under judicial scrutiny.

7.2 Advise, Support & Assist

In the first instance, it is always the Council's aim to provide help and advice to the owners of empty homes. Advice may be given with refurbishment, sales, legal and other aspects of lettings, finding tenants, health and safety and energy efficiency. Where required, this may include the support from internal or external partners, in order to ensure that the owner has all of the available options and information available to them prior to pursuing with a decision on their plans.

The Council are also able to supply a 'Reduced VAT' letter to empty home owner who are refurbishing their properties. Qualifying where properties have been empty for over two years, this enables an owner to reduce their VAT liability on certain aspects of a refurbishment from 20% to 5%, and for properties empty over 10 years, from 20% to 0% rated. The local authority are able to assist in this by proving a property has been empty for a certain length of time, usually by exploring Council Tax records, or by using their prior knowledge or involvement with a property or owner. Further information on this can be found on the HMRC Buildings and Construction VAT (Notice 708), Section 8.

7.3 Council Tax Premiums on Empty Homes

Since April 2018 the Council has implemented the Empty Homes Premium, and from April 2019 the levels of premium were amended to reflect the maximum levels as laid out by Government policy. Currently, these are 100% (meaning they will be charged 200% of their total council tax charge for the year) for properties empty for over two years, 200% for those empty over 5 years, and 300% for those empty over 10 years. As of April 2024, the two year criteria to become eligible for the empty homes premium will be reduced to one year, resulting in an additional 100 properties being liable for the charge.

7.4 Maximise income opportunities

There are three potential income streams associated with bringing empty homes back into use: New Homes Bonus, debt recovery (including full cost recovery of bringing a home back into use) and unclaimed sales income from Compulsory Purchases. The aim is to recover the costs in delivering this strategy to ensure that it is financially viable, and that finance is available to invest to bring additional homes back into use.

7.5 New Homes Bonus (NHB)

In order to maximise NHB, it is planned to develop a programme of property visits which, when combined with a close working relationship with colleagues in the Council Tax team, allows the data that is used to calculate NHB award to be as accurate as possible at the time of the submission. This ensures that NHB income to the Council is maximised each year.

New Homes Bonus can overshadow other positive outcomes associated with dealing with empty homes. However, it is important to ensure that strategies and policies do not become overly reliant on this initiative to the detriment of other positive outcomes.

7.6 Debt Recovery

All efforts to resolve debts associated with empty homes should be taken to recover public money and redirect it to the services that the Council provides for the residents of Rushcliffe.

There are several types of debt that can be associated with empty homes, the most common being unpaid council tax, works in default costs and care charges relating to previous occupiers. The pressures on local government finances continue and we therefore seek to maximise all debt recovery opportunities. Rushcliffe will consider utilising the powers of enforced sale to recover unpaid debts and its costs in dealing with empty homes.

7.7 Enforcement

A voluntary way forward to renovation and re-occupation is the preferred option, and officers will endeavour to encourage and persuade such progress. However, where owners cannot be traced, where informal approaches fail, or a there is a detrimental effect on the community, the Council may consider proceeding with legal action. Due regard will be given to the Council's Enforcement Policy before any action is taken. The Council has a substantial range of powers at its disposal and will consider using these as a last resort where necessary. These include:

7.8 Empty Dwelling Management Orders (EDMO)

Available under section 133 of the Housing Act 2004, an EDMO can be made where an owner leaves a property empty and has no intention of securing its voluntary reoccupation. The Council and a partner agency undertake the management of a property for a period of up to seven years, with the EDMO reviewed after that time.

There are currently only very limited EDMO's in the country, with only 38 reported to have been secured since 2010. EDMO's are open to appeal at any stage and can be administratively burdensome. The end result is the possible return of the property into the same ownership as that which left it vacant and neglected in the first instance.

7.9 Enforced Sale

The Law of Property Act 1925 allows local authorities to recover charges and debts through the sale of the property. This option can only be utilised where there is a debt to the local authority that can be registered as a statutory charge on the property.

7.10 Compulsory Purchase Order (CPO)

Nationally, Compulsory Purchase Orders (CPO's) on empty homes have increasingly been successful, with the outcomes having proven popular with the general public. In addition to enhancing housing availability, the anti-social and criminal activities with which empty buildings can so often attract are also addressed as a consequence of such enforcement.

CPO's can play a pivotal role in bringing properties back into use, providing the final sanction to ultimately facilitate the renovation and reoccupation of the most problematic empty homes. CPO's provide the 'teeth' to the empty homes process and strengthen every aspect of this work.

CPO's can be made under S17 of the Housing Act 1985 or under S226 (as amended by Planning and Compulsory Purchase Act 2004) of the Town & Country Planning Act 1990, for the provision of housing accommodation or to make a quantitative or qualitative improvement to existing housing.

7.11 Additional Statutory Powers

Where an empty home is causing a specific problem to a neighbourhood or is dangerous or ruinous for example, a range of enforcement powers are available. The timing and extent of the action taken will be dependent upon the individual circumstances encountered at the property. A detailed list of these measures is listed in *Appendix C*.

7.12 Unclaimed CPO / Enforced Sale Money

In the event that a property has been sold using the enforced sale process the following items can be deducted from the sale proceeds:

- the original works in default costs
- the legal costs in undertaking the enforced sale procedure
- conveyancing costs in connection with the sale
- auctioneer's or other marketing costs
- other officer time in relation to the enforced sale process
- any other debts owed to the council

The balance would then be paid to the former owner of the property subject to any other charges or mortgages on the property or paid into Court.

Where the Compulsory Purchase Order process is used, the ex-owners will be entitled to compensation once the council becomes the owner of the property. If a claim is not settled, or a reference made to the Upper Tribunal (Lands Chamber) within six years, the claim for compensation will be statute barred.

Appendix A: Empty Homes Action Plan 2024 - 2029

Objective 1 - To maintain accurate information of empty homes in the Borough						
Sub Reference	Action	Success Criteria & Outcomes	High, Medium or Low Priority	Start Date	Finish Date	Resource implications
1.1	To maintain a comprehensive database across all empty homes categories, comprising of council tax information, investigations, complaints and referrals	A managed and maintained database providing a prioritised list of empty homes for action, along with an overview of all empty homes in the Borough	H	April 2024	Ongoing	Low: Within existing resource
1.2	To risk assess priority cases of empty homes, and identify routes for proactive enforcement	A managed, risk assessed empty home database that generates a prioritised list of empty homes for action	H	April 2024	Ongoing	Low: Within existing resource
Objective 2 - To raise awareness of Empty Homes and promote the Strategy						
2.1	To promote the Strategy and benefits of bringing empty homes back into use within the Authority, to other departments and elected members	To highlight the issues presented by empty homes, and promote the successes and benefits of bringing empty homes back into use	L	April 2024	Ongoing	Low: Within existing resource
2.2	To promote the Strategy and benefits of bringing empty homes back into use within the wider community	To use available opportunities (such as National Empty Homes Week), to promote the successful work of the authority, highlight issues surrounding empty homes, and call on empty home owners to engage with the service	L	April 2024	Ongoing	Low: Within existing resource
Objective 3 - Provide advice, assistance and guidance to landlords and property owners						
3.1	To explore new and develop existing options and opportunities to support empty home owners, both internally and externally, and promote appropriately	To develop a suite of options for empty home owners, and ensure that all avenues and opportunities to offer support and assistance are explored	M	April 2024	Ongoing	Low: Within existing resource
3.2	To maintain the Empty Homes pages of the RBC website, ensuring all guidance, options and offers of support are up to date	To ensure the first point of contact and information source, is up to date and accurate to encourage engagement and approaches from empty homes owners	M	April 2024	Ongoing	Low: Within existing resource

Objective 4 - Reduce the number, and return problematic empty homes back in to use						
4.1	Investigate and prioritise all complaints and referrals of empty homes, and accurately record and categorise monthly council tax reports	To build the reputation and exposure of the service to the community, follow up with progress on complaints, and to actively pursue problematic empty homes	H	April 2024	Ongoing	Low: Within existing resource
4.2	Regular and persistent engagement with empty home owners listed on the database, following the three-stage letter process	To allow every opportunity for empty home owners to engage with the authority, and for records to be updated regularly to ensure accuracy	H	April 2024	Ongoing	Low: Within existing resource
4.3	Explore and develop opportunities to use council funding innovatively, to increase the offers and support offered to owners, such as lease and repair schemes or acquisition	To ensure the empty homes service is given consideration when opportunities are explored to increase housing supply, and feed into the aims and objectives of the wider housing and corporate strategies	L	April 2024	Ongoing	Low: Within existing resource
4.4	Regularly appraise enforcement options for all prioritised empty homes, and pursue the relevant action when suitable	To pursue enforcement action and to progress with the appropriate tools where there is no reasonable prospect of the property being brought back into use	M	April 2024	Ongoing	Low: Within existing resource
4.5	Implement this strategy to tackle problematic cases, and proactively reduce the numbers of empty homes across the Borough	To consider and use enforcement powers where support and negotiation have stalled, and bring 10 prioritised empty homes back into use annually	H	April 2024	Ongoing	Low: Within existing resource
Objective 5 - To maximise income opportunities including Council Tax, New Homes Bonus and Enforcement Debt Recovery						
5.1	Maximise debt recovery opportunities where works in default have been carried out	Identify all opportunities for debt recovery. Pursue all suitable cases in conjunction with colleagues in Legal Services and use Enforced Sale powers where necessary	H	April 2024	Ongoing	Low: Within existing resource
5.2	Maximise the potential income opportunity presented by the New Homes Bonus, by ensuring data is cleansed and accurate at the point of the CTB1 submission in Sept/Oct	In conjunction with an accurate database, work with Revenue and Benefits to ensure all cases of empty homes are up to date, and that the CTB1 submission is produced to reflect internal knowledge and datasets	H	Jul/Aug 2024	Ongoing	Low: Within existing resource
5.3	Maximise Council Tax arrears recovery in relation to empty homes cases, in collaboration with Revenues & Benefits Department	Working with Revenue & Benefits, empty homes with large amounts of council tax arrears are identified and pursued as a priority, in order to achieve debt recovery	H	April 2024	Ongoing	Low: Within existing resource
5.4	To identify, track and pursue cases of empty homes where they have previously been removed from the council tax listing.	Delisted properties are identified and brought back to use at the earliest opportunity, therefore increasing the revenue and chargeable dwellings for the authority	H	April 2024	Ongoing	Low: Within existing resource

Appendix B: Empty Homes Scoring and Rating Matrix

Each empty home identified will be assessed using a scoring sheet which considers various criteria. The result of this assessment is that the property will be placed in a category which determines the priority level it is given, and the subsequent course of action taken.

Properties will be reassessed when necessary / new information is obtained to ensure they remain situated in the correct categories and the correct level of priority is given. The categories will be classified as follows:

RED – (scores 50 or over)

Cases which fall into this category will be prioritised. All avenues will be explored with the owner to return their property to use in a way that suits their own needs, the needs of the community and the Council. Where assistance is refused and the owner is unwilling to cooperate, all enforcement options will be considered to establish the most appropriate course of action.

AMBER - (scores 25 - 49)

Cases which fall into this category will be considered a lower priority than those in the Red category. Resources will still be invested in these cases and officers will work with owners in an attempt to prevent empty homes from deteriorating and being reassessed to a higher category. Where necessary, enforcement options will be employed if considered the most appropriate course of action. Cases in this category will be monitored on a more frequent basis than those properties which fall within the Green category and will be reassessed where necessary.

GREEN - (scores less than 25)

Cases which fall into this category will be given a lower priority for action, but owners will be contacted and offered any assistance they may need to return their property back into use. These properties will be monitored for any change and reassessed where necessary.

Empty Homes Assessment Scoring Matrix

Criteria	Classification	Score
Time Empty	<ul style="list-style-type: none"> < 1 year 1-2 years 2-5 years 5-10 years > 10 years 	<ul style="list-style-type: none"> 0 5 10 15 20
Location	<ul style="list-style-type: none"> Extremely isolated with no access Isolated property with access Rural residential area Urban residential neighbourhood Prominent position 	<ul style="list-style-type: none"> 0 5 10 15 20
Special Interest	<ul style="list-style-type: none"> Listed Building Located in a Conservation Area 	<ul style="list-style-type: none"> 10 5
General Condition	<ul style="list-style-type: none"> Well maintained Acceptable for surrounding area Noticeably empty/unattractive Extremely unsightly/detrimental to the area 	<ul style="list-style-type: none"> 0 5 10 20
Unwanted attention	<ul style="list-style-type: none"> Attracting criminal activity such as graffiti, fly tipping, vandalism, anti-social behaviour 	<ul style="list-style-type: none"> 20
Debts Owed to Rushcliffe Borough Council	<ul style="list-style-type: none"> No outstanding monies owed < £500 £500 - £2000 £2000 - £5000 >£5000 	<ul style="list-style-type: none"> 0 5 10 15 20
Owner Interaction	<ul style="list-style-type: none"> High level of cooperation Average level of contact & efforts made Minimal contact & little efforts made No contact/untraceable/no efforts made 	<ul style="list-style-type: none"> 0 5 10 20
Total Score	Red / Amber / Green	

Appendix C: Statutory Enforcement Options

Town & Country Planning Act 1990, Section 215: Where the condition of an empty home is detrimental to the amenity of the area.

Building Act 1984, Sections 77-79: Where an empty home is in such a condition to be dangerous or is seriously detrimental to the amenity or of the neighbourhood.

Building Act 1984, Section 59: Where the condition of the drainage to a building is prejudicial to health or a nuisance.

Environmental Protection Act 1990, Section 80: Where a statutory nuisance exists, is likely to occur or recur at the property.

Prevention of Damage by Pests Act 1949, Section 4: Applied where the condition of the property is such that it is providing or likely to provide harbourage to rodents.

Local Government (Miscellaneous Provisions) Act 1982, Section 29: Allows the Council to act if a property is open to unauthorised access and is a risk to public health.

Housing and Planning Act 2016, Part 7: Allows authorisation to be given for officers to enter land (and property on that land) in connection with a proposal to acquire a compulsory interest in that land (and property on that land).

Local Government (Miscellaneous Provisions) Act 1976, Section 16; and Town & Country Planning Act 1990, section 330 – A notice may be served to establish information regarding property ownership or interests in land.

Housing Act 1985 Section 17 and the Acquisition of Land Act 1981: Forms the basis for the compulsory purchase of land/buildings for the provision of housing accommodation.

Housing Act 2004 Part 4: Grants powers to take over the management of a property using Empty Dwelling Management Orders (EDMO).

Law of Property Act 1925, Part III: The basis for enforced sale where certain debts are owed to the Local Authority.

The Anti-Social Behaviour, Crime and Policing Act 2014, Part 4: Allows for enforcement of matters considered to be detrimental to the quality of life to those in the locality.

Public Health Act 1961 Section 34: Deals with the removal of waste from property or land.

Public Health Act 1936 Section 83: Deals with the cleansing of filthy or verminous premises.

Housing Act 2004 Part 1: Housing conditions, improvements and enforcement.

Equality Impact Assessment Form

Name and brief description of proposal/project / policy / service being assessed:

Empty Homes Strategy

Information used to analyse the effects of equality.

Policies / documents used for analysis.

Assessment Group	Could particularly benefit (X)	May adversely impact (X)	How different groups could be affected: Summary of impacts	Details of actions to reduce negative or increase positive impact (or why action not possible)
People from different ethnic groups			No significant impact on any particular ethnic group	
Men, women (including maternity/pregnancy impact), transgender people			No significant impact	
Disabled people or carers			No significant impact	
People from different faith groups			No significant impact	
LGBTQIA + e.g. heterosexual, homosexual, bisexual, transgender.			No significant impact	
Older or younger people			No significant impact	

Other (marriage/civil partnership. Looked after children/care experienced adults, cohesion/good relations, vulnerable children/adults)			No significant impact	
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Outcome(s) of Equality Impact Assessment (EIA): *(delete as appropriate)*

No major change need

Arrangements for future monitoring of equality impact of this policy/proposal/project:

*Note when assessment will be reviewed (e.g. review assessment in 6 months or annual review).
Not required*

Names of officers who conducted EIA and date

Geoff Carpenter 11/4/24

Approved by: Geoff Carpenter

Date: 11/4/24

(manager signature)

page 92



Cabinet

Tuesday, 14 May 2024

Review of Smoke Control Areas

Report of the Director – Neighbourhoods

Cabinet Portfolio Holder for Environment and Safety, Councillor R Inglis

1. Purpose of report

Communities Scrutiny Group considered a report in October 2023, shaping a public consultation on revised Smoke Control Areas within the Borough. The Group were given four options and chose Option D that being to revoke the existing Smoke Control Orders and seek to declare the whole Borough as a Smoke Control Area as defined in the Environment Act 2021. The purpose of this report is to examine the results of the public consultation and agree the next steps.

2. Recommendation

It is RECOMMENDED that Cabinet:

- a) agrees the existing Smoke Control Area coverage remains unchanged for a period of two years at which time it will be reviewed; and
- b) approves the development and delivery of a public awareness campaign around domestic burning.

3. Reasons for Recommendation

- 3.1. The public consultation exercise clearly demonstrated the public's concern with the proposal to declare the whole Borough as a Smoke Control Area with close to 80% disagreeing.
- 3.2. Comments received included concerns that the proposed expansion of the Smoke Control Area coverage was disproportionate to the potential benefits to be gained across Rushcliffe, in particular the financial impact to residents living in more rural areas.

4. Supporting Information

- 4.1. The national Air Quality Strategy is clear in its expectation that local authorities take action to help meet national targets for particulate matter (PM_{2.5}). The Government expects all local authorities to effectively use their

new powers enshrined within the Environment Act 2021 to reduce PM_{2.5} emissions from sources within their control.

- 4.2. The Council is required to report on its approach to air quality in its Annual Status Report submitted to DEFRA each year under the Local Air Quality Management Framework.
- 4.3. The recent consultation exercise and reconsideration of the Smoke Control Area coverage in two years will demonstrate our commitment to exploring options to reduce PM_{2.5} emissions.
- 4.4. Following endorsement by the Communities Scrutiny Group in October 2023, a public consultation on the proposed expansion of the Smoke Control Area to cover the entire Borough ran for six weeks from 30 January to 12 March 2024. A total of 1206 responses were received.
- 4.5. Approximately 80% of respondents do not agree with the proposed Borough wide Smoke Control Area.
- 4.6. The main reasons given by respondents for not agreeing to the proposed expansion of the Smoke Control Area included:
 - limited alternatives to domestic burning in rural areas not supplied by gas
 - the wider and current cost of living crisis
 - more specifically the potential financial hardship associated with replacing appliances and/or changing fuel type
 - a perceived lack of exposure to particulate matter in more rural areas
 - the absence of measured data to demonstrate impact within Rushcliffe, disproportionate for rural areas, and concerns around the financial implications of enforcement of the Smoke Control Area rules by Council officers.
- 4.7. Of the nearly 20% of respondents who did agree to the proposal for a Borough wide Smoke Control Area, the main reasons provided were the need to improve air quality and health outcomes; impacts on their health with smoke affecting asthma and other respiratory conditions, the unpleasant smell of smoke from neighbour's log/wood burners outside and inside their properties; neighbours burning inappropriate materials; and deposits on washing, vehicles and windows.
- 4.8. Notwithstanding the legal requirements detailed within the Environment Act and the National Air Quality Strategy, the views outlined in paragraph 4.6 are acknowledged. For this reason it is proposed to postpone any decision on new Smoke Control Areas for a period of two years. During this period it is proposed that the Council undertakes a public awareness campaign around domestic burning and undertakes a further review of Smoke Control Areas in 2026/27.

5. Alternative options considered and reasons for rejection

Cabinet was previously provided with a range of options prior to going to public consultation, these included declaring the entire Borough as a Smoke Control Area; however, this option would ignore the views expressed in the consultation.

6. Risks and Uncertainties

In having reference to the duty on local authorities detailed in paragraph 4.1, there is a risk that DEFRA may criticise the Council's approach when it submits the Annual Status Report.

7. Implications

7.1. Financial Implications

The Council was awarded grant funding from DEFRA of £11,710 in 2023/24 and £11,710 in 2024/25 for the new burdens associated with the enforcement and management of Smoke Control Areas, as introduced by the Environment Act 2021. This fund will support the public communications campaign.

7.2. Legal Implications

There is a chance that DEFRA may criticise the Council's approach when the Council confirms its approach when submitting its Annual Status Report.

7.3. Equalities Implications

No equalities implications.

7.4. Section 17 of the Crime and Disorder Act 1998 Implications

No crime and disorder implications.

7.5. Biodiversity Net Gain Implications

No Biodiversity Net Gain implications.

8. Link to Corporate Priorities

The Environment	Any reductions in PM2.5 will have a demonstrable improvement in climate change emissions
Quality of Life	Poor air quality is considered to be the single biggest environmental risk to public health in the UK. Reductions in PM2.5 will significantly improve public health.
Efficient Services	None
Sustainable Growth	None

9. Recommendation

It is RECOMMENDED that Cabinet:

- a) agrees the existing Smoke Control Area coverage remains unchanged for a period of two-years at which time it will be reviewed; and
- b) approves the development and delivery of a public awareness campaign around domestic burning.

For more information contact:	Geoff Carpenter Service Manager Public Protection 0115 9148229 gcarpenter@rushcliffe.gov.uk
Background papers available for Inspection:	https://modgov-rushcliffeborough.msapproxy.net/documents/s13714/Smoke%20Control%20Areas%20in%20the%20Borough.pdf?LO\$=1 Air Quality Strategy Framework for Local Authority Delivery (2023) Air Quality Strategy - Framework for local authority delivery (publishing.service.gov.uk)
List of appendices:	Equality Impact Assessment

Equality Impact Assessment Form

Name and brief description of proposal/project / policy / service being assessed:

Smoke Control Areas

Information used to analyse the effects of equality.

Assessment Group	Could particularly benefit (X)	May adversely impact (X)	How different groups could be affected: Summary of impacts	Details of actions to reduce negative or increase positive impact (or why action not possible)
People from different ethnic groups			No significant impact on any particular ethnic group	
Men, women (including maternity/pregnancy impact), transgender people			No significant impact	
Disabled people or carers	x		There is a recognition that disabled people suffering from lung related conditions may benefit from cleaner air	The recommended awareness campaign will hopefully encourage positive action on smoke free appliances and fuel
People from different faith groups			No significant impact	
LGBTQIA + e.g. heterosexual,			No significant impact	

page 97

homosexual, bisexual, transgender.				
Older or younger people			The public consultation exercise identified that the proposal to declare the entire borough as a smoke control area would adversely financially impact those persons on low incomes particularly in rural areas who have no other viable heating source.	This report acknowledges this concern and established a period of 2 years until this issue will be considered again during which time a communications campaign will be undertaken to educate the public who are reliant on log burning.
Other (marriage/civil partnership. Looked after children/care experienced adults, cohesion/good relations, vulnerable children/adults)			No significant impact	

Outcome(s) of Equality Impact Assessment (EIA): *(delete as appropriate)*

No major change need

Arrangements for future monitoring of equality impact of this policy/proposal/project:

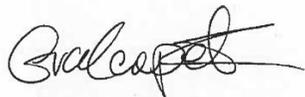
*Note when assessment will be reviewed (e.g. review assessment in 6 months or annual review).
Not required*

Names of officers who conducted EIA and date

Geoff Carpenter 11/4/24

Approved by: Geoff Carpenter

Date: 11/4/24



(manager signature)