

REGENERATION SERVICES COMMITTEE AGENDA



Thursday 8 May 2014

at 9.30 am

**in Committee Room B,
at the Civic Centre, Hartlepool.**

MEMBERS: REGENERATION SERVICES COMMITTEE

Councillors C Akers-Belcher, S Akers-Belcher, Cranney, Dawkins, Fisher, Morris and Payne.

1. APOLOGIES FOR ABSENCE

2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS

3. MINUTES

- 3.1 To receive the minutes of the meeting held on 10 April, 2014 (*previously published*)

4. BUDGET AND POLICY FRAMEWORK

- 4.1 Planning Obligations Supplementary Planning Document - *Assistant Director, Regeneration*

5. KEY DECISIONS

- 5.1 Charges for Housing Services - *Assistant Director, Regeneration*
5.2 Selective Licensing - *Assistant Director, Regeneration*



6. OTHER ITEMS REQUIRING DECISION

- 6.1 Local Plan Issues and Options Public Consultation Document – *Assistant Director, Regeneration*

7. ITEMS FOR INFORMATION

- 7.1 Update on Hartlepool Youth Investment Project - *Assistant Director, Regeneration*
7.2 Economic Regeneration Quarterly Update - *Assistant Director, Regeneration*
7.3 Quarterly Report – Adult Education - *Assistant Director, Regeneration*
7.4 Quarterly Update Report for Planning Services January-March 2013/2014 – *Assistant Director, Regeneration*
7.5 Sport and Recreation Service – Options Appraisal Update – *Director of Public Health*
7.6 Planning Peer Challenge – *Director of Regeneration and Neighbourhoods*

8. ANY OTHER BUSINESS WHICH THE CHAIR CONSIDERS URGENT



REGENERATION COMMITTEE

8TH MAY 2014



Report of: Assistant Director (Regeneration)

Subject: PLANNING OBLIGATIONS SUPPLEMENTARY
PLANNING DOCUMENT

1. TYPE OF DECISION/APPLICABLE CATEGORY

- 1.1 The Planning Obligations Supplementary Planning Document (see **Appendix 1**), if adopted, will form part of the Hartlepool Local Development Framework.

2. PURPOSE OF REPORT

- 2.1 The purpose of this report is to seek the permission of the Regeneration Committee to consult on the draft Planning Obligations SPD.

3. BACKGROUND

- 3.1 The purpose of this SPD is to provide developers and other interested parties with information and guidance concerning the Local Authority's approach towards securing planning obligations associated with development within the Borough. To date Council Officers have relied upon Policy GEP9 of the Hartlepool Local Plan 2006 to draw down planning obligations (Using Section 106 Legal Agreements) from developments as part of the planning process. This Planning Obligations SPD uses the principles underpinned in GEP9 as the policy basis for this document.
- 3.2 Since the Local Plan was adopted in 2006, it has been necessary to undertake a number of "evidence base" documents and studies. Studies including the Tees Valley Strategic Housing Market Assessment (2012), the PPG17 Open Space Assessment (2008) which is currently in the process of being refreshed, the Hartlepool Green Infrastructure SPD and Action Plan (2014), the Employment Land Review (2009) which is also being refreshed, the Playing Pitch Strategy (2012) and the Indoor Sports Facilities Strategy (2013) have all helped to improve the evidence base in relation to the development

of LDF documents, giving an understanding of the current state of the various types of infrastructure and also giving a feeling for the additional pressure new development will add to these. The findings from some of these studies have informed the Planning Obligations SPD making it relevant and up-to-date.

- 3.3 It should also be noted that the requirements of this document have been tested through viability assessments over the past 2 to 3 years and formed part of the evidence base for the recently withdrawn Local Plan which was tested and found to be sound at examination stage. The only requirement contained which has been questioned is the 27.5% affordable housing contribution that has resulted from the 2012 Tees Valley SHMA. The document is however flexible and allows for viability testing if it is felt that such a level of affordable housing contribution would leave the site undeliverable. The levels of requirements have been applied in fair and flexible manner to date and where there have been issues with viability this has been taken into consideration. To have a sound and robust system which is transparent and open to developers to see, it is necessary to set out formally how contributions will be requested in line with planning applications in the future. This is especially important as Policy GEP9 does not provide any detail other than the types of contribution which will be sought.
- 3.4 Once the SPD is adopted, it will be a material consideration in determining planning applications and, if development proposals do not comply, the SPD may be used as a basis for the refusal of planning permission by the Local Planning Authority. Planning Obligation Agreements have to be agreed and to be in place before planning permission can be granted. The SPD aims to increase understanding and enable developers to take into account the potential costs of a proposed development at the earliest stage.
- 3.5 The SPD is made up of two sections. The first section sets out the Local Authority's general principles with regards to Planning Obligations, and the second section explains the thresholds and levels of financial contributions of the specific planning obligations that the local authority may wish to seek.
- 3.6 It is recognised that this SPD is being prepared during hard economic times and, as such, this is reflected in the levels of contributions that are required from developers. The types of specific contributions which may be sought, the thresholds which will trigger the need for those contributions and the levels of contributions necessary have been set at realistic levels that will allow the delivery of vital infrastructure improvements without unduly impacting on the viability of proposed schemes. It is anticipated that the SPD will be reviewed and updated which will be particularly important when the economic climate improves in time.

- 3.7 The SPD also sets out a wide range of national, sub-regional and local policies and guidance that support the requirement to seek certain planning obligations as part of the planning process. The legal tests for when you can use a s106 agreement are set out in regulation 122 and 123 of the Community Infrastructure Levy Regulations 2010 as amended. The tests are:

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

It is therefore necessary that any requirements made of a development as set out within this SPD can satisfy the tests set out above.

- 3.8 The specific obligations that are highlighted as key priorities to the Council are detailed within the second part of the SPD. These include;
- Affordable Housing
 - Open Space, Outdoor Sport/Recreation and Play Facilities
 - Built Sports Facilities
 - Green Infrastructure
 - Highway Infrastructure
 - Community Facilities
 - Training and Employment
- 3.9 Although these are seen as priorities to the Council this does not rule out contributions towards other types of obligation being required if it is considered that a certain development necessitates it.

4. RISK IMPLICATIONS

- 4.1 The main risk with not progressing and adopting a Planning Obligations SPD relates to the lack of information contained within Policy GEP9 of the Hartlepool Local Plan 2006. The worst case scenario is that developers refuse to pay certain contributions as there is no policy position set out within the Local Development Framework.

5. SECTION 17 OF THE CRIME AND DISORDER ACT 1998 CONSIDERATIONS

- 5.1 The Crime and Disorder Act 1998 requires local authorities to consider crime and disorder reduction in the exercise of all their duties, activities and decision-making. The Council is committed to securing safe and secure environments within the borough.
- 5.2 Safety and security is a key consideration when assessing planning applications; however the issue is not specifically addressed in the

draft supplementary planning document as this is a more strategic level document.

6. FINANCIAL CONSIDERATIONS

- 6.1 There are no financial pressures put on the Council as a result of this document as it is proposed within the SPD that the Council will be able to charge legal costs, incurred by the Council, involved in the preparation of Section 106 Agreements to the developers. This would be based on an hourly rate of the legal department officer and would be agreed with the developer at the outset of the planning process.
- 6.2 The requirements within the SPD will be of great benefit to the town as it will ensure that developments will contribute, in an open and transparent manner, towards essential infrastructure and community provisions and financial contributions towards future implementation of new and improved infrastructure that the development has an impact on.

7. LEGAL CONSIDERATIONS

- 7.1 Section 106 Legal Agreements are the method by which the contributions sought in the SPD will be secured by the Council. The tests, noted at 3.7 above, must be met to ensure the contributions sought are fair and appropriate to the development being proposed.

8. EQUALITY AND DIVERSITY CONSIDERATIONS

- 8.1 The consultation will be carried out in accordance with the Council's adopted Statement of Community Involvement (SCI). The SCI was prepared in compliance with the Hartlepool Compact and its associated protocols. Consultation will be for an 8 week period.

9. RECOMMENDATIONS

- 9.1 Officers are permitted to undertake an 8 week public consultation on the draft Planning Obligations SPD.

10. REASONS FOR RECOMMENDATIONS

- 10.1 The Planning Obligations Supplementary Planning Document, when adopted, will form part of the Hartlepool Local Development Framework. It will be a material consideration in the determination of planning applications and will help to provide a clear position,

particularly for developers, as to the levels and types of planning obligations which will be sought in relation to developments.

11. BACKGROUND PAPERS

- 11.1 The 2006 Hartlepool Local Plan.
http://www.hartlepool.gov.uk/downloads/file/961/hartlepool_local_plan_2006

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This document is the Supplementary Planning Document (SPD) which outlines Hartlepool Borough Council's approach on Planning Obligations which will be required in relation to development within the Borough. This is a draft document and is subject to a formal eight-week public consultation period, from Friday 23rd May 2014 until Friday 18th July 2014. Comments on this draft should be emailed to planningpolicy@hartlepool.gov.uk or sent in writing to:

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(All responses should be received by 4.30pm on Friday 18th July 2014.)

This draft SPD and other background documents are available on the Council's website at:

www.hartlepool.gov.uk

CONTENTS		
PART ONE – GENERAL PRINCIPLES		
Section Number	Subject	Page Number
1.0	Introduction	1
2.0	Purpose of SPD	2
3.0	Status of SPD	3
4.0	National Policy	3
5.0	Regional Policy	5
6.0	Local Policy	6
7.0	Priorities	7
8.0	Types of Obligations and Thresholds	7
9.0	In kind Contributions	9
10.0	Financial Contributions & Pooling of Contributions	9
11.0	Existing Uses	9
12.0	Unilateral Undertakings	10
13.0	Index Linking	10
14.0	Review of Baseline Figures	10
15.0	Maintenance Costs	10
16.0	Economics of Provision	11
17.0	Legal and Admin Costs	11
18.0	Drafting of Agreements	11
19.0	Monitoring	11
20.0	Contact Details	11
PART TWO – SPECIFIC CONTRIBUTIONS		
21.0	Affordable Housing	13
22.0	Open Space, Outdoor Sport/Recreation and Play Facilities	21
23.0	Built Sport Facilities	25
24.0	Green Infrastructure	29
25.0	Highway Infrastructure	33
26.0	Community Facilities	38
27.0	Training and Employment	42
APPENDICES		
Appendix 1	Glossary of Terms	44

LIST OF TABLES		
	Table Title	Page
Table 1	Types of Obligations and Thresholds	7
Table 2	Contact Details	12
Table 3	Level of contribution for Open Space, Outdoor Sport and Children's Play	24
Table 4	Level of contribution for Built Sports Facilities	28
Table 5	Level of contribution for Green Infrastructure	32
Table 6	Development thresholds requiring a Travel Plan	35
Table 7	Development thresholds requiring a Training and Employment Plan	42

1.0 Introduction

- 1.1 The purpose of this Supplementary Planning Document (SPD) is to provide developers and other interested parties information and guidance concerning the Local Authority's approach towards securing planning obligations associated with development within the Borough.
- 1.2 The Local Authority will continue to use planning conditions as part of the planning application process to ensure that new developments in the town are well designed and attractive and will have a positive impact on the townscape of Hartlepool. New development however, often puts pressure on already over-stretched infrastructure and it is generally expected that developers will mitigate or compensate for the impact of their proposals by way of 'Planning Obligations'. These are usually concluded under section 106 of the Town & Country Planning Act 1990 (as amended) and are agreements between local planning authorities and developers (and the landowner where the developer does not own the land) that secure contributions (in cash or in kind) to address community and infrastructure needs associated with development.
- 1.3 The Council previously undertook consultation to ascertain which types of contribution needed to be covered within the SPD. A consultation draft was consulted on in 2009/10, but this was never adopted as a result of the introduction of the Community Infrastructure Levy (CIL) Regulations and the uncertainty that this created. It has become clearer recently that there is still a need for an adopted SPD which covers s106 agreements. Until April 2015 this will enable any contributions deemed necessary as a result of the development to be secured. From that point on it will be used to determine the level of onsite contributions needed and will be used to pool more strategic contributions needed off site as a result of the development. The Council will clearly set out where the contribution is to be used to ensure there is a direct correlation between the contribution and the development. No more than 5 contributions from developments will be pooled towards the delivery of one specific infrastructure improvement (for example no more than 5 towards the improvement of Mill House swimming pool).
- 1.4 This SPD will help to ensure that developments make a positive contribution to sustainable development by providing social, economic and environmental benefits to the community as a whole.
- 1.5 This SPD is made up of two sections. Section One sets out the local authorities general principles with regards to Planning Obligations, and Section Two explains the thresholds and formulae used to calculate the levels of Planning Obligations that the Local Authority may wish to seek.

APPENDIX 1

- 1.6 Once adopted, this SPD will be a material consideration in determining planning applications and if development proposals do not comply, the SPD may be used as a basis for the refusal of planning permission by the Local Authority. Planning Obligation Agreements have to be agreed and in place before planning permission can be granted. It is advised that any potential developer should contact the Local Authority at the earliest stages of the development process to discuss their proposal and establish whether there is likely to be a requirement for a Planning Obligations agreement.

2.0 Purpose of SPD

- 2.1 This Supplementary Planning Document (SPD) has been prepared to set out comprehensively the Local Authority's approach, policies and procedures in respect of Planning Obligations. It aims to increase understanding and enable developers to take into account the potential costs of a proposed development at the earliest stage.
- 2.2 It is recognised that this SPD is being prepared during hard economic times and this is reflected in the levels of contributions that are required from developers. The types of specific contributions which may be sought, the thresholds which will trigger the need for those contributions and the levels of contributions necessary have been set at realistic levels that will allow the delivery of these vital infrastructure improvements whilst still ensuring the viability of development in line with the guidance set out in the National Planning Policy Framework. The Local Authority will regularly review this SPD and should the economic climate improve the levels of contributions will be reassessed. If a developer feels that the levels of contribution requested make their development unviable they will be expected to submit a viability assessment of the scheme at validation stage (to avoid unnecessary delays) which will be assessed by the Council.
- 2.3 The Planning Obligations SPD will provide guidance on the requirements and mechanisms for contributions from development for infrastructure and other related provision. It will:
- provide greater clarity for developers and applicants;
 - speed up the processing of applications;
 - provide a clearer framework for assessing requirements and for calculating contributions;
 - play an important role in ensuring community and infrastructure needs are fulfilled as part of new development; and
 - Link to other relevant SPD's which give further information, for example the Green Infrastructure SPD and Action Plan
- 2.4 The major areas that are expected to arise in considering development proposals are:

- Affordable Housing
- Open Space, Outdoor Sport/Recreation and Play Facilities
- Built Sport Facilities
- Highway Infrastructure
- Education provision
- Community Facilities
- Green Infrastructure
- Training and Employment

2.5 This list is not exhaustive, but illustrates some of the Local Authority's main priorities. However, in certain circumstances, other contributions may be sought towards issues such as housing market renewal, flood protection or renewable energy. Conversely, in certain circumstances, if it is illustrated that the development is providing a significant regeneration benefit, such as the clearance of a problem building or renovation of a heritage asset, there may be an opportunity to reduce the developer contributions associated with that development.

3.0 Status of SPD

3.1 The SPD expands on established national and regional planning policies and also policies contained within the adopted Hartlepool Local Plan 2006, in particular GEP9 (Developer Contributions) and will support documents produced as part of the Local Development Framework. The guidance within this SPD will therefore be a material consideration in determining planning applications.

3.2 This SPD has been prepared in accordance with relevant national guidance set out in the National Planning Policy Framework (NPPF) and the Community Infrastructure Levy Regulations 2010 (as amended). Hartlepool Borough Council is currently preparing a new Local Plan and consequently the Adopted Hartlepool Local Plan (2006) and its policies will be retained until it is replaced by the new Local Plan and any other Local Development Documents.

3.3 This SPD is currently at the draft stage and will be subject to consultation for 8 weeks from Friday 23rd May 2014 until Friday 18th July 2014. All responses received will be taken into consideration when drawing up the final draft of the document. The Local Authority's Regeneration Services Committee will then be requested to approve the changes before the SPD is formally presented for adoption to Full Council.

4.0 National Policy

4.1 Planning Obligations are secured via legal agreements usually made under section 106 of the Town and Country Planning Act 1990 (as amended) usually in association with planning permissions for new development. They normally relate to any aspect of a development that

cannot be controlled by imposing a planning condition. They can serve various purposes including:

- restricting the use of land
- requiring specific operations to be carried out, in, on, under or over the land
- requiring land to be used in a specific way
- requiring a sum or sums to be paid to the Local Planning Authority on a specified date or dates, or periodically.

4.2 The legal tests for when you can use a s106 agreement are set out in regulation 122 and 123 of the Community Infrastructure Levy Regulations 2010 as amended. The tests are:

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

4.3 These tests replaced the five tests which were previously set out in Circular 5/05. As with Circular 5/05 pooling developer contributions from planning obligations in cases where individual developments will have some impact but not sufficient to justify the need for a discrete piece of infrastructure is permitted, however only 5 contributions can be pooled towards any discrete piece of infrastructure. Local authorities are still required to use formulae and standard charges as part of their framework for negotiating and securing planning obligations. This helps to speed up negotiations, and ensure predictability, by indicating the likely size and type of some contributions in advance.

National Planning Policy Guidance (NPPF) March 2012

4.4 Planning Obligations are covered in paragraphs 203 to 206 of the NPPF, which highlights the tests identified at paragraph 4.2, and requires local authorities to take account of market conditions over time and to be sufficiently flexible to avoid development being stalled.

National Planning Practice Guidance (NPPG) March 2014

4.5 Planning obligations mitigate the impact of unacceptable development to make it acceptable in planning terms. Obligations should meet the tests as set out in the Community Infrastructure Levy 2010 Regulations and within the NPPF.

4.6 The NPPG states that policies for seeking obligations should be set out in a development plan document to enable fair and open testing of the policy at examination and that Supplementary Planning Documents should not be used to add **unnecessarily** to the financial burdens on development and should not be used to set rates or charges which have not been established through development plan policy. **(Note: Hartlepool Borough Council have an adopted Planning Obligations Policy GEP9 which is saved. The requirements set out**

APPENDIX 1

within this SPD have been shown through viability testing to be deliverable on most schemes within Hartlepool over recent years. The requirements within this SPD were recently tested at examination for the Hartlepool Local Plan which was found sound subject to modifications (which did not relate to the obligation requirements) but then subsequently withdrawn. It is considered the requirements made by the SPD have therefore been robustly tested and examined and are also flexible in viability terms.)

- 4.7 It goes on to state that planning obligations should not be sought – on for instance, public art – which are clearly not necessary to make a development acceptable in planning terms and notes that the Government is clear that obligations must be fully justified and evidenced. Where affordable housing contributions are being sought, obligations should not prevent development from going forward.
- 4.8 The Government currently places great emphasis on ensuring the viability and deliverability of development and the NPPG emphasises the need for contributions to be flexible and negotiable and to take into account site specific issues which may impact on delivery.
- 4.9 The NPPG goes on to state that policy for seeking obligations should be grounded in an understanding of development viability through the plan making process and that on individual schemes developers where obligations are required developers should submit scheme viability to be assessed, preferable through an open book process.
- 4.10 The NPPG also gives some guidance on the ability to renegotiate planning obligations where both parties are in agreement or by means of appeal. This may become necessary where obligations were secured in older applications and the schemes would not be viable in the current market with the burden of the obligation.

Community Infrastructure Levy

- 4.11 Through the 2010 CIL Regulations the Government introduced a new charge which Local Authorities in England and Wales are empowered, but not required, to charge on most types of new development. The Government feels that CIL will improve predictability and certainty for developers as to what they will be asked to contribute, will increase fairness by broadening the range of developments asked to contribute, addressed and will enable important sub-regional infrastructure to be funded. However since its introduction it has become evident that it is far more deliverable in areas around London and the south east and that in other areas, given the current market conditions, it is proving to be unviable and undeliverable.
- 4.12 During the development of a new Local Plan the Local Authority will undertake some viability testing to determine whether or not it is going to be able to bring forward a CIL charging schedule or whether the

Local Authority chooses not to use CIL and instead continues to use Planning Obligations.

5.0 Regional Policy

- 5.1 Following the revocation of the Regional Spatial Strategy for the North East, there is no longer a regional level of guidance and the Local Authority therefore relies on local and national policy and guidance.

6.0 Local Policy

- 6.1 The Local Authority needs a structured and transparent approach to obtaining contributions in the future.

- 6.2 Policy GEP9 (Developer Contributions) of the adopted Hartlepool Local Plan April 2006 is a saved policy which this SPD links to. It sets out where obligations will be used and the benefits that will be sought in furtherance of the Plan's strategy. Supplementary Note 8 on Developer Contributions supports policy GEP9. Policy GEP9 states:

“POLICY GEP9 - DEVELOPERS' CONTRIBUTIONS

THE BOROUGH COUNCIL WILL SEEK CONTRIBUTIONS FROM DEVELOPERS FOR THE PROVISION OF ADDITIONAL WORKS DEEMED TO BE REQUIRED AS A RESULT OF THE DEVELOPMENT. CONTRIBUTIONS MAY BE REQUIRED FOR:

- ◆ HIGHWAY AND INFRASTRUCTURE WORKS,
- ◆ IMPROVEMENTS TO PUBLIC TRANSPORT AND THE PEDESTRIAN AND CYCLEWAY NETWORK (SEE POLICY Tra19),
- ◆ THE LAYOUT AND MAINTENANCE OF LANDSCAPING AND WOODLAND PLANTING,
- ◆ THE LAYOUT AND MAINTENANCE OF OPEN SPACE AND PLAY FACILITIES (SEE POLICY Rec2),
- ◆ THE PROVISION OF NEIGHBOURHOOD PARKS (SEE POLICY Rec3),
- ◆ WORKS TO ENHANCE NATURE CONSERVATION FEATURES,
- ◆ ADDITIONAL MEASURES FOR STREET CLEANSING AND CRIME PREVENTION (SEE POLICIES Com12 and Rec13),
- ◆ THE ACQUISITION AND DEMOLITION OF SURPLUS HOUSING STOCK AND HOUSING IMPROVEMENTS IN LOW DEMAND HOUSING AREAS (SEE POLICIES Hsg6 AND Hsg5),
- ◆ THE RATIONALISATION OF RETAIL FACILITIES, AND
- ◆ ANY OTHER COMMUNITY FACILITIES DEEMED NECESSARY BY THE LOCAL AUTHORITY AS A RESULT OF THE DEVELOPMENT.

CONTRIBUTIONS MAY NECESSITATE DEVELOPERS ENTERING INTO LEGAL AGREEMENTS WITH THE BOROUGH COUNCIL (SEE SUPPLEMENTARY NOTE 8).”

- 6.3 Whilst Policy GEP9 does not specifically highlight a type of contribution, such as affordable housing, but more recent evidence

APPENDIX 1

points to the need for such provision, these types of obligation may still be requested.

- 6.4 Hartlepool Borough Council is also working closely with the other Tees Valley authorities to ensure that a consistent approach to planning obligations across the Tees Valley. Wherever possible the Tees Valley authorities will look to standardise the levels of contributions towards provision and maintenance of infrastructure required. It should be noted however that certain provision will be dictated by local needs and therefore it is not possible to fully standardise the approach across the Tees Valley. However, greater consistency will be beneficial to developers as they will have a good idea of what will be expected as part of any new development.

7.0 Priorities

- 7.1 Planning Obligations will be negotiated on a site-by-site basis. The priority given to any particular type of Planning Obligation will be at the discretion of the Local Authority. It would not be possible to set out townwide priorities relating to development types in any sort of priority order as each development proposal will have different circumstances, whether they are physical, financial, environmental or social. Priorities may vary and will depend on a number of factors including local need as well as central, regional and local government guidance and the current political agenda.
- 7.2 Whilst each obligation will be negotiated on a site-by-site basis the Local Authority will have due regard for the priority theme areas within the Community Strategy along with other studies that have been undertaken such as the 2014 Open Space, Sport and Recreation Audit and Assessment, the 2014 Green Infrastructure SPD and Action Plan, the 2013 Indoor Sports Facilities Strategy, the 2012 Playing Pitch Strategy, the most up-to-date School Organisation Plan and the 2012 Tees Valley Strategic Housing Market Assessment (SHMA). The desires of the Community Strategy and the findings of these studies will help in guiding where the contributions will be spent.
- 7.3 There may be site-specific requirements other than those highlighted in this SPD that are flagged up whilst an application progresses and these should also need to be included in any planning agreement.

8.0 Types of Obligations and Thresholds

- 8.1 The thresholds for seeking planning contributions are set out in Table 1 below. These thresholds should be read as a guide for normal procedure and are set at practical levels that can be easily identified and measured. However each planning application will be judged on its own merits and in light of local concerns. There may be instances where obligations will be sought that are below the threshold level if the

APPENDIX 1

Local Authority feel that the impact the development will have justifies the need to require contributions.

Table 1 – Types of Obligations and Thresholds

Landuse	Contribution towards	Threshold (number of units)
Residential	Affordable Housing / Housing Market Renewal	15
	Open Space, Outdoor Sport/recreation and play facilities	5
	Built Sports facilities	5
	Green Infrastructure	5
	Highway Infrastructure	Site-by-Site
	Community Facilities - Education	5
	Other Community Facilities	Site-by-Site
	Training and Employment	10
<u>Commercial:</u>		
A1-5 Food Retail/Non Food Retail	Training and Employment	500sq m (gross) or more of additional floorspace
	Highway Infrastructure	
	Open Space, Outdoor Sport/recreation and play facilities	
	Green Infrastructure	
B1 Including Offices	Training and Employment	1000sq m (gross) or more of additional floorspace
	Highway Infrastructure	
	Open Space, Outdoor Sport/recreation and play facilities	
	Green Infrastructure	
C1 Hotels	Green Infrastructure	New hotels or extensions of 10 bedrooms or more to existing hotels (based on no. of bedrooms)
	Highway Infrastructure	
	Open Space, Outdoor Sport/recreation and play facilities	
	Training and Employment	
D2 Including leisure	Highway Infrastructure	1000sq m (gross) or more of additional floorspace
	Play / Leisure Facilities	
	Green Infrastructure	
	Training and Employment	
	Open Space, Outdoor Sport/recreation and play facilities	

APPENDIX 1

Other	Case by Case basis	Case by case basis
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8.2 Planning Obligations will be sought on developments below these thresholds if the Local Authority feels that the site in question is part of a larger development site. When determining contributions, the Local Authority will look at the cumulative impact of a number of adjoining small developments. Developing sites incrementally or sub-dividing a site to avoid contributions will not be acceptable. Where it is likely that this could occur the Local Authority would request a comprehensive masterplan developed for the area to ensure that the full potential and regeneration benefits of the site are realised. This includes cases where one site is divided between different developers, or is proposed to be developed in a phased manner.

8.3 This is to ensure that the necessary contributions are divided fairly between developers on the whole site and so that services and facilities, to meet overall needs, can be delivered in a comprehensive, rather than piecemeal fashion.

9.0 In Kind Contributions

9.1 The presumption will be that where there is a requirement for on-site improvement, the developer will provide facilities themselves. Where the Local Authority wishes to provide certain facilities themselves, developers will be required to donate the land free of charge, together with a financial contribution in lieu of the developer providing the facilities.

10.0 Financial Contributions and Pooling of Contributions

10.1 In cases where the level of contribution secured by the development is insufficient on its own to provide a facility eg a new play area, then a financial contribution will be paid to the Local Authority upon commencement of the development. This payment will be held in an account along with other similar contributions received. No more than 5 contributions will be pooled towards the provision of a distinct piece of infrastructure, such as a new play area or as a contribution towards maintenance of such a piece of infrastructure (see 15 below). The pool of money within this account will be used to pay for the implementation of schemes once there are sufficient funds. Any contributions that remain unspent at the end of the time period specified in the planning agreement may be repaid upon request by the developer.

11.0 Existing Uses

11.1 For the majority of contributions that the Local Authority will be seeking the existing use of the site will be taken into account when determining the levels of contributions. For example, for residential developments,

APPENDIX 1

all contributions, with the exception of affordable housing, play and green infrastructure, will be based on the increase in population caused by the new development. If the new proposal will result in a lower population then no other contributions would be sought.

- 11.2 The exceptions to this rule are affordable housing and play. As affordable housing is not a requirement that is linked to the demands of an increasing population, existing uses will not be taken into account. The level of affordable housing will be determined by the total number of dwellings proposed in the new development. It is also considered that the provision of play and green infrastructure in relation to new housing developments is critical to help to ensure a healthy and active population and as such play contributions will be required in all new housing/residential schemes of 5 dwellings or more.

12.0 Unilateral Undertakings

- 12.1 A Unilateral Undertaking is made where an applicant offers a planning obligation in support of a planning application or a planning appeal. Unilateral Undertakings bind the developer to their terms but not the Local Authority. When submitted in connection with an appeal, the appellant's solicitors normally draft the Undertaking, although the Local Authority will usually welcome an opportunity to discuss terms prior to submission to the Inspector.

13.0 Index Linking

- 13.1 In large scale developments which will be delivered in a number of phases, it is likely that financial contributions will be paid in stages. Trigger dates for the payment of financial contributions will be written into the legal agreement.
- 13.2 In order to maintain the value of financial contributions between the date of the planning permission and the date that they are paid, the payments will be index linked in accordance with the All Items Retail Prices Index excluding Mortgage Interest Payments Index (RPIX) published by the Office for National Statistics (ONS), or such replacement index as agreed between the parties.
- 13.3 The Council will charge interest for the late payment of financial contributions. Any such liability will be written into the legal agreement so that developers are aware of the implications of late payment and agree to the terms when completing the agreement.

14.0 Review of Baseline Figures

- 14.1 In order to ensure "best value" the Local Authority will regularly review all baseline figures used to calculate Planning Obligations. If any legislation or guidance upon which the strategy is based is subject to

APPENDIX 1

change, any such changes would be taken into consideration when reviewing this SPD.

15.0 Maintenance Costs

- 15.1 Where planning contributions are secured for facilities that are predominantly for the benefit of users of the associated development then it may be appropriate for the maintenance of these facilities to be contributed to by the developer. The length of maintenance contributions will be determined on a case by case basis and will take into account the viability of a development. Larger, mixed use developments which are introducing new infrastructure such as parks or green spaces will normally be required to make maintenance contributions to cover at least 20 years.

16.0 Economics of Provision

- 16.1 For those developments listed in table 1, both residential and non-residential, the Local Authority expects the full relevant Planning Obligation requirements, as outlined in this document, to be taken into account when negotiating the price of the land. Applicants should engage in pre-application discussions with the Local Authority. In order for the Local Authority to consider reducing or waiving certain requirements, the developer must be able to show that there are abnormal development costs associated with the site that could not reasonably have been foreseen at the time the land was bought. In exceptional circumstances, for example where the site is found to be heavily contaminated, it may be possible to accept reduced Planning Obligations contributions in order to achieve an acceptable land use or development.

17.0 Legal and Admin Costs

- 17.1 The lead responsibility of producing a section 106 Legal Agreement lies with the developer. Developers will be required to pay any legal/professional fees incurred by the Local Authority's in the preparation and completion of the section 106 agreement. Legal fees will be charged at the hourly rate of the officer completing the agreement.

18.0 Drafting of Agreements

- 18.1 The developer will be expected to submit a draft section 106 legal agreement on submission of a planning application. The Local Authority has a standardised template which will be used where practicable that will enable agreements to be drawn up quickly so as not to slow down the planning process. The developer can use its own

APPENDIX 1

legal team to complete this or, the section 106 agreements can be drafted by the Local Authority's Legal Services Team or by Solicitors acting on the Local Authority's behalf. The Council's legal fees will be included in all legal agreements.

19.0 Monitoring

19.1 The Local Authority has an established process for monitoring and managing Section 106 Legal Agreements, including a database with details of all agreements and where those financial contributions have been / will be spent. The Local Authority will pro-actively pursue any late payments. A charge is attached to all relevant legal agreement relating to their monitoring and management for:

- Financial monitoring and management of the monies associated with receiving the income; and
- Physical monitoring.

20.0 Contact Details

20.1 Although this document sets out the types of contributions that will be sought early contact with a member of the planning policy team will be advisable to discuss the likely obligations that may be sought on particular developments.

Table 2 – Contact Details

Tom Britcliffe	Team Leader, Planning Policy	Tom.britcliffe@hartlepool.gov.uk	01429 523532
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Andrew Carter	Senior Planning Officer	Andrew.carter@hartlepool.gov.uk	01429 523279

Part Two – Specific Contributions**21.0 Affordable Housing****Policy and Background Information**

- 21.1 Various national, sub-regional and local policy documents as identified below and evidence base highlight the need for affordable housing in new developments. Some of the key documents which support the need for affordable housing are listed below.

National Planning Policy Framework (2012)

- 21.2 The principle aim of the NPPF is to drive forward sustainable development. In terms of housing it aims to boost significantly the supply of housing, both market and affordable. It requires local planning authorities to use their evidence base to ensure that their Local Plan meets the full, objectively assessed needs for market and affordable housing in the housing market area where and that they are consistent with other policies in the NPPF.
- 21.3 To deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities, the NPPF requires local planning authorities to:
- plan for a mix of housing based on current and future demographic trends, market trends and the needs of different groups in the community (such as, but not limited to, families with children, older people, people with disabilities, service families and people wishing to build their own homes);
 - identify the size, type, tenure and range of housing that is required in particular locations, reflecting local demand; and
 - where they have identified that affordable housing is needed, set policies¹ for meeting this need on site, unless off-site provision or a financial contribution of broadly equivalent value can be robustly justified (for example to improve or make more effective use of the existing housing stock) and the agreed approach contributes to the objective of creating mixed and balanced communities. Such policies should be sufficiently flexible to take account of changing market conditions over time.
 - Determine planning applications in accordance with the Development Plan, unless material considerations indicate otherwise. It notes that the NPPF is a material consideration in decision making. (Bearing this in mind recent pieces of evidence base work, such as the Tees Valley Strategic Housing Market Assessment, which provide up to date

¹ The emerging Local Plan will set policies on affordable housing. Counsel advice has advised that given there is an up-to-date evidence base in the form of the 2012 Tees Valley Strategic Housing Market Assessment, affordable housing provision / contributions can be sought.

evidence, are also considered material considerations in the determination of planning applications.)

- 21.4 It also supports the identification and re-use of empty housing and buildings in line with local housing and empty homes strategies and, where appropriate, the use of compulsory purchase powers to acquire the properties.

Evidence of Local Need

- 21.5 Until 2006 the need to provide affordable housing in new developments had not been an issue in Hartlepool as affordability had not been a problem given the relatively low cost of housing (compared with the national average), the existing supply of social housing and the variety of choice across the market. This is reflected within the Hartlepool Local Plan 2006 which does not have a specific policy on affordable housing provision. Subsequent changes in the housing market and detailed assessments of the sub-regional and local housing markets revealed increasing problems of affordability, which consequently increased the need for new affordable housing.
- 21.6 The Tees Valley Strategic Housing Market Assessment (TVSHMA) identified this growing and immediate need for the provision of new affordable housing and illustrated a significant annual need across the Tees Valley for affordable housing and within Hartlepool a need for 89 new affordable homes annually (for Hartlepool this equate to 27.5% annually) with the primary need being smaller 1 and 2 bedroom properties. It also highlighted the need for new bungalow provision across the borough. The study recommends a 70:30 split between social rented and intermediate tenure properties.
- 21.7 The evidence provided within these documents has enabled the Council to successfully secure the provision of affordable homes on schemes which have been approved in recent years.
- 21.8 Given the clear illustration over the past few years that there is a irrefutable and immediate need for the provision of affordable homes, within new housing developments and subject to viability testing, the Council will seek the delivery of affordable homes by the following means.

Negotiating Affordable Housing

Threshold

- 21.9 Affordable housing will be required on all planning applications for residential development that consist of a gross addition of 15 dwellings or more, including renewal of lapsed unimplemented planning permissions, changes of use and conversions.
- 21.9 Given the level of identified need and the limited opportunities for securing affordable housing provision in the Borough, planning

APPENDIX 1

permission will not be granted for residential applications that meet or exceed the gross additional thresholds and do not include any on-site affordable housing or off-site provision, unless they illustrate the regeneration benefits noted in paragraph 2.5.

- 21.10 The Council will be alert to the sub-division of sites or phasing of development as a cynical means to avoid providing an affordable housing requirement. Therefore, for the purposes of establishing the affordable housing requirement, planning applications will be viewed as any composite or naturally defined larger area, whether or not subject to phased development and regardless of ownership. If development is proposed in phases, later phases may be required to fulfil affordable housing requirements from previous phases, where it has not already been adequately provided.

Level of Contribution

- 21.11 An affordable housing target of 27.5% will be required on all sites above the minimum threshold where there is an identified local need and/or where the economic viability of schemes allows. Where viability evidence is submitted to illustrate that this level is not achievable, a lower percentage may be agreed through the Council assessing the development through its viability testing model.

Where Affordable Housing is Provided

- 21.12 Generally all affordable housing will be delivered through on-site provision. Only in exceptional circumstances will it be acceptable for provision to be made off-site. Applicants will need to provide sound, robust evidence why the affordable housing cannot be incorporated on-site and show how off-site provision or commuted sums will contribute to the creation of sustainable mixed communities elsewhere in the Borough.
- 21.13 The delivery emphasis of affordable housing will be very strongly favoured to provide on-site provision as there is a short supply of available development land within the urban area of Hartlepool to cater for off-site developments. In the unlikely event that a developer is proposing the provision of affordable housing off-site, there should be early discussions with the Council to identify a suitable site or sites.
- 21.14 In the unlikely event that off-site provision is proposed, similar to the on-site provision, the timing of off-site provision will be related to the completion of numbers of properties on the associated general market housing site. The general approach will be to secure completion of the affordable homes in step with the general market housing, unless the timing is otherwise agreed with the Council.
- 21.15 Where an off-site provision is agreed to be acceptable, the level of contribution will be calculated by deducting the transfer price of the unit from its open market value (OMV).

21.16 Example of Financial Contribution:

Based on a development of 200 homes in the urban area

A = The average market price of a house on the scheme = £125,000

B = The average onsite affordable house if sold on the open market = £100,000

Commuted sum = 40%* of affordable price is £40,000 (ie 40% of £100,000)

(*this is based on a Registered Provider being able to source funding, either by grant or mortgage, to pay for 60% of the open market price.)

Affordable housing obligation of 27.5% requires provision of 55 affordable homes

The application is for 200 dwellings. A 27.5% affordable requirement means that a commuted sum contribution is required for 55 affordable units.

Therefore 55 units x £40,000 = £2,200,000 total contribution.

Type and Tenure

- 21.17 Developers will be expected to achieve an aspirational target of 70% social rented or affordable rented and 30% intermediate tenure mix on each site. Housing type and tenure split will be negotiated on a site-by-site basis, having regard to the most up-to-date evidence of need, mix of tenures of existing housing nearby, the desire to create balanced communities and the constraints and requirements of providing on-site provision.
- 21.18 The aspirational tenure split of 70% social rented or affordable rented and 30% intermediate affordable housing is considered most appropriate to meet Hartlepool's strategic housing aims and the identified housing need within the town. This is based on the robust 2012 Tees Valley Strategic Housing Market Assessment evidence and recent evidence from the Council's housing waiting list. The need is compounded by the reduction of social rented stock through the Right to Buy scheme.
- 21.19 Bearing in mind the aspirational target, the Council recognises that negotiation on a site-by-site basis would be the best approach; ensuring that nearby housing is taken into consideration in the desire to create sustainable balanced and mixed communities. Where a developer is proposing a target that deviates from the 70/30 split, there should be early discussions with the Council to ensure an appropriate target is achieved.

Future Management of Affordable Housing

- 21.20 All affordable units should be delivered in partnership with a Registered Provider by means of a section 106 legal agreement, with appropriate provision to secure the retention of the properties as affordable units in perpetuity. The terms of sale from the developer to the Registered Provider must be suitable to meet these requirements.
- 21.21 The Council regards partnership delivery with a Registered Provider (RP) as the preferred means of securing affordable housing, tied in by means of a section 106 legal agreement to which the RP will be party. This applies to all the forms of affordable housing. (Again the Local Authority must be approached by the developer when consideration is being given to which RP is to be involved).
- 21.22 Where a developer is proposing providing affordable housing involving an RP there should be early discussions with the Council to establish the section 106 legal agreement.

Design and Specification of Affordable Housing

- 21.23 The Council promotes the development of energy efficient housing. It is important not only to minimise the running costs of a home to the occupier but also to reduce carbon emissions. It is expected that all affordable properties will achieve high levels of energy efficiency in line with the Government's Zero Carbon Policy, affordable homes in particular should seek to address energy efficiency even more so and it is often the case that if homes are HCA funded they are required to meet a higher energy efficiency level. Amendments to the building regulations and expected early in 2015, the Council may seek to use the provisions in the new legislation to set its own bespoke energy efficiency standards but in the meantime the Council expect developers to demonstrate how they meet with the requirements of NPPF paragraph 96 and use of the Code for Sustainable Homes is one method that will be supported.
- 21.24 In respect of affordable homes which are receiving funding from the Homes and Communities Agency (HCA), these properties would be expected to meet the design standards set out within the HCA Design and Quality Standards in April 2007 or any subsequent standards that amend or replace those standards.
- 21.25 The Council will expect applicants to ensure that the affordable properties are integrated into the overall development, in terms of their built form and external appearance, so that they are indistinguishable from the other properties on the site. Affordable properties should not be marked out by being of poorer design, specification and quality of finish than neighbouring properties. It is recommended that the skills and experience of RP's be employed at an early stage in the design process to ensure that the future management of the affordable housing units is fully considered.

Pepper Potting of Affordable Housing

- 21.26 The Council supports the development of sustainable mixed and balanced communities. In order to avoid the negative implications of social exclusion and isolation, affordable homes within housing schemes should be evenly distributed across the site (which is known as pepper potting) and not disproportionately allocated to the periphery or in one particular area. The Council will normally require affordable homes to be grouped together in clusters of no more than 5 properties.
- 21.27 In apartment and flat developments the Council requires pepper potting to be maintained. However it is recognised that other issues may impact upon the distribution of affordable units in apartment blocks, including difficulties in their management and financial concerns regarding levels of service charges. The benefits of this will be weighed against the scope to achieve a better degree of pepper potting. The level of pepper potting on apartment schemes will be negotiated on a site-by-site basis.
- 21.28 The Council expects the location of the affordable housing will be discussed and agreed at an early stage in conjunction with the appointed RP. The final location must be agreed before development starts.

Accessibility

- 21.29 The Council expect developers to have regard to the changing needs of residents over time, in ensuring that homes are easily adaptable, residents know that they are likely to be able to reside in their home if they become less able bodied. If easily adaptable then costs are kept to a minimum. The Lifetime Homes Standards are likely to be phased out by the end of 2014; however they are still a useful tool in delivering adaptable homes.

Affordability and Service Charges

- 21.30 Although the emphasis in determining affordability is primarily focussed on rent or purchase price, it is the total cost of occupation that ultimately determines affordability. Some residential developments have high levels of service charges, and this has an impact upon the relative affordability of the accommodation. Such potentially significant additional costs may result in affordable housing extending beyond the financial reach of those in housing need. It is therefore anticipated that the cost of service charges will be minimised. The proposed level of service charges will form part of pre-application discussions.

Funding for Affordable Housing

- 21.31 The Homes and Communities Agency (HCA) has historically been the main provider of public funding for affordable housing, however in recent years this ability to fund schemes has diminished significantly due to the national economic crisis. Their approach is that affordable housing on Planning Obligation sites should be delivered without the input of grant. If grant were to be considered on a site, their objective

APPENDIX 1

would be to ensure that the site delivers more affordable housing or a different mix or higher standards, than would have been possible without grant. If funding becomes available the HCA will assess the 'additionality' offered by a scheme in making a decision regarding potential funding. Developers should therefore assume that no grant will be available to fund the affordable housing, unless an agreement has been made with the HCA. Before the HCA is approached developers must ensure that the Local Authority will support a bid to the HCA for grant funding.

Transfer Prices

- 21.32 The Council will seek to negotiate, on a site-by-site basis, transfer prices as these are likely to fluctuate depending on housing market and site conditions.

Future Policy Changes

- 21.33 The Local Authority will ensure that evidence is kept up-to-date and will include a Policy within the emerging Local Plan on affordable housing. This will be supplemented by a distinct affordable housing SPD which will be prepared in parallel.
- 21.34 If new evidence changes the levels or mix of affordable housing required, the new evidence will supersede the requirements set out within this SPD until such a time as this SPD is refreshed to reflect the changes.

APPENDIX 1**22.0 Open Space, Outdoor Sport/Recreation & Play facilities**

- 22.1 The Government's commitment to Parks and Open Spaces² has evolved significantly in recent years. They are among the community's most valued features. Well managed open spaces not only make an area more attractive but they also contribute towards sustainable development through creating places in which people want to invest and locate, the promotion of healthier lifestyles, urban renaissance, social inclusion and community cohesion.

National Policy Background**National Planning Policy Framework (2012)**

- 22.2 Recognises how open space including parks and sports fields plays a vital role in the delivery of sustainable development. It states "access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and well-being of communities."
- 22.3 In order to do this it requires that "planning policies should be based on robust and up-to-date assessments of the needs for open space, sports and recreation facilities and opportunities for new provision. The assessments should identify specific needs and quantitative or qualitative deficits or surpluses of open space, sports and recreational facilities in the local area. Information gained from the assessments should be used to determine what open space, sports and recreational provision is required."
- 22.4 It also recognises the vital importance of existing provision and the need to protect these spaces and facilities in the future, stating "existing open space, sports and recreational buildings and land, including playing fields, should not be built on unless:
- an assessment has been undertaken which has clearly shown the open space, buildings or land to be surplus to requirements; or
 - the loss resulting from the proposed development would be replaced by equivalent or better provision in terms of quantity and quality in a suitable location; or
 - the development is for alternative sports and recreational provision, the needs for which clearly outweigh the loss."

² This does not cover Green Infrastructure or Built Sports Facilities which are dealt with separately within the following two chapters

Local Policy BackgroundHartlepool Local Plan (Adopted 2006)

- 22.5 There are a number of policies within the Local Plan that support the delivery of open space, leisure and play facilities as part of new developments in the town. Policy GEP9 (Developer Contributions) highlights that the Local Authority will seek contributions from developers for the provision of additional works deemed to be required as a result of the development towards “the layout and maintenance of open space and play facilities” and also for “the provision of neighbourhood parks.”
- 22.6 Policy Rec2 (Provision for play in new housing areas), Policy Rec3 (Neighbourhood Parks), Policy Rec4 (Protection of Outdoor Playing Space) and Hsg9 (New Residential Layout – Design and other Requirements) all indicate that developer contributions may be needed towards the provision of play and leisure space in the town.
- 22.7 Policy GN2 is also especially critical in protecting against the loss of open space as a result of developments in the town. The policy sets circumstances where the loss of open space to facilitate a development may be permitted but goes on to stipulate that an adjacent site should be enhanced or compensatory open space must be provided on an alternative site, which is in line with national guidance outlined in the NPPF.

Open Space, Sport and Recreation Audit and Assessment (2008 & 2014)

- 22.8 As part of the evidence base for the development of the Local Development Framework Hartlepool Borough Council undertook a PPG17 Assessment which was concluded in April 2008. A new Open Space, Sport and Recreation Audit and Assessment is currently being undertaken to update the evidence base supporting the Local Plan. The specific objectives of the new assessment reflect those of the 2008 study and are to:
- provide information about existing community needs and aspirations;
 - analyse how these results vary according to the different demographic characteristics of different groups and communities within Hartlepool;
 - research standards of provision; and
 - develop a set of appropriate standards for Hartlepool.
- 22.9 The types of Open Space that were assessed as part of the study include:
- Urban parks and gardens
 - Amenity greenspace
 - Play areas
 - Outdoor sport facilities (including schools where there is public access either formally or informally)
 - Green corridors

- Natural and semi natural greenspaces
- Allotments
- Churchyards and cemeteries
- Common land
- Civic spaces

22.10 Hartlepool Borough Council's Cabinet noted the findings of the PPG17 Report and endorsed the proposed standards at a meeting on the 23rd June 2008. These will remain the adopted standards until the new study is completed and the findings adopted.

22.11 The findings of the assessment and feedback from the consultations seek to identify where there are shortfalls in provision compared to identified standards. The standards for the quantity of provision of appropriate elements within each typology of open space take into account the location of existing provision, community views and levels of use. The study determines quality standards for provision based on community expectations as expressed in the research and establishes appropriate quality benchmarks for different forms of provision, where appropriate reflecting quality standards set nationally or by comparable authorities. The findings of the studies will be used to identify where contributions for open space, play and leisure facilities (as well as other types of provision not relevant to this section) will be invested.

Hartlepool Playing Pitch Strategy (PPS) (2012)

22.12 In December 2012 Hartlepool Borough Council adopted a new Playing Pitch Strategy which was developed with the support of Sport England. The PPS guides the delivery of playing fields and outdoor sports facilities and to inform decision making in relation to pitch provision. It sets out the key issues and priorities for facilities for football, cricket, rugby union, rugby league, hockey, tennis and bowls across Hartlepool and identifies specific actions, timescales and responsibilities for implementation and delivery.

Thresholds

22.13 Given the importance of open space, sport and recreation in creating a town in which people are healthy and active and have a range and choice of high quality activities in which they can partake, the threshold for contributions towards this for residential developments is 5 dwellings.

22.14 This threshold has been reached following an assessment of potential housing sites which may come forward in the future in the Borough and taking into account the yields which would be expected from each site. Given that all housing will have an impact on the need for play space within the town, and taking into account the cumulative impact of the developments which are likely to be delivered in the coming years it is necessary to set the threshold at this level so that play facilities within the Borough provide high quality play space which adequately meets the needs of the current and expected future population.

Amount and Location of Provision

- 22.15 The amount and location of the provision of open space, outdoor sport and children's play will vary from site to site. The Local Authority will always require a contribution towards play provision on all residential developments of 5 houses or more. Larger sites of more than 100 homes will be expected to incorporate on site provision. On smaller sites this contribution will be towards off site facilities in the vicinity of the development.
- 22.16 Developments (as identified in the table 3 below) which bring together large numbers of people will be required to make a contribution towards open space and/or outdoor sports facilities in the vicinity of the development. The PPG17 Open Space Assessment will be used to identify where the financial contribution should be spent.
- 22.17 In terms of open space on site, the developer should liaise with the Local Authority to ensure that the quality and layout of the open space meets the requirements of the Local Authority as set out in any relevant SPD's at the time.

Table 3 – level of Contribution for Open Space, Outdoor Sport and Children's Play

Type	Level of Contribution
Residential	£250 per unit

Maintenance of facilities

- 22.19 Where the developer makes a payment for off-site play, open space or outdoor sports facilities, they will also be expected to pay a commuted sum for the maintenance of the facility for a 20 year period from the point at which the facility is completed. Where the developer is not the sole contributor towards the overall cost of a facility, there will be an apportionment of the maintenance cost based on the percentage of its contribution towards the overall cost of the facility.
- 22.20 Discussions with the appropriate department within the Local Authority will be necessary at the application stage to determine the level of maintenance contribution that is necessary towards the upkeep of the facility.

Timescale for contributions to be paid to and held by Local Authority

- 22.21 All developer contributions should be paid to the Local Authority on commencement of the development. The contributions will be paid into an account by the Local Authority.

23.0 Built Sports Facilities

23.1 The provision of local sports facilities is essential to the health and well being of the population. Where new development occurs it is vital that sufficient sports provision is made to encourage residents to lead active lifestyles.

23.2 Hartlepool has a lack of sports facilities suitable for the higher levels of performance sport so talented athletes invariably need to travel to other towns where facilities meet their needs. Current facilities are not capable of staging or supporting major sporting events. Many of the local sports facilities are low quality and there is an urgent need for investment to modernise, improve and expand facilities.

National Policy Background

23.3 There are numerous national policies aimed at improving the quality and provision of sporting facilities across the country. One of Sport England's priorities is to use the success and national pride that was created by the 2012 London Olympics and people's passions for sport to encourage a more active and sporting nation.

23.4 Almost all of the national policies recognise the importance and significance of sport and education in meeting a number of different agenda, including:

- Increasing participation in physical activity
- Reducing obesity, particularly amongst children and young people
- Economic regeneration
- Increasing access and targeting under-represented groups.

National Planning Policy Framework (2012)

23.5 The NPPF promotes the use of shared facilities included sport facilities and advises local authorities to plan positively for them and to guard against their loss, particularly where this would reduce the community's ability to meet their day to day needs. It also identifies the need for local assessments of facilities to identify any qualitative or quantitative issues that need to be addressed, thus helping to ensure adequate provision is made to meet the needs of the community.

Assessing Needs and Opportunities Guidance (Sport England) (2013)

23.6 Sport England has just consulted on this piece of draft guidance which focuses on the practicalities of producing a clear and robust assessment to help develop and apply local planning policy. The guide will therefore assist Local Authorities with meeting the requirements of the National Planning Policy Framework (paragraph 73) and will ensure that built sports facilities meet the needs and aspirations of the communities that use them.

Local Policy BackgroundHartlepool Local Plan (Adopted 2006)

- 23.7 The Hartlepool Local Plan recognises the need for sports and leisure facilities which will attract large numbers of visitors to locate in sustainable locations in line with national guidance. As such policy Rec14 (Major Leisure Developments) sets out a sequential approach that should be followed in locating major new sports and leisure facilities within the town.

Indoor Leisure Facility Strategy (2013)

- 23.8 In 2013 the Local Authority appointed consultants to undertake a refresh of the indoor leisure facilities strategy which was carried out previously by consultants in 2007. It looks at the provision of sports halls, swimming pools, and other indoor leisure activities within the town. It recognises that the development and/or refurbishment of sporting and other cultural facilities in Hartlepool could contribute significantly to the achievement of priorities in terms of addressing Government aims to achieve higher levels of activity in the population.

- 23.9 The strategy had 4 specific objectives:

- to provide a firm foundation upon which policy decisions and funding for future development can be based
- to support initiatives by voluntary and private sector groups to develop new or improved indoor sports facilities for the Borough that meets broader strategic aims
- to develop and maximise the opportunities for school and community sport through educational facilities
- to improve the quality and provision of the Council's indoor sports facilities to meet the expectations of local residents

- 23.10 The consultants were also asked to look at asset management issues and options including the development of new facilities, the re-development of existing facilities and the closure or disposal of facilities.

- 23.11 There are a number of significant findings, conclusions and recommendations which the report identifies, they are:

- The current position regarding facilities is not sustainable in the long-term as many key sites are beyond their economic life – in particular, the school swimming pools are life expired.
- The newer facilities at the Headland and Brierton are key facilities in terms of the Borough's provision now and longer-term into the future.
- The strategy recommends that a new Borough leisure centre facility is constructed to replace the existing provision at Mill House. Ideally this should be done in such a way that the swimming facilities in particular remain in operation until such time as this opens. The capital cost is estimated to be in the region of £16m or at a significantly reduced cost if new pool facilities were constructed alongside the present dry facilities

APPENDIX 1

at the Mill House site. A further assessment of this would be required.

- Highlights the potential for a new pool at Brierton Sports Centre at a capital cost estimated to be in the region of £5m.
- In order to ensure access to a pool facility on the North West of the Borough, the pool at High Tunstall should be retained. This will require refurbishment works (estimated minimum £250k). The alternative would be to construct a replacement pool estimated at £3.5m.
- The redevelopment and/or refurbishment of the school/college sports halls serves to consolidate the service provision to the town's residents but additional investment may be required to provide separate entrances, reception areas etc.
- The Council has a role to ensure that educational facilities are developed, managed and operated in a consistent manner and in accord with industry and legislative standards.
- The current provision of sports halls is well over what is required if the parameters of the facilities planning model (FPM) are to be adopted but current programmes of use demonstrate that there is actual demand for more than the minimum suggested.
- Whilst not eligible to be included as part of Sport England's Facility Planning model, Belle Vue Community, Sports and Youth Centre plays an important part in the overall provision of the town's facilities.
- The strategy would provide a good range of indoor multi-purpose sports facilities but in order to maximise their value in the development of sport and physical activity, it will be important to ensure the delivery of an enhanced and coordinated programme of participation opportunities, both targeted at specific user groups and available to the general resident and visitor population.
- The Council will need to consider and explore the financial options open to it in terms of the delivery of the Strategy. This may also ultimately mean considering alternative management arrangements for the facilities in order to provide the capital investment required rather than continuing the management under the current in-house arrangement.

23.12 It is clear that even without further growth of the town, significant investment is needed in the built leisure facilities around the town. It is therefore reasonable to expect that new development which will further add to the strain on these facilities contributes towards the improvement and where necessary re-provision or new provision of facilities. The Council will seek other sources of grant funding and private investment which will be used alongside any developer contributions to meet the needs of the town. The Council will use the findings and recommendations of the study to direct developer contributions for built sport facilities to the most appropriate location in relation to a development.

Thresholds

- 23.13 Given the importance of indoor sports facilities (both wet and dry) in creating a town in which people are healthy and active and have a range and choice of high quality activities in which they can partake, it is considered that all new developments with over 5 dwellings should contribute towards built sports facilities within the town.

Levels and Location of Provision

- 23.14 Given that no more than 5 developer contributions can be pooled towards one discrete element of infrastructure, developers will be informed at application stage where their contribution is being directed. It is likely that contributions from major strategic developments will be put towards the Mill House Leisure Centre renewal or replacement.

Table 4 – Level of Contribution for Built Sports Facilities

Type	Level of Contribution
Residential	£250 per unit towards new or improved built sports facilities

Maintenance of facilities

- 23.15 Given the scale of the major indoor leisure facilities, and taking into account development viability, no maintenance costs will be required from developers towards the upkeep of the facility.

Timescale for contributions to be held by Local Authority

- 23.16 All developer contributions will be paid to the Council on commencement of the development. The contributions will be paid into an account by the Local Authority. This pot of money will be used towards the delivery of built sports facilities in the town.

24.0 Green Infrastructure

- 24.1 Green infrastructure is defined as:
"The physical environment within and between our cities, towns and villages. It is a network of multi-functional open spaces, including formal parks, gardens, woodlands, green corridors, waterways, street trees and open countryside. It comprises all environmental resources, and thus a green infrastructure approach also contributes towards sustainable resource management"³.
- 24.2 Green infrastructure planning involves the provision of strategically planned networks that link existing (and proposed) green spaces with green corridors running through urban, suburban, urban fringe, and rural areas. Through the maintenance, enhancement and extension of these networks multi-functional benefits can be realised for local communities, businesses, visitors and the environment.

National Policy Background**National Planning Policy Framework**

- 24.3 The NPPF notes the importance of green infrastructure and describes it as a "network of multi-functional green space, urban and rural, which is capable of delivering a wide range of environmental and quality of life benefits for local communities." It notes that Green Infrastructure can be used as an adaption measure in areas of risk in terms of issues such as flooding. It goes on to state that in the preparation of plans local authorities should "set out a strategic approach in their Local Plans, planning positively for the creation, protection, enhancement and management of networks of biodiversity and green infrastructure."

National Planning Policy Guidance (2014)

- 24.4 This guidance contains a significant amount of information on the importance of biodiversity, ecosystems and green infrastructure and sets out helpfully the law regarding its protection such as Section 40 of the Natural Environment and Rural Communities Act 2006 which places a duty on all local authorities, in the exercise of their functions, to the purpose of conserving biodiversity. Key documents such as the Natural Environment White Paper are also discussed which provides important details on ecologic networks.
- 24.5 The NPPG also provides guidance on elements of green infrastructure such as Local Sites and Nature Improvement Areas, Ancient Woodland and Veteran Trees and provides guidance on how it should be considered in the preparation of a planning application. It notes that sufficient green infrastructure should be designed into a development to make the proposal sustainable. If this green infrastructure helps to mitigate any significant harm to biodiversity (among other benefits)

³ Green Infrastructure Planning Guide; Northumbria University, North East Community Forests, University of Newcastle upon Tyne, Countryside Agency, English Nature, Forestry Commission, Groundwork, 2005

then this should be taken into account in deciding whether compensation may also be needed.

- 24.6 The NPPG also notes how planning conditions and obligations can be used to ensure that mitigation or compensatory measures, such as a biodiversity offsetting scheme are secured.

Biodiversity 2020: A Strategy for England's Wildlife and Ecosystem Services

- 24.7 This document highlights England's strategic direction in terms of biodiversity up to 2020. Biodiversity is key to the survival of life on Earth. Its loss deprives future generations of irreplaceable genetic information and compromises sustainability. It notes that the recent National Ecosystem Assessment also shows just how much nature provides for us in this country. For example, the enormous value of inland wetlands to water quality, the value of pollination to agriculture, the health benefits of experiencing nature and, not least, how nature and wildlife enrich all our lives. All of these are elements of green infrastructure and illustrate its importance in sustainable development.

Natural Environment White Paper: The Natural Choice: Securing the Value of Nature (2011)

- 24.8 The white paper places the value of nature at the centre of the choices our nation must make: to enhance our environment, economic growth and personal wellbeing. By properly valuing nature today, we can safeguard the natural areas that we all cherish and from which we derive vital services.
- 24.9 It notes that "Economic growth and the natural environment are mutually compatible. Sustainable economic growth relies on services provided by the natural environment, often referred to as 'ecosystem services'. Some of these are provided directly, such as food, timber and energy. Others are indirect, such as climate regulation, water purification and the productivity of soil." One of the key actions of the White Paper is to establish a Green Infrastructure Partnership with civil society to support the development of green infrastructure in England.

Sub Regional Policy Background

Tees Valley Green Infrastructure Strategy (2008)

- 24.10 One of the greatest challenges facing the Tees Valley is to create attractive places and an environment that offers a quality of life that will encourage people to stay and will attract new investment and entrepreneurs.
- 24.11 Green infrastructure can play a key role in helping to achieve the economic and sustainable vision for the Tees Valley. The scale of development and regeneration envisaged requires a new way of looking at the environment, and in particular how new development and redevelopment can contribute to environmental quality.

APPENDIX 1

24.12 The green infrastructure concept offers a way of viewing open space provision as a resource that should be planned strategically and delivered in an integrated way across regions and sub-regions. The vision for green infrastructure in the Tees Valley is:

“To develop by 2021 a network of green corridors and green spaces in the Tees Valley that:

- Enhances the quality of place and environment for existing and future communities and potential investors;
- Provides an enhanced environmental setting and context for new development, regeneration projects, and housing market renewal initiatives and produces schemes of high quality design;
- Creates and extends opportunities for access, recreation and enhancement of biodiversity, and
- Provides a buffer against the effects of climate change.”

Tees Valley Biodiversity Action Plan

24.13 The Tees Valley BAP was produced in 1999 and consists of a series of Species and Habitat Action Plans setting out the current status, targets for protection and enhancement plus the actions to be taken by each partner organisation. It is carried out by the Tees Valley Biodiversity Partnership, which is a partnership of local organisations and people working together to benefit our wildlife. This document takes the objectives and targets of the UK Biodiversity Action Plan and translates and amplifies them into a Tees Valley context. Focusing on the most significant elements of the Tees Valley's environment, it sets out the actions needed to achieve those objectives and targets.

Hartlepool Local Plan (2006)

24.14 Although there are no specific references to the term “green infrastructure” within the Local Plan, many of the policies within the plan are aimed at ensuring that the environmental assets of the Borough are all safeguarded and enhanced where possible. These include the coastline and its environs (WL1 and WL3), the Green Network (Policies GN1 and GN3), open spaces (Policy GN6), natural environments (Policy Rec8, Rec10, WL2, WL5, WL7 & WL8), green wedges (Policy GN2), parks (Policy Rec3), recreational routes (Policy Rec9) and the rural hinterland (Policies Rur1 and Rur7). Policy GEP 9 (Developer Contributions) also highlights those contributions that the Local Authority may seek where deemed to be necessary as a result of the development. Contributions towards landscaping and woodland planting, open space, neighbourhood parks and nature conservation features are all included in this policy and are seen as important elements of green infrastructure.

Hartlepool Green Infrastructure SPD and Action Plan (2014)

24.15 These documents form part of the Local Development Framework and will be used in the determination of planning applications and also to ensure that the Borough's green spaces are not only protected but enhanced for the benefit of all. Where planning contributions are secured towards green infrastructure as part of a planning application

APPENDIX 1

the SPD and Action Plan will be used to direct the contribution to the most appropriate scheme in relation to the application.

Thresholds

- 24.16 Given the importance of green infrastructure in creating a town and region in which people want to live and work and businesses want to invest in, the threshold for contributions towards green infrastructure for residential developments is 5 dwellings. Other types of developments may be expected to contribute towards this initiative as it is seen as critical in ensuring the town develops in a sustainable way in the future.

Level of Contribution

- 24.17 Given the importance that is placed on green infrastructure both at a national and regional level, the Local Authority will require all types of developments indicated in Table 5 below to contribute. This level of contribution has been illustrated to be viable (via viability testing) on schemes within Hartlepool over recent years.

Table 5 – Level of Contribution for Green Infrastructure

Type	Level of Contribution
Residential	£250 per dwelling
<u>Commercial:</u>	
A1 Food Retail/Non Food Retail	£20,000 Threshold of 500sq m (gross). Contribution increases by £1,000 per additional 100sq m (gross) of floorspace
B1 Including Offices	£5,000 Threshold of 1000sq m (gross). Contribution increases by £1,000 per additional 100sq m (gross) of floorspace
Other	Case-by-Case basis

- 24.18 All developer contributions will be paid to the Local Authority on commencement of the development. The contributions will be paid into an account by the Local Authority. Contributions will be subdivided into pots of no more than five contributions towards the delivery and maintenance of a particular piece of green infrastructure as outlined within the Green Infrastructure SPD and Action Plan. Developers will be informed when and where their contribution has been invested.

25.0 Highway Infrastructure**National Policy Background**National Planning Policy Framework (2012)

- 25.1 Sets the position in terms of how transport should be dealt with both in plan preparation and in the determination of planning applications. It notes that “transport policies have an important role to play in facilitating sustainable development but also in contributing to wider sustainability and health objectives” and that “in preparing Local Plans, local planning authorities should therefore support a pattern of development which, where reasonable to do so, facilitates the use of sustainable modes of transport.”
- 25.2 It goes on to state that “all developments that generate significant amounts of movement should be supported by a Transport Statement or Transport Assessment. Plans and decisions should take account of whether:
- the opportunities for sustainable transport modes have been taken up depending on the nature and location of the site, to reduce the need for major transport infrastructure;
 - safe and suitable access to the site can be achieved for all people; and
 - improvements can be undertaken within the transport network that cost effectively limit the significant impacts of the development. Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe.”
- 25.3 Where it is likely improvements to the highway network will be required as a result of the development, the NPPF notes that the scale of obligations should still provide competitive returns to a willing landowner and developer. It notes that it is therefore important for local authorities to understand the costs of infrastructure associated with development of the sites within a developing plan.

Sub Regional Policy BackgroundTees Valley Strategic Infrastructure Plan (2014)

- 25.4 This plan gives an overview of the Tees Valley’s transport network noting some of the key issues and challenges. One of the main issues it highlights is that the majority of travel is currently by private car and this has resulted in a number of “pinch points” on the highway network which impacts on the reliability of the road network. The Plan highlights some of the key investments and improvements which are needed over the coming years to increase the national competitiveness of the sub region.

Local Policy BackgroundHartlepool Local Transport Plan 3 (LTP) (2011-26)

- 25.5 The LTP, in tandem with the Hartlepool extant and emerging Local Plan, will help shape transport policy in the Borough. The LTP should be used alongside the extant and emerging local plans in reference to transport strategy and policies. The local plan will, through its written statement and policies, seek to reflect the strategies set out in the LTP.
- 25.6 LTP3 recognises the significant reductions in funding (from the previous 2 LTP's) towards implementing a sustainable transport network within Hartlepool. It however also recognises that by addressing transport problems and concerns we can improve access to jobs and skills, enhance the competitiveness of the region, and also improve social inclusion, health and access to key services.
- 25.7 The LTP is split into two main sections looking at longer term highway aspirations and needs and a shorter term delivery plan.

Hartlepool Local Plan (2006)

- 25.8 National, regional and local transport policy recognises the need for sustainable transport solutions (such as the promotion of public transport, cycling, walking etc), and that current trends in increased car ownership and usage cannot be supported in the longer term. As such, future transport investment needs to focus on measures that encourage modal shift away from the car and increase travel choice by improving conditions for pedestrians, cyclists and public transport users. This is in line with policies Tra5 (Cycleways Network), Tra6 (Cycle Facilities), Tra8 (Pedestrian Routes – Residential Areas), Tra16 (Car Parking Standards), Tra19 (Provision of Alternative Transport), Tra20 (Travel Plans).
- 25.9 The Local Plan highlights a number of policies where improvements to the road infrastructure in town will be necessary. Where viable, developments in the vicinity of these improvements will be expected to contribute toward the cost of implementing these schemes where it is shown that the development will have an impact on the road network.

Hartlepool Transport Assessments and Travel Plans SPD (2010)

- 25.10 The document promotes good practice in support of the Council's vision for sustainable development. It gives guidance additional to that set out in the Hartlepool Local Plan with regard to transport and accessibility by encouraging a choice of transport options for new development which are safe, efficient, clean and fair. The guidance seeks to minimise the need to travel and to improve accessibility by providing real alternatives to the private car. The document encourages developers to take account of transport issues at an early stage in the preparation of development proposals and describes what measures should be taken to achieve the transport objectives through the implementation of Travel Plans.

Hartlepool Local Infrastructure Plan (2012)

- 25.11 The Local Infrastructure Plan (LIP) was developed to support the production of the Local Plan (which was subsequently withdrawn following the examination) and highlighted the pressures that were put on specific highway infrastructure as a result of the proposed development. The LIP was drawn up in consultation with the Highways Agency and helps to give an understanding of some of the key areas of the highway network which will need investment if development in certain areas of the town come forward. The LIP is an adopted document which will be refreshed as the new Local Plan is drawn up. It should be referred to by developers considering development in the town before a new Local Plan is in place.

Off-site Provision

- 25.12 Assuming that car ownership and use patterns remain or increase it can be expected that new developments will increase the number of vehicular trips on the surrounding road network. This could cause problems for the safe and free flow of traffic. In these circumstances, works or contributions will be required to mitigate the negative impacts of the development.
- 25.13 To look at the impacts developments within the Local Plan will have on the road network the Council will work closely with neighbouring authorities (where there are cross boundary implications from a development), the Local Enterprise Partnership (LEP) / Tees Valley Unlimited (TVU) and the Highways Agency to ensure that developments which are proposed will not adversely impact on the highway network to such an extent that the development is not acceptable. Modelling will be undertaken using both sub regional and HA models to assess the likely impact from developments. Where works to the highways networks are necessary this will need to be factored in at an early stage to assess the deliverability of the scheme.
- 25.14 Developers have a responsibility to provide facilities within the vicinity of their site to cater for increased vehicular movement, or increased size of vehicles needing to use nearby junctions. The extent of any facilities required to ensure the safe and efficient operation of the development and the local highway network will be determined in the light of the Transport Assessment Statement submitted with the planning application. Highway access improvements will normally be secured through a section 278 agreement. Highway mitigation measures on the wider network will normally be secured through a Planning Obligation Agreement. Highway improvements will only be required where they are essential for the operation of the development and the adjacent highway network.
- 25.15 Therefore, all works required under the Transport Assessment (TA) or Transport Statement (TS) will need to be secured under the Planning Obligations Agreement or via condition.

APPENDIX 1

25.16 Developers have an important role to play in encouraging sustainable travel and will be required to submit a travel plan with all applications likely to generate significant amounts of travel. Development proposals for all major developments within the boundaries of Hartlepool will require a travel plan when the following thresholds are exceeded:

Table 6 – Development Thresholds requiring a Travel Plan

LAND USE CLASS	THRESHOLD
A1 - Food Retail and Non Food Retail	500sq m (gross)
B1 - Business	1000sq m
B2 General Industry B8 Storage or Distribution	2500sq m
Residential – Dwelling Houses	50 units
Other	Case-by-Case

25.17 Travel plans can be secured through conditions on the planning permission, rather than through the Planning Obligations Agreement. However, there will be circumstances where the Travel Plan will be required through the Agreement. This will be on sites where there are particular concerns that the targets within the Travel Plan will not be met or where they are so important to the decision to grant planning permission that they must be adhered to. In these cases the Agreement will secure the submission of the Travel Plan and will also put in place measures to pursue targets and address any failure to meet targets.

25.18 There will be a requirement placed on the developer to submit annual reports on whether, or to what extent, the Travel Plan targets have been met for that year. DfT 'Good Practice Guidelines – Delivering Travel Plans through the Planning Process' (2009) states in Section 9 that Local Authorities should consider charging for Travel Plan monitoring and Review to help encourage implementation of Travel Plans that have been secured. The Council will require this unless it can be illustrated that to do so would impact on the viability of the development to such an extent that it would mean that the scheme was not deliverable.

Level of Contribution

25.19 The type and level of contribution required for off-site highways works can only be determined on a site by site basis through the developments TA. If there is an existing use on the development site, the traffic generation from that use will be taken into account when determining the impact of the new proposal. The developer will only be expected to mitigate the impact of the additional traffic caused by their new use.

APPENDIX 1

- 25.20 In instances where highway works are needed as a direct result of the development, and considering the lack of public funding available for investment in highway infrastructure, the full cost of the mitigation measures will need to be met by the developer unless there is any grant funding available, for example through the HA which could help to cover the costs of the work. The presumption will be that the works will be either carried out by the Local Highway Authority, under a section 278 Agreement, or by the developer to a specification and timetable agreed with the Local Authority. In the vast majority of cases the works will need to be carried out before the legal completion of the first unit within the development.
- 25.21 Where a number of different developments will give rise to a need for off-site highways improvements, contributions will be required from each development towards those works. The level of contribution for each development will be determined by applying a pro-rata contribution based on the trip generation of each development.

26.0 Community Facilities

- 26.1 Community facilities including schools, community centres, libraries and health care facilities are vital to ensure communities are prosperous, sustainable, healthy, vibrant and safe. The provision of a range of community facilities is particularly important on large sites where whole new communities are being created. It is also important however, to ensure that the scale of existing facilities keep up with expanding populations through smaller incremental developments.
- 26.2 Community facilities generally will be dealt with on a site-by-site basis to allow the impact of the development to be assessed against the need for particular facilities which such a development would create. In terms of contributions towards education provision, capacity in nearby schools, along with other known developments and the pressures they will create will be taken into consideration in determining whether contributions are needed. The following paragraphs set out some general principles and highlight the types of community facilities which may be required. In some instances contributions may be required not only towards the development of new facilities but also towards the sustainable refurbishment or extension of existing facilities.

National Planning Background**National Planning Policy Framework (2012)**

- 26.3 The NPPF states that “the Government attaches great importance to ensuring that a sufficient choice of school places is available to meet the needs of existing and new communities. Local planning authorities should take a proactive, positive and collaborative approach to meeting this requirement, and to development that will widen choice in education. They should:
- give great weight to the need to create, expand or alter schools; and
 - work with schools promoters to identify and resolve key planning issues before applications are submitted.”

Local Policy Background**Hartlepool Local Plan (2006)**

- 26.4 Policy GEP9 of the Hartlepool Local Plan 2006 supports the requirement for contributions towards community facilities such as schools, thus helping to ensure that the boroughs education infrastructure can cope with developments over the coming years.

Education Facilities

- 26.5 Education infrastructure is an integral part of new residential development and is essential in order to achieve sustainable communities. Developments that are likely to generate an increased demand for school places will need to contribute towards expanding existing education facilities where the development is not of a sufficient size to require a new school. This will include contributions and/or the allocation of land to enable schools to be built or extended.

APPENDIX 1

- 26.6 Contributions will only be sought for these developments where there is insufficient capacity in existing local schools to cope with the pressures associated with development in the area. When looking at spare capacity the Local Authority will also take into account other developments in the vicinity, and information on projected future pupil numbers.
- 26.7 The following types of residential development will be exempt from education obligations: sheltered housing, student accommodation, care homes and residential homes for the elderly.

Primary Schools

- 26.8 For developments of 750 dwellings or more a primary school will normally be required on-site, subject to spare capacity in local schools. In cases where a school is to be provided on site, the developer will normally be expected to set aside sufficient land and to pay towards the construction of the educational facilities to the Local Authority's design and specification. Early dialogue between all parties will be critical to ensure that additional sources of funding can be obtained to enable the school to be provided at the necessary point in time to meet demand. In certain circumstances, if the developer can illustrate that the construction of the school cannot be justified in viability terms, the Local Authority may be willing to accept a parcel of land on site which would be used to construct new education facilities with a reduced financial contribution to assist with construction costs.

Off-site Provision

- 26.9 At the current point in time it is unlikely that a new, off-site school would be required as a result of any development site in Hartlepool. Sites over the threshold noted above would provide a school on site and other sites would be required to make a financial contribution towards the extension or refurbishment of a nearby school where it is considered by the Local Education Authority that the schools in proximity to development will be unable to cope with the additional children generated by the development.

Financial contributions

- 26.10 A local formula has been developed, reflecting the number of pupils expected to reside in the dwellings during and beyond completion of the development. The calculations for primary schools are summarised below:

Primary Contribution (based on example of 200 homes)

15 community primary school pupils per 100 houses built

3.6 Roman Catholic primary pupils per 100 houses built

Total -18.6 primary pupils in total per 100 houses built

$200 \text{ (Number of houses to be built)} / 100 \times 18.6 \text{ primary pupils} = 37.2$
(total primary pupils from development) (round down if below 0.5)

In order to calculate the overall cost of providing these places, the cost per place must be calculated. The DfE annually updates the cost of guidance relating to the provision of educational facilities. The cost factor per primary school place (outside of London) is currently (2014) £9,165.

The commuted sum sought from the development for Primary education provision can then be calculated as 37 (places) x £9,165 (cost per place) = £339,105

- 26.11 All financial contributions will be index linked (using the Retail Prices Index – all items) to the date of the determination of the planning application by the council. Where there is clear evidence that the costs of relevant works/services have increased or decreased (having regard to the most up to date cost data published by the council), then any financial contributions sought through planning obligations may be adjusted accordingly.

Secondary schools - On-site or Off-Site provision

- 26.12 The need for an additional secondary school is not considered likely in Hartlepool, given the planned rebuilding and remodelling of the town's existing schools via the current government programme which will see Manor School rebuilt. In the future should the town expand significantly, and, as a result, there is an identified need for a new secondary school, this will be considered at that time. However there may be a requirement for investment into existing secondary schools where there is insufficient capacity within nearby schools or where there is capacity but investment is needed in the building to secure that capacity for the future. If a contribution is required, the following calculation will be used:

Secondary Contribution (based on example of 200 homes)

10 secondary pupils per 100 houses built
3 Roman Catholic secondary pupils per 100 houses built
Total - 13 secondary pupils in total per 100 houses built

$200 \text{ (Number of houses to be built)} / 100 \times 13 \text{ secondary pupils} = 26$
(total secondary pupils from development)

In order to calculate the overall cost of providing these places, the cost per place must be calculated. The DfE annually updates the cost of guidance relating to the provision of educational facilities. The cost factor per secondary school place (outside of London) is currently (2014) £12,205.

The commuted sum sought from the development for secondary education provision can then be calculated as 26 (places) x £12,205 (cost per place) = £317,330

APPENDIX 1

- 26.13 As with the contributions to Primary education these will be index linked (see 26.11).

Community Centres

- 26.14 Community centres provide an important focus for local people and contribute to the economic, social and cultural life of neighbourhoods by providing leisure, recreation, education and job training opportunities for a range of groups. Community centres can help to create sustainable neighbourhood centres that contribute to the local economy through provision of affordable space for meetings, training and functions together with workspace for local businesses, organisations and community enterprises. They provide a vital resource for building a cohesive community and as such are important in residential developments.

National Policy Background**National Planning Policy Framework (2012)**

- 26.15 Localism is at the heart of the Government's changes to the planning system and a key element of that is ensuring the growth of cohesive communities. The NPPF requires local authorities to plan positively for the provision and use of shared space, community facilities (such as... meeting places...cultural buildings...) and other local services to enhance the sustainability of communities and residential environments and to guard against the loss of valuable community facilities which would reduce the community's ability to meet its day to day needs.

Local Policy Background**Hartlepool Local Plan (2006)**

- 26.16 Policy GEP9 of the Hartlepool Local Plan 2006 enables the authority to seek contributions towards community facilities, such as community centres, where they are considered necessary as part of a development and where their provision would not impact on the overall viability of the development.

On-site Provision

- 26.17 On large residential sites (over 750 dwellings), where a new community centre is required on-site the Local Authority would require the developer to build the facilities themselves, to a design agreed by the Local Authority.

Maintenance

- 26.18 In situations where the developer has provided a new community centre facility, the Local Authority will seek a commuted sum to provide for the maintenance of the facility for an agreed period which is usually 20 years, subject to viability of the development.

27.0 Training and Employment

- 27.1 Within all new developments it is becoming important to encourage that Local Labour Agreements and Training initiatives help to provide local

APPENDIX 1

people with an opportunity to gain employment or training as part of the development. Within the town a number of agreements have been put in place over the past few years, all of which have contributed significantly towards ensuring good quality jobs and opportunities for the residents of Hartlepool.

- 27.2 These agreements can help to ensure that new developments employ a certain percentage of unemployed people, local residents and people with disabilities and also help to maintain these positions and levels in the future.

Policy Background

- 27.3 The Hartlepool Borough Council Targeted Training Recruitment and Training Strategy 2007 commits the Council to “achieving the economic, social and environmental objectives set out in the Hartlepool Community Strategy so as to ensure a better quality of life for everyone, now and for generations to come. To achieve this the Council commits to the following actions to the fullest extent possible within the relevant legal and policy frameworks and the available funding:

- To include training, equal opportunities and employment requirements, and opportunities for small and medium sized enterprises, in its service requirements, where it considered appropriate.
- To include other social and environmental matters in its service requirements, where it considers appropriate.
- To use these requirements in all stages of the selection and appointment process, and as contract conditions.”

- 27.4 The Council has an adopted Targeted Training and Employment Charter 2007. This Charter allows the Local Authority to incorporate targeted training and employment matters in planning and development proposals/briefs where it is appropriate and affordable.

Thresholds

- 27.5 All new developments over the thresholds in table 7 below will be required to put into place a training and employment plan.

Table 7 – Development Thresholds requiring a Training and Employment Plan

Type	Threshold
Residential	Over 10 units
<u>Commercial:</u>	
A1 Food Retail/Non Food Retail	500sq m floorspace
B1 Including Offices	1000sq m floorspace
C1 Hotels	Over 10 bedspace

APPENDIX 1

D2	
Including leisure	1000sq m floorspace
Other	Case-by-Case basis

Delivery Requirements

- 27.6 Where a development is required to include training and employment as part of a planning obligation the Local Authority may ask for targeted recruitment and training requirements relating to both the construction of developments and the long term recruitment policy of the company who would operate the building or development.
- 27.7 Early discussions with the developer will help to ensure that there is a clear understanding of the specific targeted recruitment and training requirements that would be appropriate for the development and also to help set out the likely mechanisms that will ensure that these requirements can survive delays, changes in developer or other changes in circumstances that may influence the requirements of the development.
- 27.8 The contact point in relation to queries relating to this is Antony Steinberg, Economic Regeneration Manager, Tel 01429 857081.

Appendix One – Glossary of Terms

Affordability		A measure of what housing is affordable to certain groups of households.
Affordable Housing		Affordable housing is housing designed for those whose income generally deny them opportunity to purchase houses on the open market as a result of the difference between income and the market cost of housing.
Circular		Central Government guidance
Code for Sustainable Homes		A national standard for sustainable design and construction of new homes. The Code is still a useful method although it is likely to be wound down by the end of 2014.
Commencement of development		The date at which work begins on site.
Community Facilities		A facility that can be used by all members of the community i.e. community centre, phone box etc.
Community Strategy		Provides the planning framework for all services in Hartlepool, including the regeneration and neighbourhood renewal activity. Sets out a long term vision and details the principles and 7 priority aims necessary to achieve the vision and improve services.
Commuted Sum		A sum of money paid by a developer to the Local Authority to provide a service or a facility, rather than the developer providing it direct.
Design and Specification		Provides precise and explicit information about the requirements for a development design.
Developer Contributions		Relate to the provision of those items outlined within the section 106 legal agreement.
Development Plan Document	DPD	A Local Development Document in the Local Development Framework which forms part of the statutory Development Plan. The Local Plan, documents dealing with the allocation of land, action area plans and the proposals map are all Development Plan Documents.
Economic Viability		A means by which to assess the

APPENDIX 1

Assessment		profitability of a scheme.
Financial contribution		A cash specific amount of money paid to the Local Authority.
Green Infrastructure		Green infrastructure involves natural and managed green areas in both urban and rural settings. It involves the strategic connection of open green areas and provides multiple benefits for people.
Hartlepool Local Plan		A Local Plan is a statutory document containing all the planning policies and standards that will be used to determine planning applications received by the Development Control Section. The plan is also intended to highlight areas where the Council is seeking to encourage new development within the Borough.
Homes and Communities Agency	HCA	The Homes and Communities Agency is the national housing and regeneration delivery agency for England. Their role is to create thriving communities and affordable homes.
Housing Market Renewal	HMR	An area allocated for improvements to the housing stock either by demolition and rebuild or by refurbishment.
Infrastructure		Can be many things and includes roads, rail, pipelines etc or social provision such as schools.
Intermediate Tenure		This type of housing, also known as Shared Ownership or Shared Equity, enables people to privately buy a share of a property being sold and pay a subsidised rent on the remainder.
Landuse		The use that exists on a certain area of land, various land uses could be residential, agricultural, open space etc
Level of Contribution		The value of money or in kind contribution that a developer is required to pay as a result of the development.
Lifetime Homes		Lifetime Homes are ordinary homes incorporating 16 design criteria that can be universally applied to new homes. Each

APPENDIX 1

		design feature adds to the comfort and convenience of the home and supports the changing needs of individuals and families at different stages of life.
Local Area Agreement	LAA	LAA's are a three year agreement, based on local Sustainable Community Strategies, that sets the priorities for a local area between the Council and other key partnerships.
Local Development Framework	LDF	The overarching term given to the collection of Local Development Documents which collectively will provide the local planning authority's policies for meeting the community's economic, environmental and social aims for the future of the area where this affects the development and use of land and buildings. The LDF also includes the Local Development Scheme, the Statement of Community Involvement and the Authorities Monitoring Report.
Local Highway Network		All the roads within the Borough, ranging from the A19 down to local roads within housing estates.
Local Transport Plan	LTP	Describes the long-term transport strategy for the Borough and sets out a programme of improvements to address the identified local transport problems.
Maintenance		The repair and upkeep of a product.
Market Conditions		The prevailing performance of the economy across all sectors.
Masterplan		A detailed plan of the site and the type of development that would seek to be achieved for the whole site.
Off-site		An area not within the planning application boundary.
On-site		An area within the planning application boundary.
Open Market Value		The value of a product if advertised on the open market.
Open Space Assessment	OMV	An assessment of the quality and availability of open space within Hartlepool.

4.1 APPENDIX 1

Pepper Potting		The principle of ensuring there is a spread of affordable housing throughout and overall development rather than all being provided in one specific area.
Piecemeal		Development that is carried out bit by bit.
Planning Condition		A requirement attached to a planning application to ensure that the development is of a high standard and to help mitigate against any implications an application may have. Conditions can relate to types of materials or assessments that may have to be carried out.
National Planning Policy Framework	NPPF	Sets out the national policy situation in one document which replaced the previous Planning Policy Statements and Planning Policy Guidance Notes.
National Planning Policy Guidance	NPPG	The Government has published the NPPG to support the National Planning Policy Framework and to give further guidance to developers and local authorities.
Planning Obligation		A legally binding agreement between the local planning authority and persons with an interest in a piece of land. Planning obligations are used to secure funds or works for significant and essential elements of a scheme to make it acceptable in planning terms. Planning obligations will have been set out in an agreement often known as a 'section 106 agreement' and may be used to prescribe the nature of development, to compensate for loss or damage created by development or to mitigate a development's impact on surrounding built and natural environment.
Pre-application		The stage referred to prior to submission of an application.
Registered Providers	RP	Registered Providers are Government-funded not-for-profit organisations that provide

APPENDIX 1

		affordable housing. They include housing associations, trusts and cooperatives. They work with local authorities to provide homes for people meeting the affordable homes criteria. As well as developing land and building homes, RSLs undertake a landlord function by maintaining properties and collecting rent.
Section 106 Legal Agreement		Legally binding agreement entered into between a developer and the Council.
Section 278 Agreement		Where a development requires works to be carried out on the existing adopted highway, an agreement will need to be completed between the developer and the Council under Section 278 of the Highways Act 1980.
Social Rented		Housing that is rented to a tenant by a Registered Social Landlord.
Strategic Housing Market Assessment	SHMA	Identifies land for housing and assess the deliverability and developability of sites. Provides the evidence base to support the delivery of sufficient land for housing to meet the community's need for more homes.
Subsidy		A form of financial assistance paid to a business or economic sector.
Supplementary Planning Document	SPD	A Local Development Document providing further detail of policies in Development Plan Documents or of saved local plan policies. They do not have development status.
Sustainability Appraisal	SA	Identifies and evaluates social, environmental and economic effects of strategies and policies in a Local Development Document from the outset of the preparation process. It incorporates the requirements of the Strategic Environmental Assessment (SEA) Directive.
Sustainable		To maintain the vitality and strength of something over a period of time without harming the strength and vitality of anything

		else.
Sustainable Locations		A location that helps maintain the vitality and strength of something over a period of time without harming the strength and vitality of anything else.
Tees Valley		Stockton, Hartlepool, Middlesbrough, Redcar and Cleveland and Darlington collectively known as the Tees valley
Tenure		Tenure refers to the arrangements under which the household occupies all or part of a housing unit.
Threshold		A value at which a contribution would be sought. For example if the threshold is 15 and a developer has a scheme for 15 houses they would be required to contribute.
Transfer Price		The discounted price at which a developer would transfer a property to a Registered Social Landlord.
Transport Assessment	TA	A Transport Assessment is a comprehensive and systematic process that sets out at an early stage transport issues relating to a proposed development and identifies what measures will be taken to deal with the anticipated transport impacts of the scheme.
Transport Statement	TS	A simplified or basic report in the form of a Transport Statement may be sufficient. A transport statement is appropriate when a proposed development is expected to generate relatively low numbers of trips or traffic flows and would have only a minor impact on transport.
Travel Plans		A Travel Plan is a package of measures to assist in managing the transport needs of an organisation. The main objective of a Travel Plan is to provide incentives for users of a development to reduce the need to travel alone by car to a site.

REGENERATION SERVICES COMMITTEE

8th May 2014



Report of: Assistant Director (Regeneration)

Subject: CHARGES FOR HOUSING SERVICES

1. TYPE OF DECISION/APPLICABLE CATEGORY

Key Decision test (i) applies. Forward Plan Reference No. RN 05/14.

2. PURPOSE OF REPORT

- 2.1 The purpose of this report is to seek approval to introduce charges for some non-statutory services provided by Housing Services, introduce charges for undertaking works in default of legal notices served and to amend existing charges relating to the enforcement of housing standards under the provisions of the Housing Act 2004.

3. BACKGROUND

- 3.1 The Council receives a number of requests per year to carry out inspections of properties for immigration purposes. Inspection reports (amongst other things) are required before people from a country outside the EU can be granted an entry visa.
- 3.2 The application to move to this country has to be supported by a sponsor who will generally contact the Council on behalf of the proposed immigrant for confirmation that the property to be occupied is in a suitable condition and that it will not be overcrowded on their taking up of residence in the UK.
- 3.3 Demand for the service has fluctuated over the past three years. In 2011/12, there were 18 requests for this service but only four in 2012/13. In 2013/14 this rose to eight.
- 3.4 Section 49 of the Housing Act 2004 gives local authorities the power to charge for certain enforcement activity in order to recover administrative and other expenses. This includes taking enforcement action for the following reasons-

- serving an improvement notice under Section 11 or 12;
- making a prohibition order under Section 20 or 21;
- serving a hazard awareness notice under Section 28 or 29;
- taking emergency remedial action under Section 40¹;
- making an emergency prohibition order under Section 43; or
- making a demolition order under Section 265 of the Housing Act 1985.

- 3.5 There is no limit placed on the amount that may be charged but it must be 'reasonable'. It could include the cost of carrying out an inspection, work associated with determining what action to take and actually taking the action.
- 3.6 In addition to the enforcement action taken under the provisions of the Housing Act 2004, enforcement action is also taken under the provisions of a number of other pieces of legislation (in most cases through the service of legal notices) where failure to comply could result in a number of outcomes, including arranging the necessary works in compliance with the notices. There are also a number of instances when action may be taken without the prior service of a legal notice.
- 3.7 Under circumstances where a responsible person has failed to comply with the requirements of a legal notice that requires work to be undertaken, the Council may take the necessary action to ensure compliance. Historically, there has been no additional charge made to the responsible person for the administration of this. In addition, the Council has not passed on any VAT element to the recipient of the notice and this may have resulted in them having the works carried out at a lower cost than if they had arranged the works directly themselves.
- 3.8 Enforcement action is taken in accordance with the 'Housing Services Enforcement Policy' which was approved by Housing & Transitions Portfolio Holder on 18 October 2011. This sets out the range of enforcement options and in most cases requires informal action to be taken in the first instance.
- 3.9 Where enforcement action is proposed under the provisions of the Housing Act 2004 (unless emergency action is carried out), the responsible person will be notified that they may be charged and that this charge is registerable as a local land charge. They will also be advised that, should works be undertaken by the Council in default of a legal notice, additional administration costs may be charged in addition to the cost of the actual work/action taken.
- The charge currently in force, which is £50 per hour with a maximum charge of £200 per dwelling, has not increased since 2006.
- 3.10 Depending upon the legislation being enforced, the costs incurred in undertaking this default action will either become a charge against the

¹ This is in addition to the recovery of any costs incurred in removing hazard(s).

premises or land once works are completed (for example using the Town & Country Planning Act 1990) or after a demand has been served and has become operative (for example using the Housing Act 2004).

- 3.11 The decision about whether to carry out works in default is discretionary and may be additional to, or separate from other enforcement options, such as prosecution. A statement of reason must be prepared in each case and authorised by an appropriate officer.
- 3.12 Charges will be recoverable through the Chief Executive's Recovery Section in the usual way and may be pursued through the civil court if the demand is not successful.
- 3.13 Expenses in respect of demands served to recover costs may carry interest at a reasonable rate as determined by the Council.
- 3.14 With respect to the recovery of charges made under the Housing Act 2004, there is provision to serve a demand on, and recover expenses and interest, from occupiers. This would give the local housing authority option to recover the debt and would transfer the right to recover, receive and give a discharge for the rent, i.e. the Council could collect rents to pay the debt.

4. PROPOSALS

- 4.1 It is proposed that a charge of £100 plus VAT will be charged for the immigration inspection service and that this charge will be payable on application for a survey. Should the property be found to be unsuitable, advice will be given on how to meet the minimum requirements. Following this advice one further re-inspection (with respect to the original applicant) will be offered free of charge.
- 4.2 It is proposed that a flat rate charge of £300 be applied in relation to all enforcement action taken under the provisions of the Housing Act 2004, except serving a hazard awareness notice under Section 28 or 29 as these are advisory in nature, and a charge would not be made for these.
- 4.3 It is proposed that an additional charge be added to the cost of any works that are carried out in default of legal notices of 20% or £20, whichever is the greater. This would relate to all notices, including those served under the provisions of Section 215 of the Town and Country Planning Act 1990, and emergency action, for example taking emergency remedial action under Section 40 of the Housing Act 2004.

5. RISK IMPLICATIONS

- 5.1 There is a risk that residents will not be prepared to pay for the immigration inspection service and employ the services of other agencies or organisations such as Chartered Surveyors.

- 5.2 Charging for works in default will increase the costs in all cases and will affect some residents on low incomes as well as private landlords and property owners.
- 5.3 Increasing the rechargeable costs may make the debt more difficult to recover.
- 5.4 Where action is taken against an occupier who is not the owner of a premises, a land charge can not be placed on the property or land to which it relates. In this instance, the debt may only be recovered through the civil court.
- 5.5 The increased cost of works in default and the service of demands for action taken under the Housing Act 2004 may result in court or Residential Property Tribunal (in the case of the Housing Act 2004) appeals which will have an impact on officers time.
- 5.6 The option to recover a Housing Act debt from the tenant through rents due may not be straightforward as there appears to be no protection around the tenants security of tenure and this action may leave the tenant vulnerable and at risk of possession.

6. EQUALITY AND DIVERSITY CONSIDERATIONS

- 6.1 There are no equality or diversity implications.

7. SECTION 17 OF THE CRIME AND DISORDER ACT 1998 CONSIDERATIONS

- 7.1 There are no Section 17 Implications.

8. RECOMMENDATIONS

- 8.1 It is recommended that a charge be introduced for carrying out inspections for immigration purposes of £100 plus VAT.
- 8.2 It is recommended that a flat rate charge of £300 be applied for all enforcement action taken under the provisions of the Housing Act 2004, except hazard awareness notices served under Sections 28 or 29.
- 8.3 It is recommended that an additional charge is made where the Council undertakes works in default of the person responsible and this will be 20% of the cost of the work or £20, whichever is the higher.
- 8.4 It is recommended that interest be applied to the costs to be re-charged.

9. REASONS FOR RECOMMENDATIONS

- 9.1 In terms of the charges for immigration inspections, this has been recommended to generate income for a non-statutory service.
- 9.2 Charging for taking enforcement action will recover the officers' costs for taking enforcement action and could improve compliance with informal pre-enforcement action.
- 9.3 Introducing an additional charge for undertaking works in default will cover the officer costs for arranging and supervising the work. This may also encourage the recipient of the notice to comply with its requirements and drive up standards.

10. BACKGROUND PAPERS

- 10.1 There are no background papers to the report.

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REGENERATION SERVICES COMMITTEE

8th May 2014



Report of: Assistant Director (Regeneration)

Subject: SELECTIVE LICENSING

1. TYPE OF DECISION / APPLICABLE CATEGORY

- 1.1 Key Decision (test (i)/(ii) applies). Forward Plan Reference No. RN 03/14.

2. PURPOSE OF REPORT

- 2.1 To provide Members with the evidence relating to the feasibility of introducing a new Selective Licensing designation in the Borough, following the report considered by Committee on 5th December 2013.
- 2.2 The report also seeks approval to commence the consultation process, based on Option 2 of the report, for a minimum of ten weeks, with all stakeholders who are likely to be affected by the proposed Selective Licensing designation.

3. BACKGROUND

- 3.1 Following the initial borough wide analytical work related to the consideration of a new proposed designation in the town, four options were presented in a report to Committee; the option to 'Do nothing' was discounted at this stage. The three remaining options outlined below were referred for further exploration.
- i) Borough wide licensing;
 - ii) Licensing priority wards; or
 - iii) Licensing of distinct streets and / or areas.
- 3.2 The Working Group, established to explore options in terms of proceeding with Selective Licensing in the town, eliminated 'Borough wide licensing' as a viable option during the group's preliminary considerations, and has since focused on the 'Licensing of priority wards' in Hartlepool.

- 3.3 Part of this exploratory work has also included consideration as to whether there are alternative means of addressing the issues identified.
- 3.4 The Working Group meetings have been attended by key local authority officers (from Housing Services, Legal, Neighbourhood Management, Community Safety and Regeneration), Police representation, the Vice Chair of the Regeneration Services Committee and a representative National Landlords Association.

4. SELECTIVE LICENSING

- 4.1 The aim of Selective Licensing is to improve and raise the standards of management within the private rented sector, by the regulation of landlords through a mandatory licensing scheme.
- 4.2 The scheme allows the authority to require all private landlords operating within a designated area to obtain a licence for each property and subsequently to demonstrate compliance with a range of prescribed conditions, relating to acceptable management standards.
- 4.3 Although landlords are already required by law to comply with an extensive range of regulations, in the absence of a licensing scheme, they are relatively 'free' to choose whether or not they comply and some may continue to operate unchecked. Indeed, some inexperienced or 'amateur' landlords operating in the town may not even be aware that they are obliged to meet any legal requirements, particularly those who have become an 'accidental landlord', as there is no prerequisite acceptable standard of knowledge and / or awareness required of anyone wishing to enter this line of business and become a landlord.
- 4.4 There are also significant areas of tenancy management which are not subject to any existing primary legislation and licensing provides the opportunity to ensure that, where this is the case, recognised best practice is implemented across the board by all landlords, regardless of their experience or professional status.
- 4.5 It has become evident through the work of the Landlord / Tenant Unit that a significant proportion of the problems which occur in the private rented sector are simply down to landlords who do not fully appreciate the complex legal framework in which they operate.

5. DESIGNATION (MAY 2009 TO APRIL 2014)

- 5.1 The original designation came to an end on 30th April 2014 however, a substantial number of licences will remain in force well beyond this date. This is because a licence continues to be in force unless it is revoked or terminated, even if the property ceases to be licensable for example, where a scheme has expired or been withdrawn.

5.2 At the outset of the scheme the Council formally resolved to adopt a policy of applying a fee to each licence application, which was fixed at an agreed rate, with provision for discounts if certain criteria were fulfilled. These rates were based on licences being granted for a 5 year period, as where licences are granted for shorter periods the fee charged should be reduced on a pro rata basis.

5.3 As previously noted by the Committee, in a report considered in August 2013, due to operational difficulties experienced at the beginning of the scheme there was a significant delay in granting licences and this did not begin in earnest until mid 2010. As the agreed term was still being applied, licences were granted for 5 years, which in the vast majority of cases means the licence extends beyond the end of the designation. The licence remains enforceable for non compliance of licence conditions until its expiry date.

5.4 The policy relating to the fee structure was amended in April 2013, to reflect the necessity to grant licences for shorter periods, as the end of the designation was impending.

5.5 **Table 1:** Summary of Licences in Force by Expiry Period

Expiry Period*	Number of Licences
2014/15	116
2015/16	394
2016/17	50
2017/18	128
2018/19	5

**each licence is due to expire within this period*

5.6 There are currently almost 700 licences in force, although it should be noted that there are a number of licences which have been granted and subsequently revoked for various reasons; these do not feature in this statistical analysis therefore the number of licences is not reflective of the total number that have been administered over the lifetime of the scheme.

5.7 The Council offers support and guidance to all licensees to assist them to comply with the licence conditions in the first instance however, the Council is empowered to take formal enforcement action against anyone who is deemed to have operated outside the prescribed requirements of the scheme and is subsequently unwilling to engage with the support services, offered by the Council, in order to satisfy the licensing procedure.

5.8 Three case studies are attached at **Appendix 1**, which are based on scenarios and experiences from the designation that has recently concluded to demonstrate the complex scenarios that have arisen during the implementation of the 2009-2014 scheme.

6. LEGAL REQUIREMENTS AND CONSIDERATIONS

- 6.1 It is important to note the legislative framework governing the designation of Selective Licensing areas; Part 3 of the Housing Act, 2004 (the Act). Selective Licensing is a regulatory tool provided by Section 80 of the Act.
- 6.2 The Act provides a discretionary power for local housing authorities to declare a Selective Licensing Scheme providing there is robust evidence in relation to the area, to satisfy one or both of the prescribed general conditions relating to low housing demand and anti social behaviour.
- 6.3 Up until April 2010, a 'Designation' could only be implemented following approval by the Secretary of State. On 1st April 2010 however, a 'General Approval Order' was issued, which transferred the authority to issue a Selective Licensing designation to local housing authorities. This means that local authorities can approve Selective Licensing Schemes themselves however, the same statutory justification process applies. Local authorities are expected to competently evaluate proposals and ensure the necessary requirements have been met before making a designation.
- 6.4 In order to ensure local authorities satisfy the requirements of a 'Designation Order', and are compliant with legislation, the Department of Communities and Local Government has issued guidance¹, which prescribes an outline of the information that should be evidenced before any such order can be made.
- 6.5 Any new designation may be the subject to legal challenge, by Judicial Review. This is a type of court proceeding in which a Judge must review the lawfulness of a decision or action by a public body. It will focus on the way in which the decision was made and whether the correct procedures have been followed rather than the conclusions. Challenges could arise for example on the grounds of:
- Failure to comply with the requirement to produce robust evidence in support of the final 'Proposal to Designate a Selective Licensing Scheme'; or
 - Failure to properly consult on the proposal(s).

7. POLICY CONTEXT

- 7.1 By ensuring that a Selective Licensing proposal is developed and implemented alongside adopted strategies and initiatives, it could potentially assist significantly in tackling the key priorities of the Council and its partners. A list of strategies is included in Section 21 of the report along with the previous reports considered by the Committee, which provide the benefits and reasoning for Selective Licensing and the lessons learnt during the implementation of the previous scheme.

¹ Approval steps for additional and selective licensing designations in England (Revised Edition, February 2010)

8. EVIDENCE BASE

8.1 In order to satisfy the required conditions, referred to in Section 6 of this report, sufficient evidence must be presented as follows:

8.2 When deciding if an area is suffering from, or likely to become, an area of **low housing demand**, the Act requires local housing authorities to consider the following factors:

- The value of residential premises in the area, in comparison to the value of similar premises in other areas which the authority considers to be comparable (whether in terms of type of housing, local amenities, availability of transport).
- The turnover of occupiers of residential premises (in both rented and bought sectors).
- The number of residential premises which are available to buy or rent, and the length of time for which they remain unoccupied.

8.3 Other factors that should also be considered include:

- A lack of mixed communities in terms of tenure for example, a high proportion of rented property, low proportion of owner occupied properties.
- A lack of local facilities for example, shops closing down.
- The impact of the rented sector on the local community for example, poor property condition, anti social behaviour etc.
- Criminal activity.

8.4 The second set of factors in paragraph 8.3 are examples of the types of characteristics which an area suffering from low demand, or is likely to become such an area, could demonstrate. These examples are clearly not exhaustive characteristics of an area in low demand, neither are the factors mutually exclusive.

8.5 The local housing authority must be satisfied that ‘designating’ an area that is experiencing (or is likely to experience) low housing demand will, when combined with other measures, lead to improved social and economic conditions in the area.

8.6 The Act also gives local housing authorities the power to make a Selective Licensing designation if the area is experiencing a ‘significant’ and ‘persistent’ problem caused by **anti social behaviour**.

8.7 To be regarded as ‘significant’ it must be serious in nature and have a considerable adverse impact on the area. It must also be ‘persistent’ in the sense that it is not a one off event or isolated incident, but occurs with regular frequency.

8.8 An area can be deemed to be suffering from significant and persistent anti social behaviour if it suffers from:

- Crime: tenants not respecting the property in which they live and engaging in vandalism, criminal damage, burglary, robbery / theft and car crime.
- Nuisance neighbours: intimidation and harassment; noise, rowdy and nuisance behaviour; animal related problems; vehicle related nuisance. Tenants engaged in begging; anti social drinking; street prostitution and kerb-crawling; street drugs market within the curtilage of the property.
- Environmental crime: tenants engaged in graffiti and fly-posting; fly-tipping; litter and waste; nuisance vehicles; drugs paraphernalia; fireworks misuse in and around the curtilage for their property.

- 8.9 In addition to all of the above, in order to meet the anti social behaviour criteria, the legislation requires that local housing authorities can evidence that some or all of the private sector landlords who have let premises in the area are failing to take action to combat such problems that it would be appropriate for them to take.
- 8.10 Therefore, if the Council wishes to make a designation based on anti social behaviour, it is a requirement to establish that the problem is directly attributable to the behaviour of the occupiers of, or visitors to, a property and where landlords are not taking appropriate steps and failing to deal with their tenants' behaviour.
- 8.11 If an area suffers from general anti social behaviour, the Council considers this a symptom of low housing demand.
- 8.12 There must be evidence to support both of these routes and the designation, in combination with other measures, would lead to a reduction in or elimination of the problem.

9. DATA ANALYSIS METHODOLOGY

- 9.1 The methodology used to identify potential Selective Licensing areas is based upon the Vulnerable Localities Index (VLI) that is a proven neighbourhood analysis method used in the Community Safety setting to identify residential neighbourhoods that should be prioritised for multi-agency attention.
- 9.2 The local Selective Licensing data analysis exercise has integrated data collected at a Census Output level to form an overall composite index value of vulnerability for each Census Output Area (COA) within the six priority wards. The average index score is 100. Scores less than 100 are considered below average, more than 100 are considered above average.
- 9.3 This has been calculated using 11 data variables (the date parameters are between April 2011 and December 2013):
- Number of private rented properties;
 - Number of crimes;

- Number of domestic burglary offences;
- Number of criminal damage to dwelling offences;
- Number of arson offences;
- Number of police anti social behaviour incidents;
- Number of anti social behaviour unit cases;
- Number of noise nuisance complaints;
- Number of private sector housing service requests;
- Number of house sales; and
- Number of empty properties.

- 9.4 The results of the analysis are visualised in the thematic maps for each of the six priority wards at **Appendix 2**. Any area with an index value over 200 can be considered as a vulnerable area (shown in red) and further analysis, including local knowledge, should be undertaken to explain why this area can be considered as a potential Selective Licensing area. Areas shown in orange are deemed to be 'at risk'.
- 9.5 There are 313 COAs in Hartlepool with an average of 134 households and a population of 294. It should be noted that the COA boundaries are not coterminous with current ward boundaries.
- 9.6 It should be noted that the COA data from 2011 has been used to identify the number of privately rented properties in the town, as currently this is the most reliable information available. The absence of a comprehensive data base of privately rented properties has been a significant barrier with regards to exercise.

10. OPTIONS APPRAISAL

- 10.1 **Option 1: Introduce Selective Licensing of priority wards**. This option provides a large scheme of approximately 3,700 licensable properties (based on COA data, 2011) across the six priority wards.
- 10.2 On analysis of the relevant data, the Working Group believe there is minimal evidence to support the introduction of a blanket Selective Licensing Scheme that would cover every licensable property across an entire ward, based on low housing demand or anti social behaviour therefore, it is not a justifiable option and does not meet with the legal requirements. There is a significant risk of legal challenge by Judicial Review to this approach, as the priority wards contain streets that are not experiencing low housing demand or anti social behaviour.
- 10.3 A scheme of this volume and size would be an administrative burden, as the application for all licensable properties within the designation must be invited at the same time; this cannot be undertaken on a phased approach. The scheme will have an excessive resource implication for the Council and with this increases financial risk. A risk matrix for each of the options is attached as **Appendix 3**.

- 10.4 **Option 2: Introduce Selective Licensing in distinct streets and areas of the priority wards**. Although this proposed designation is larger than the scheme that came to an end in April 2014 (estimate 1,663 licensable households based on COA data, 2011), it is a significantly reduced scheme to Option 1 and would enable the resources available to be directed more appropriately to areas of most need within the target wards.
- 10.5 **Appendix 4** includes the boundary maps of the proposed areas and the addresses to which the proposed designation relates.
- 10.6 To complement this option, the report also seeks an endorsement from Members to explore options for the introduction of a Voluntary Register / Registration Scheme for presentation back to the Committee. The scheme would target education and enforcement measures and run alongside a Selective Licensing Scheme in surrounding areas that have some issues, although less serious and not so highly concentrated.
- 10.7 This option would further satisfy the requirements for both the approval of a designation and the associated guidance, from the Department of Communities and Local Government, by providing tangible evidence that the Council has demonstrated that it is committed to providing a range of measures to address the presenting issues whilst also being mindful of preventing displacement of the problems to surrounding areas.
- 10.8 On analysis of the relevant data, to date, the proposed new designation would be made in response to problems associated with low housing demand.
- 10.9 In order to substantiate the anti social behaviour designation criteria, all available data was gathered and considered by the Working Group and whilst there is an abundance of this information, which clearly demonstrates that there are raised levels of anti social behaviour in areas where there are high concentrations of private rented accommodation, it does not satisfy the legal requirement to demonstrate that this emanates from or is directly correlated to poorly managed properties in this sector. There is no single clear data set readily available to determine the incidents of anti social behaviour directly attributable to privately rented properties. It is therefore not justifiable for the Council to proceed on this basis.

11. COMPLEMENTARY INITIATIVES AND INTERVENTIONS

- 11.1 Given the data analysis, it is considered appropriate that a Selective Licensing designation could be considered however, it is important to ensure that any scheme complements existing initiatives and interventions, which form part of a 'toolkit' to assist in raising standards in the private rented sector. Areas of low demand have primarily been dealt with through Housing Market Renewal and regeneration activity however, reductions in Government funding have meant it has become increasingly difficult to deal with these areas in the same way.

- 11.2 Alternative approaches are therefore required to deal with these issues that are less resource intensive, but result in the same long term positive outcomes. These include current initiatives and interventions such as the Empty Property Purchasing Scheme, the Every Home Matters Scheme, the Baden Street Regeneration Initiative, Housing Market Renewal Programmes, the Good Tenant Scheme as well as the Landlord and Tenant Unit and the Housing Standards and Community Safety Teams who provide advice and assistance to support the private rented sector.
- 11.3 The Council is also exploring the possibility of setting up a Social Lettings Agency with the aim of improving property conditions and management standards, tackling housing need, helping people overcome barriers to accessing good quality, well managed accommodation and contribute to the ongoing regeneration of an area. A further report surrounding the development of this service is to be considered by Members in June 2014.

12. ALTERNATIVE OPTIONS

- 12.1 Alongside the vast amount of work already ongoing to assist in driving up standards in the private rented sector and the alternative options explored throughout the preparation of this report, a Special Interim Management Order (SIMO) could be used where the landlord of any private dwelling fails to take action against anti social behaviour caused by their tenant and there is a threat to health, safety or welfare. Before an application for a SIMO can be considered it must be demonstrated that there has been interaction with the landlord and the landlord has refused to take action.

13. FINANCIAL CONSIDERATIONS

13.1 Case Law and Guidance

- 13.1.1 In May 2013, the Court of Appeal held in *R (Hemming & Others) v Westminster City Council* that – as a result of Article 13.2 of the European Services Directive (2006/123) coming into force in 2009 – licensing authorities could not charge licensees more than the costs of the authorisation procedures themselves. It upheld a High Court judge's ruling that while the costs of the authorisation, including monitoring compliance of operators, were fairly part of the fee, the costs of enforcement against unlicensed third party operators were not.
- 13.1.2 The Local Government Association (LGA) has published guidance² on setting fees. Key issues to be considered, in order to meet legal obligations, include:
- Fees set must not exceed the costs of administering the licensing regime.

² **Open for business** LGA guidance on locally set fees (January 2014)

- Charges must be reasonable and proportionate to the cost of the processes associated with a licensing scheme.
- Council's must not use fees to make a profit or act as an economic deterrent to deter certain business types from operating within an area.
- Costs of enforcement against unlicensed premises can not be included when setting the licence fee, although the cost of visits to licensed premises to monitor compliance can be recovered through fees.
- Fees should be broadly cost neutral in budgetary terms, so that, over the lifespan of the licence, the budget should balance.
- Those benefitting from the activities permitted by the various licences should not, so far as there is discretion to do so, be subsidised by the general fund.
- In the interests of transparency it is helpful to give an indication of how the fee level has been calculated.

13.2 Fees and Cost of 2009-2014 Designation

13.2.1 **Table 2:** Summary of Licence Fees

Non Accredited Landlord - Application after deadline	£600
Non Accredited Landlord - Application on time	£500
Accredited Landlord - Application after deadline	£450
Accredited Landlord - Application on time	£300

13.2.2 The staffing costs for the 2009-2014 designation were assessed as £89,500 per year for the 5 years of the designation however, as noted in Section 5, some licences will still be in force until 2019 with no additional fees income now the designation has ended. Any future designation will only provide licences to expire at the same time the designation ends.

13.2.3 **Table 3:** Summary of Income and Staffing Costs

Income received (<i>based on licence fees</i>)	£328,399
Staffing costs (<i>based on x3 full time equivalents at bands 11, 9 and 6 over 5 years</i>)	£447,500

13.2.4 The remaining deficit has been met by contributions made from funding received from the New Deal for Communities programme and other Council budgets. This funding has been used to cover overhead costs such as stationary, training, telephones etc., as well as contribute to the overall staffing costs. Any future designation costs will however need to be recovered from licence fees alone.

13.2.5 It should also be noted that the fees were set based on the assumption that approximately 500 licences would be issued under this designation; this was a significant under estimation as there were 812 licences issued and currently nearly 700 still in place.

- 13.2.6 It is extremely important to be able to accurately determine the number of properties that will need a licence in any future designation in order to be able to establish the appropriate fee.

13.3 Cost recovery and cash flow

- 13.3.1 The introduction of Selective Licensing has financial implications for the Council in terms of cash-flow. The law allows local authorities to recover the costs of performing the function of a Selective Licensing Scheme, through licence fees however, it is not allowed to use the income to deliver or subsidise other services and must not 'make a profit' from it.
- 13.3.2 A scheme will generate income from fees, which will be received mostly in year 1. This income will be needed to fund the ongoing management over the lifetime of the scheme.
- 13.3.3 The estimated costs of the scheme will be prepared when the size of the scheme is determined. This will be informed by the experience gained from the 2009-2014 designation, the experience of other local authorities running Selective Licensing Schemes and a thorough review of relevant guidance and best practice available.
- 13.3.4 The maximum period for which Selective Licensing can run is 5 years; the local authority does however have the discretion to grant licences for shorter periods of time in certain circumstances. For the purposes of this report, it is assumed that the majority of licences would be valid for a 5 year term. It is expected that the administration and implementation costs will be higher in the first 2 years, with reductions over years 3 and 4, and no additional costs in year 5 on the basis that the service will have the resources to absorb any outstanding administration.
- 13.3.5 It is expected that there will be 90% compliance overall. Any variance will affect the income, but should balance with expenditure.
- 13.3.6 Staff working on the new scheme are responsible for other duties outside the scope of licensing and therefore an assumption will need to be made about the proportion of time they will spend on licensing during each year of the designation; this will be flexible throughout the period to meet fluctuations in demand.
- 13.3.7 As reported, the associated costs will depend on the size of the scheme however, fees will be set to recover costs therefore the scheme is expected to be budget neutral to the Council over the lifetime of the scheme. The resource implications associated with any enforcement activity related to unlicensed properties will be covered by existing capacity within the service, resourced by the Council's General Fund. Legal fees would be paid from the general Housing Services budget.
- 13.3.8 Staff costs associated with the previous scheme have been funded by income generated in earlier years from the Selective Licence fee, which is

held in a reserve. Following the end of the 2009-2014 scheme, a budget pressure of approximately £80,000 results. This has already been factored into the Housing Service New Opportunities and Structure reports (considered by Finance and Policy Committee) where, if necessary, these resources could be redeployed onto this work and staff costs would then be funded by the income generated on this scheme. If a new Selective Licensing designation were to be introduced the staff could continue to be funded by the licence fee payable, in line with the relevant guidance.

13.4 Proposed Licence Fees

13.4.1 It is proposed a standard licence fee of £500 will apply for all applications made within 6 months of the designation coming into force or within 6 weeks of the property becoming licensable. It is proposed that after this time, a licence fee of £600 will apply.

13.4.2 A range of discounts will be available for example, for landlords who are members of a recognised accreditation scheme and for 'early bird' applications made within 3 months of the designation coming into force. There is no scope for introducing proportional fees for landlords with multiple properties, as licensing is property specific and the same amount of work has to be carried out for each property. The only exception to this would be the 'fit and proper' person assessments carried out for the proposed licence holder should the applicant apply for multiple licences at the same time. A discount for this aspect of the assessment could be awarded for each additional application if the applications, and all required documentation, is made at the same time. Additional applications made at a later date will not be awarded this discount as this assessment will need to be carried out again.

13.4.3 It should be noted that the proposed fee structure will be presented as part of the consultation process and is therefore subject to amendment following the consultation.

14. **DRAFT PROPOSED LICENCE CONDITIONS**

14.1 A review of conditions applied to licences under the original scheme has been undertaken and a package of new conditions drafted.

14.2 The purpose of the review was to ensure, as far as possible that, should a new scheme be sanctioned, licence conditions:

- Are compliant with the legal licensing requirements placed upon the authority;
- Ensure landlords are compliant with all legislation, regulations and recognised best practice;
- Are relevant and appropriate by ensuring that they address pertinent areas of particular concern in relation to any defective management practices;

- Are enforceable by the authority;
- Are not overly burdensome on reputable landlords who are already fully compliant with their obligations;
- Do not duplicate enforcement powers available to the authority under other existing primary legislation; and
- Are not onerous to monitor and enforce, within the constraints of the resources available to administer the scheme.

- 14.3 The draft proposed licence conditions are attached at **Appendix 5**. Consultees will be asked to consider these as part of the consultation process.

15. CONSULTATION PROCESS

- 15.1 A comprehensive and extensive programme of engagement and consultation, in compliance with prescribed Government guidance, will be necessary if the Committee wishes to pursue an option to introduce a new Selective Licensing designation.
- 15.2 This activity would need to be carefully planned and managed to avoid potential legal challenge by a Judicial Review. All those who are likely to be affected by a new designation will need to be consulted at this stage for a minimum of ten weeks. The final proposal will then be prepared for consideration by Members. The final proposal to designate a Selective Licensing Scheme will need to include the evidence supporting the proposal alongside the outcome to the consultation process.
- 15.3 It should be noted that at the end of the consultation exercise there is a legal obligation placed on the authority to consider representations and respond accordingly before a final decision to designate is made. In the event that any designation is implemented without remedying any defective element of the proposed scheme, there is a real risk to the authority, through a Judicial Review, to have the scheme quashed by the court. This would obviously also incur substantial irrecoverable costs to the Council.
- 15.4 The impact on any areas that are not taken forward would need to be carefully managed, as aspirations may have been raised in the local community through the public consultation.
- 15.5 Any resulting consultation will be undertaken in line with Objective 1 'Have a Say' of the Voluntary and Community Sector Strategy, which sets out undertakings for the Local Authority, its public sector partners and the Voluntary and Community Sector.
- 15.6 The Consultation Project Plan will ensure all persons likely to be affected by a proposed designation have the opportunity to take part in the consultation through the diverse range of associated activities proposed. The process will also be tailored to meet any specific requirements of the target

audience(s), in line with prescribed Government guidance for considering designating an area subject to Selective Licensing.

16. OUTLINE TIMETABLE

16.1	Milestone	Date
	Regeneration Services Committee Meeting <i>(consideration of proposal)</i>	May 2014
	Consultation Period	June to Sep 2014
	Review of Proposal <i>(including responses to representations)</i>	Sep / Oct 2014
	Preparation of Final Proposal	Oct / Nov 2014
	Regeneration Services Committee Meeting <i>(consideration of final Proposal to Designate a Selective Licensing Scheme)</i>	Dec 2014*
	Statutory Prescribed Notification Period** <i>(including publication of Legal Notices)</i>	Dec 2014 to March 2015
	Review of Formal Policies, Procedures and Documentation**	Dec 2014 / Feb 2015
	Scheme Inception** <i>(Designation comes into force)</i>	April 2015

*meeting schedule permitting

**subject to approval

17. EQUALITY AND DIVERSITY CONSIDERATIONS

- 17.1 All relevant assessments will be completed in preparation for the period of consultation and engagement commencing in June 2014, to identify any adverse or differential impact the consultation process may have.
- 17.2 Further impact assessments relating to the proposal to designate further areas in Hartlepool for Selective Licensing will also be undertaken. This will be prior to submitting the report and the final 'Proposal to Designate a Selective Licensing Scheme' to Committee to identify any adverse or differential impact or unmet needs of our service users and, to consider associated working procedures and ways of delivering services before they are implemented.

18. SECTION 17 OF THE CRIME AND DISORDER ACT 1998 CONSIDERATIONS

- 18.1 The implementation of a further Selective Licensing designation is likely to contribute to reductions in crime and anti-social behaviour.

19. RECOMMENDATIONS

19.1 The Committee is requested to:

- (i) Consider the evidence provided in relation to the introduction of a new Selective Licensing designation;
- (ii) Endorse Option 2 (introduce Selective Licensing in distinct streets and areas of the priority wards), as the option for further exploration;
- (iii) Grant approval to commence the required public consultation on the proposed areas (Option 2), to include the proposed licence fees and conditions, in line with the timetable proposed in Section 15 of the report;
- (iv) Note that further work will be undertaken to explore the options surrounding the introduction of a Voluntary Register / Registration Scheme; and
- (v) Agree to consider the final 'Proposal to Designate a Selective Licensing Scheme', in December 2014, as outlined in Section 16 of the report.

20. REASONS FOR RECOMMENDATIONS

- 20.1 The introduction of a Selective Licensing Scheme would complement other initiatives and interventions in place to tackle low demand and anti social behaviour within the proposed designation.
- 20.2 It would also support the Council and its partners in the aim to raise standards in the private rented sector.

21. BACKGROUND PAPERS

21.1 The following background papers were used in the preparation of this report:-

- (i) The Department of Communities and Local Government guidance document '*Approval steps for additional and selective licensing designations in England (Revised Edition, February 2010)*';
- (ii) The Housing Act, 2004: Licensing of Houses in Multiple Occupation and Selective Licensing of Other Residential Accommodation (England) General Approval 2010;
- (iii) Open for business Local Government Association guidance on locally set fees (January 2014);
- (iv) Report of the Director of Regeneration and Neighbourhoods entitled 'Housing Service New Opportunities and Structure' (presented to the Finance and Policy Committee on 28th March 2014);
- (v) Report of the Assistant Director (Regeneration) entitled 'Selective Licensing: Preferred Option for Exploration' (presented to the Regeneration Services Committee on 5th December 2013);

- (vi) Report of the Assistant Director (Regeneration) entitled 'Selective Licensing' (presented to the Regeneration Services Committee on 29th August 2013);
- (vii) Report of the Director of Regeneration and Neighbourhoods entitled 'Selective Licensing' (presented to Cabinet on 18th September 2012);
- (viii) Hartlepool's Ambition 2014-2020;
- (ix) Housing Strategy 2011-2015;
- (x) Empty Homes Strategy 2010-2015;
- (xi) Homelessness Strategy 2010-2015; and
- (xii) Safer Hartlepool Partnership Plan 2014-2017.

22. CONTACT OFFICERS

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Case Study 1

Joint tenants were already living in a property, within the original fixed 1 year term under an assured shorthold tenancy, when the landlord was granted a licence under the scheme.

Prior to the licence being granted, neighbours reported suspected drug dealing from the property to the local Police. Complaints were also made to the Council requesting that pressure should be exerted on the landlord to evict the tenants as they were having a derogatory effect on the neighbourhood.

Despite several drug warrants being executed by the Police no charges were brought against the occupants and the noise nuisance complaints could not be substantiated due to lack of supporting evidence from the community.

The landlord co-operated with the Police and the Council to tackle the issues throughout the period and continues to do so. To date he has issued verbal and written warnings to the tenants to remind them of their obligations under the tenancy agreement however, he does not have the required legal grounds to bring the tenancy to an end, prior to the end of the fixed term, which doesn't take effect for another six months.

Therefore, unless the tenants 'surrender' the tenancy before this date they have a legal right to remain in the property until the landlord can apply for possession, should he wish to do so, through the court system once the fixed term has ended.

The landlord has complied with his legal obligations throughout the process and has not committed any breach under the licence conditions.

Case Study 2

A tenant was given a tenancy in a privately rented property which was situated in an area designated for selective licensing and which had been previously unoccupied for several months. The landlord had recently been granted a licence under the scheme.

Since moving in to the property the tenant had reported outstanding repairs to the landlord, which the tenant felt needed to be done as a matter of urgency. The landlord had responded to this by agreeing to carry out the work, but did not give any expected timescale. The tenant was not happy with this and reported the matter to the Housing Standards Team at the Council.

An inspection of the property was subsequently carried out by a Housing Standards Officer and the landlord was required to carry out prescribed works within 14 days.

The landlord did not carry out the works as prescribed therefore the Council took enforcement action against the landlord, which resulted in the works being carried out.

The landlord was also given advice by the Council on what his general obligations are in respect of property condition and how best to put this guidance into practice.

There were no further reports of disrepair regarding this property and the tenant continues to live there.

The landlord has not contravened any of his licence conditions at any point and the poor property condition was remedied by other existing enforcement powers available to the Council.

Case Study 3

A landlord who lived locally had a licence for his property and was looking to find a new tenant, as it had recently become vacant. He displayed a 'to let' notice in the window urging prospective tenants to contact him directly.

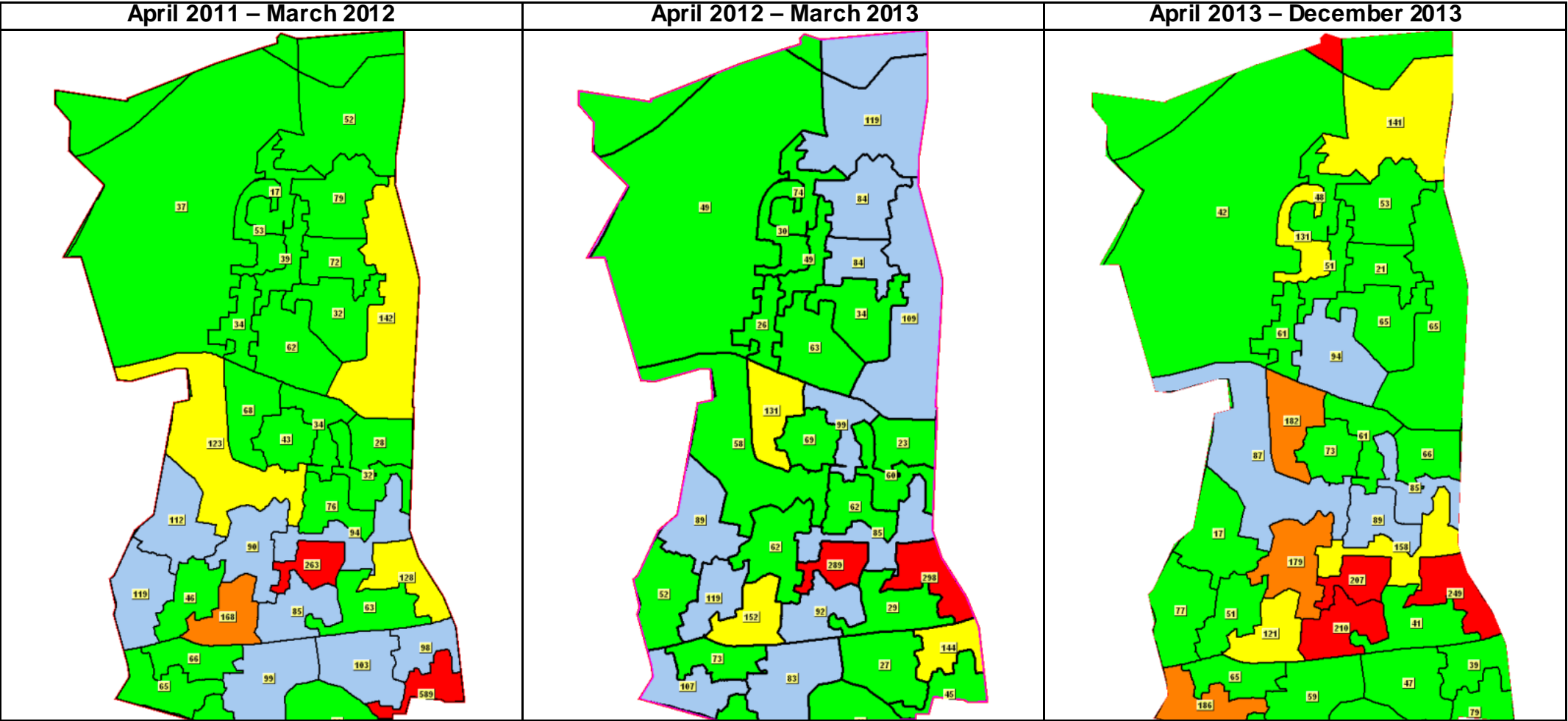
Over the course of the next few weeks only one person contacted the landlord and asked to be considered for the property. The landlord asked if any written references could be provided to support this however the applicant was very vague about their previous housing history.

The landlord further requested the applicant to produce evidence of membership of the Council's 'Good Tenant Scheme' (GTS) and it later transpired that the applicant had been 'rejected' by the GTS on the grounds of tenancy management issues at a previous recent tenancy.

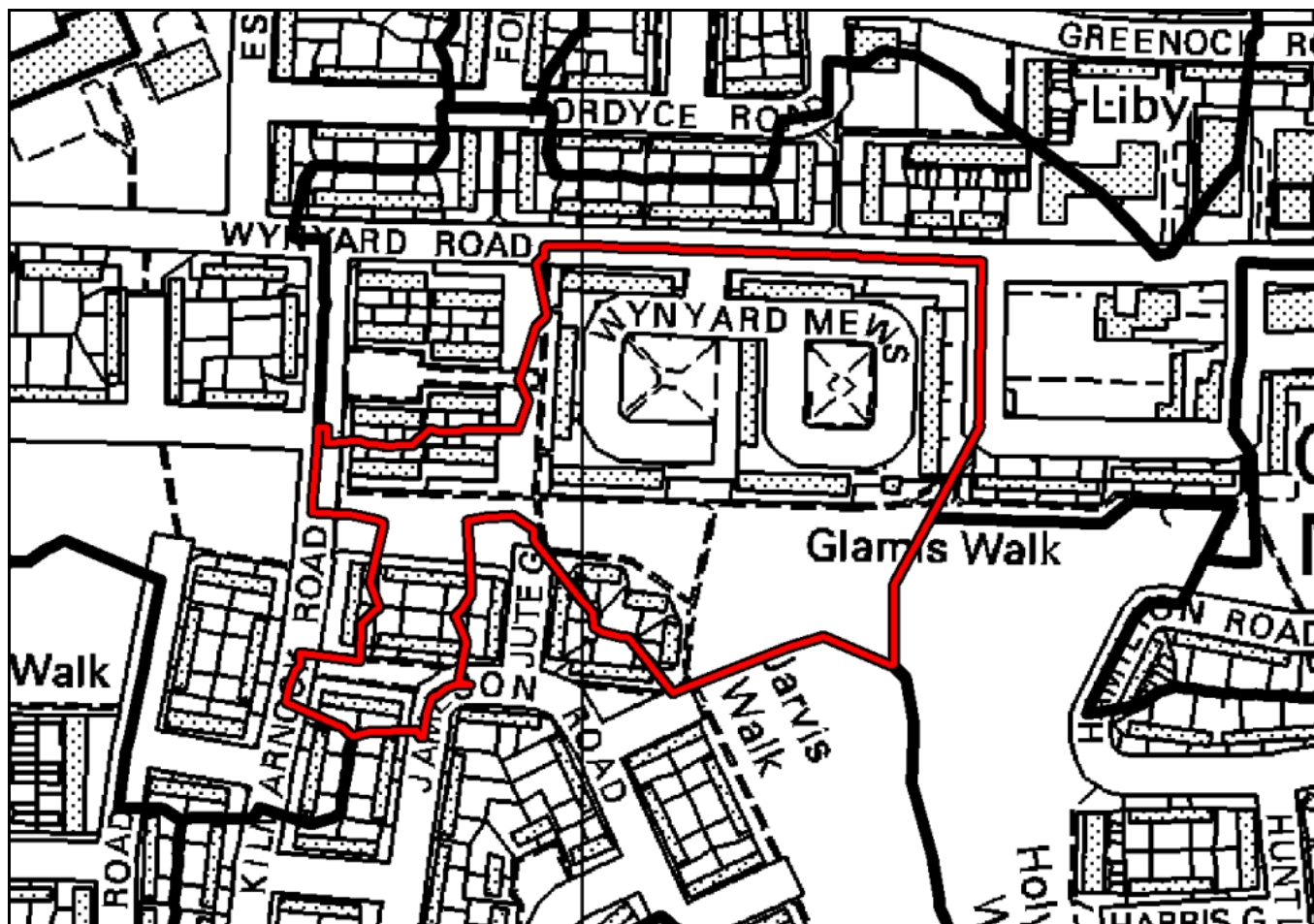
Several days later the landlord was approached by a representative of a support agency, currently working with the applicant, who discussed the circumstances of their client in respect of securing accommodation. The support provider verbally assured the landlord that if a tenancy were to be offered to their client a comprehensive support package would be provided by them in order to sustain a successful tenancy. The landlord agreed to this and a six month assured short hold tenancy the tenancy was granted.

Concerns were subsequently raised with the Selective Licensing scheme that this individual had been given a tenancy in direct contravention of the landlord's licence conditions and called for him to be prosecuted. However, the landlord had fully complied with his licensing obligations by accepting a reference from the support agency and he had attempted to mitigate any risk to the sustainment of the tenancy through the provision of additional support from them over and above that which he could provide as a landlord.

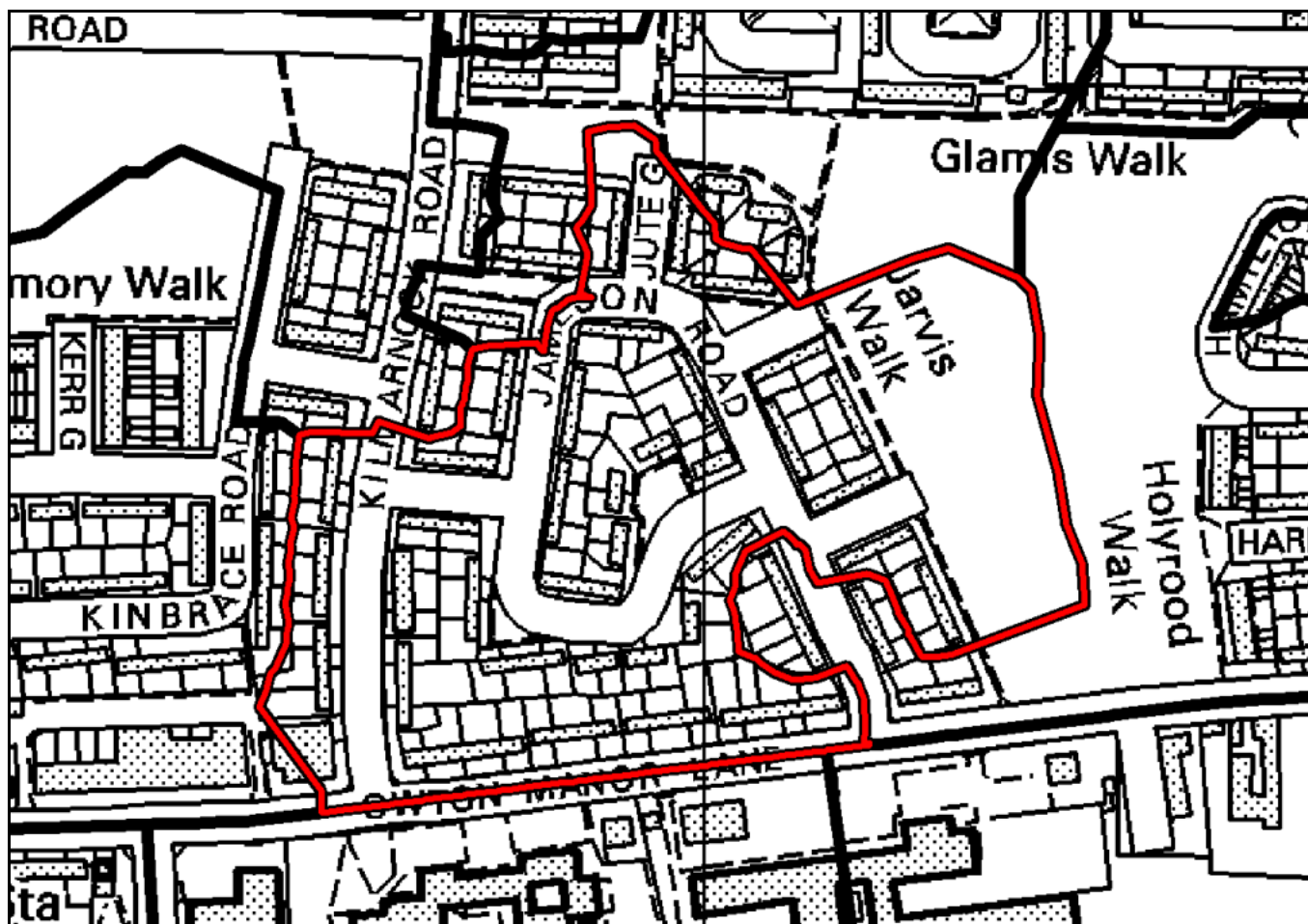
Selective Licensing – Thematic Maps
Manor House Ward



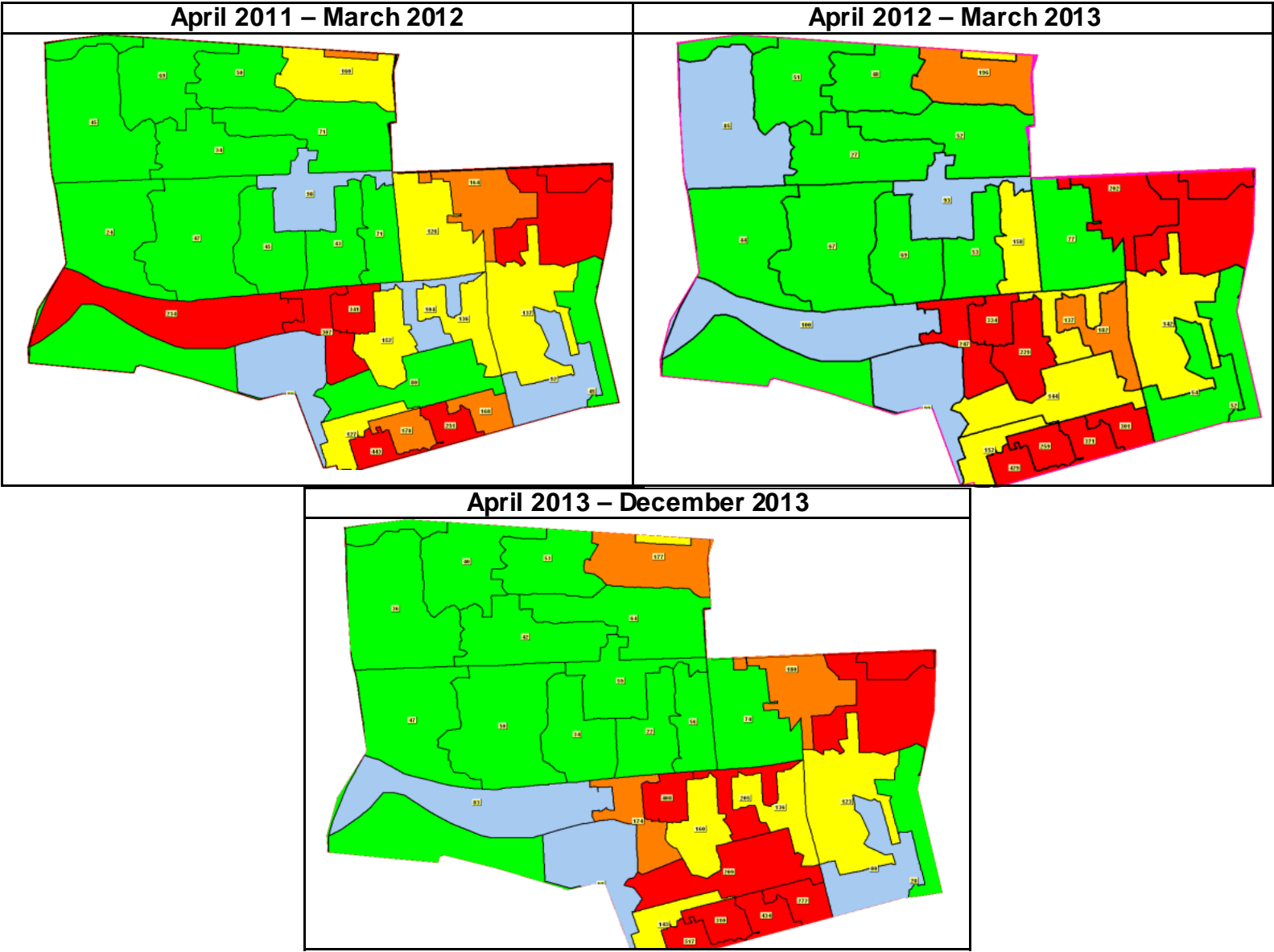
Vulnerable Area 1 – Wynyard Mews



Vulnerable Area 2 – Jameson Road Area



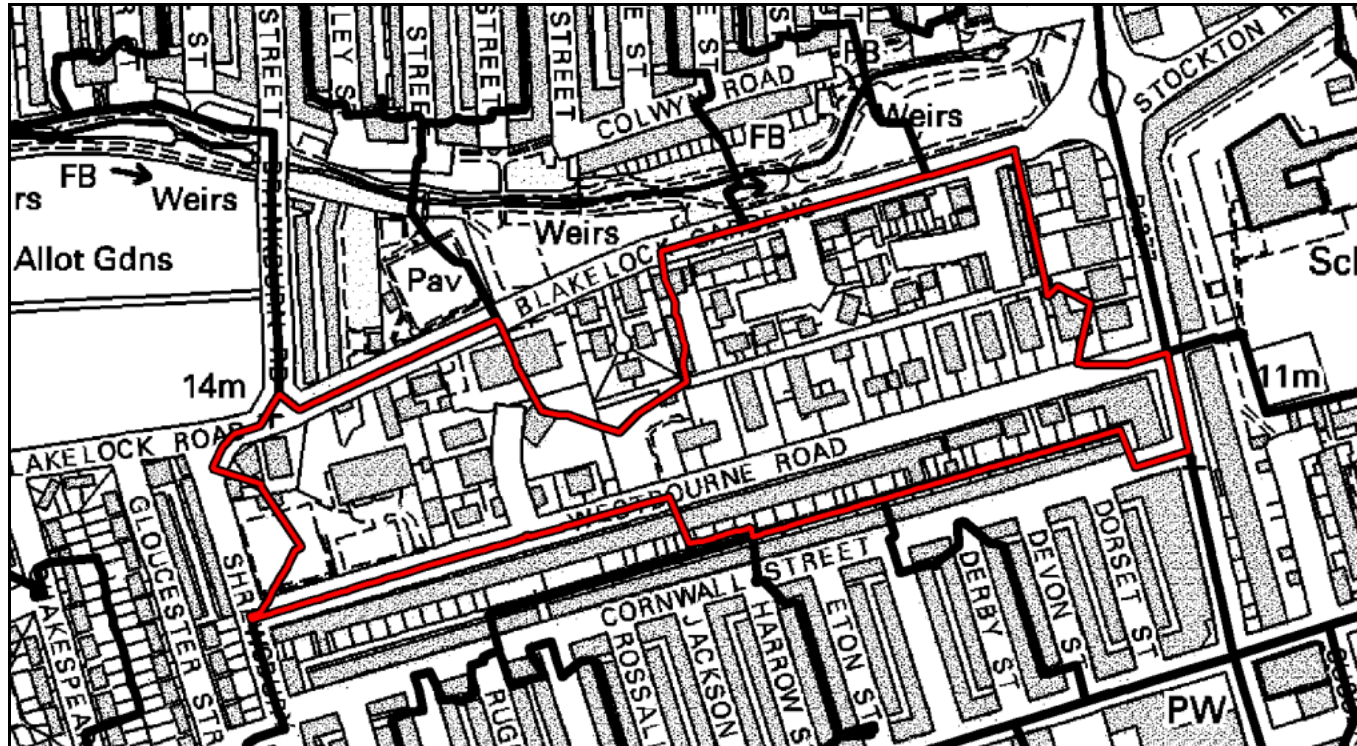
Burn Valley Ward



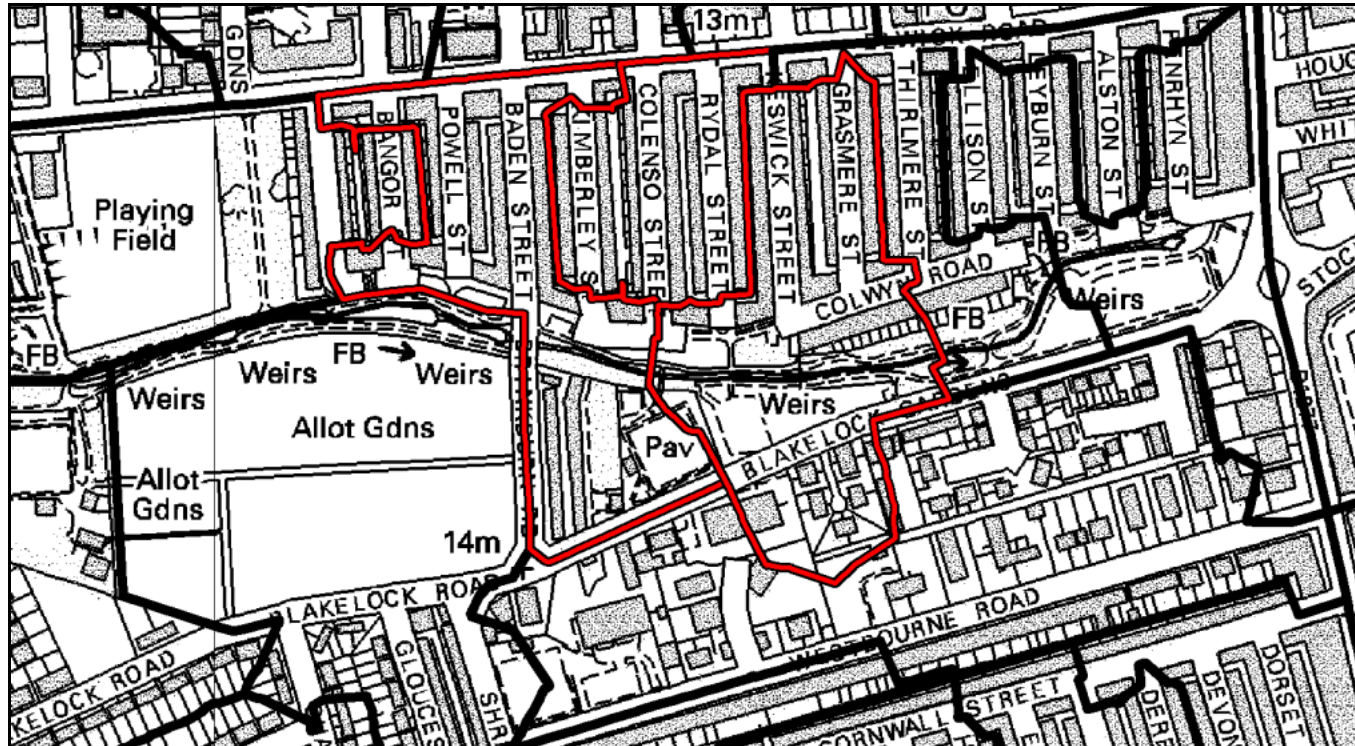
Vulnerable Area 1 – Cornwall Street Ladder



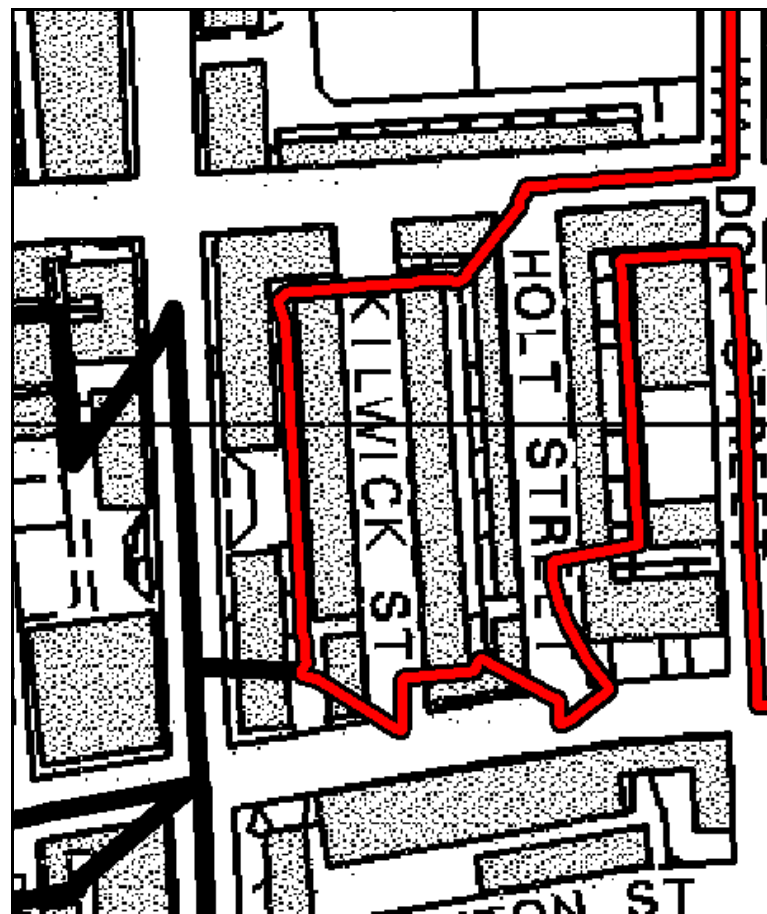
Vulnerable Area 2 – Westbourne Road



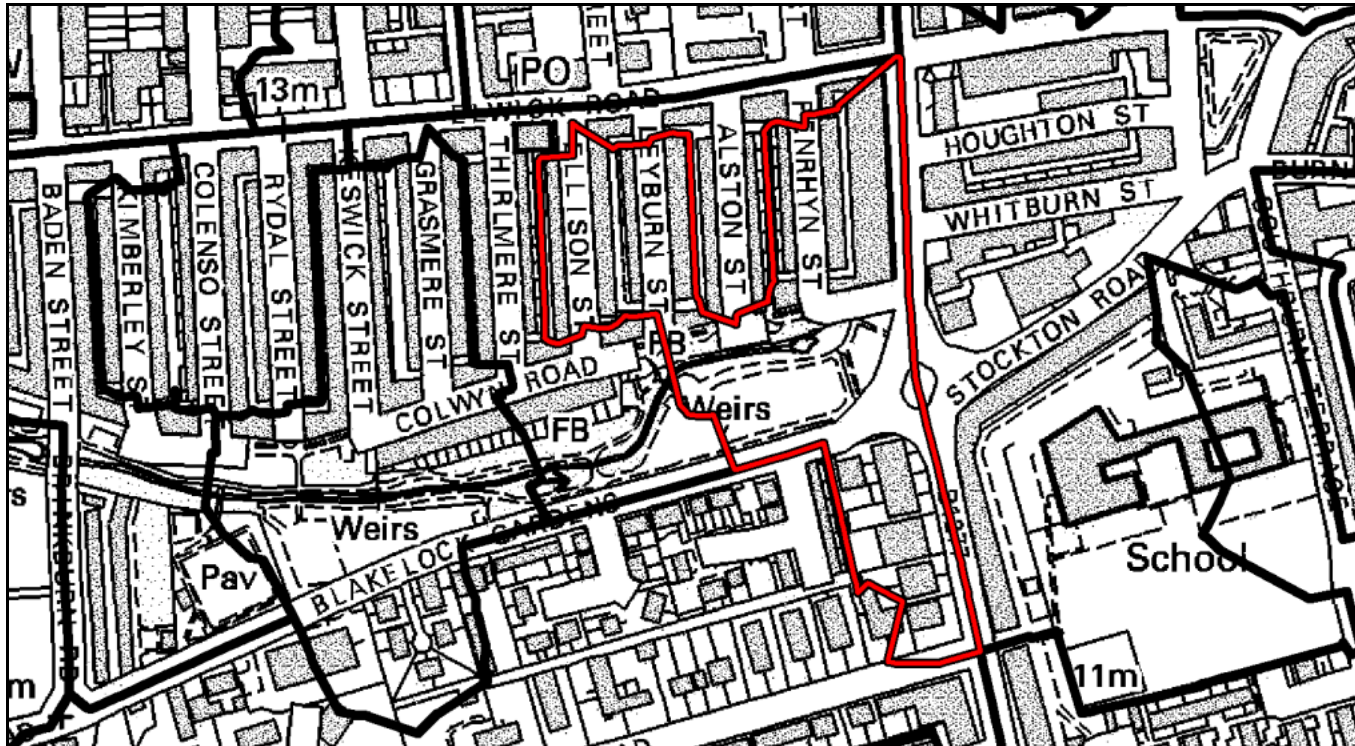
Vulnerable Area 3 – Elwick Road Ladder (part 1)



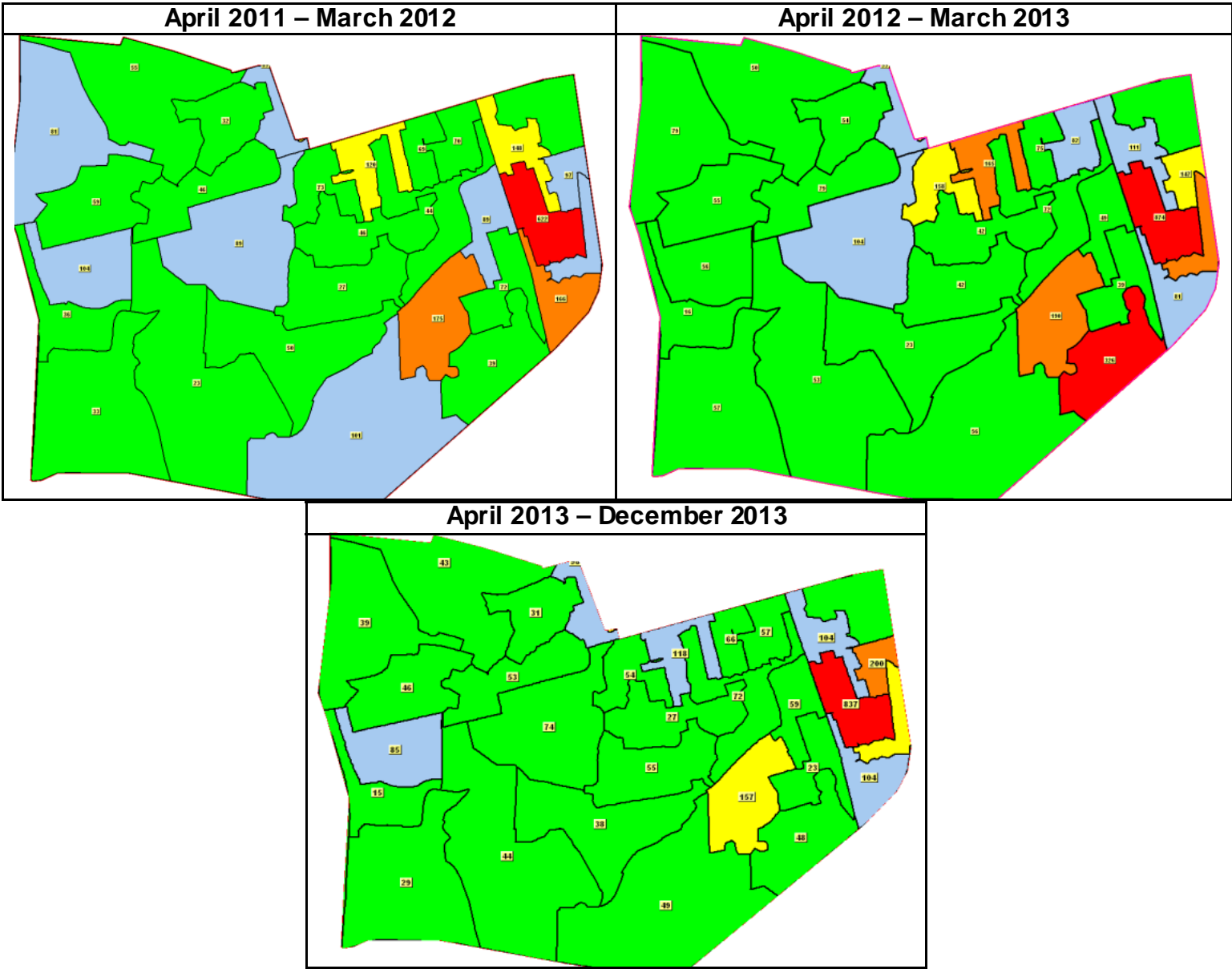
Vulnerable Area 4 – Holt and Kilwick Street



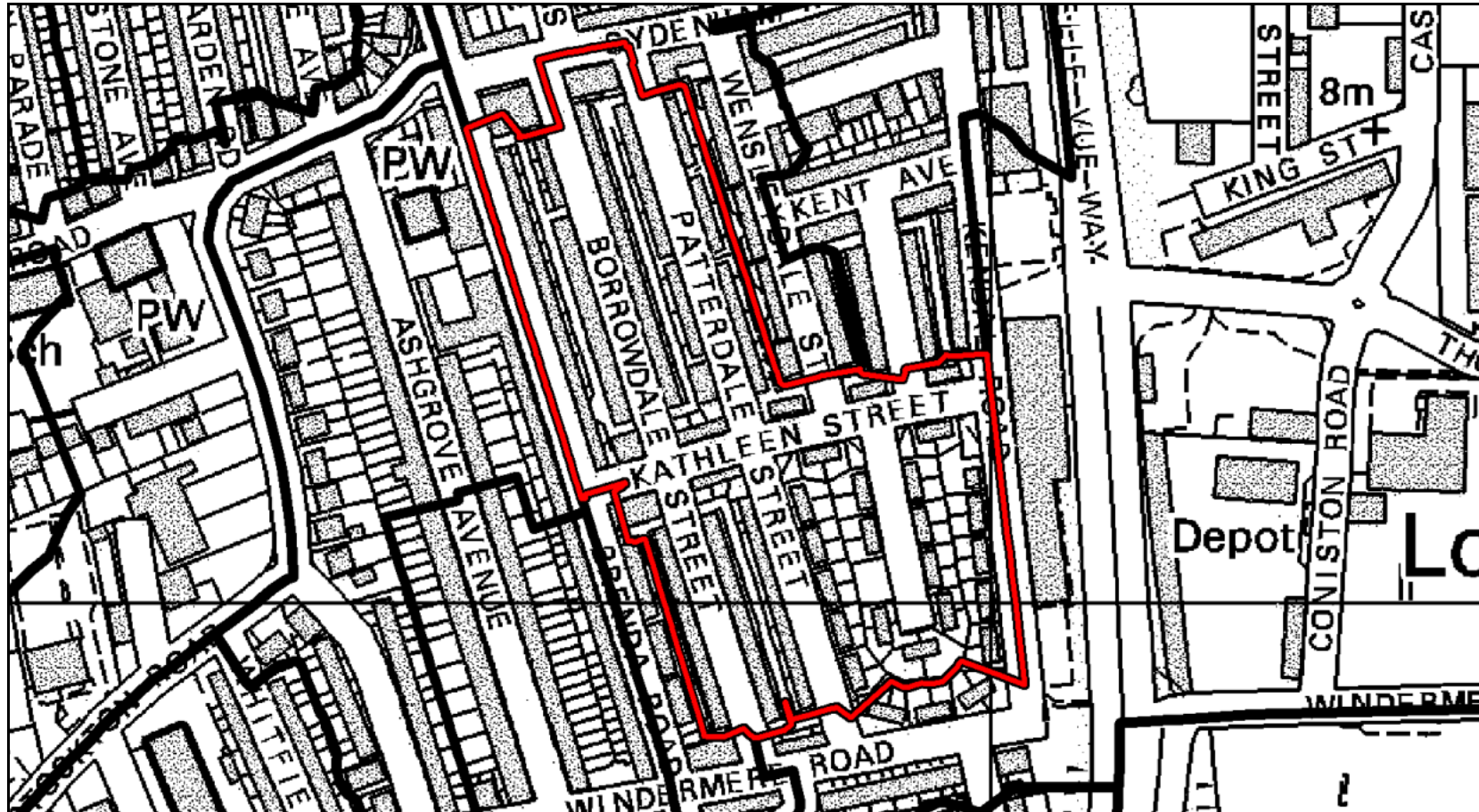
At Risk Area – Elwick Road Ladder (part 2)



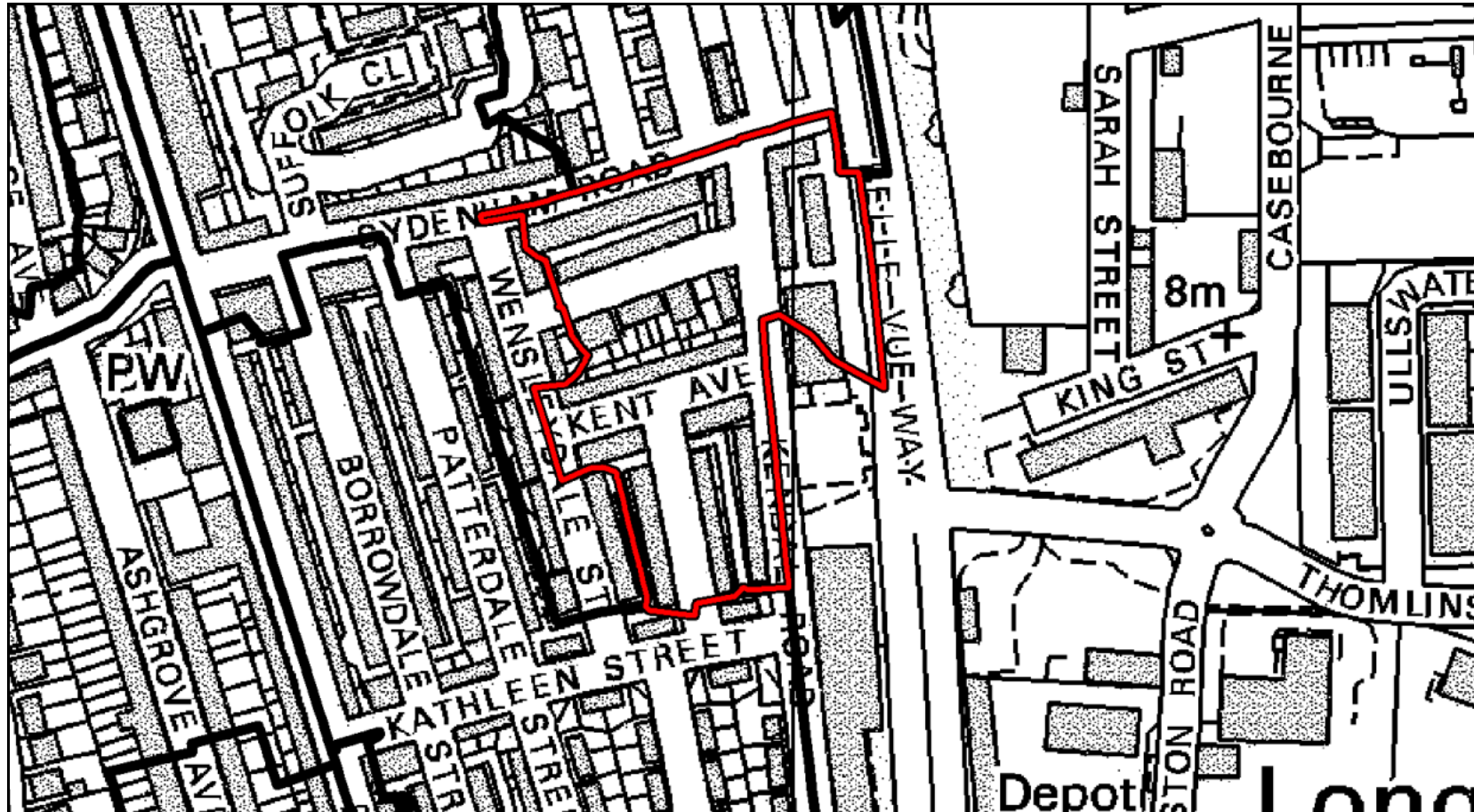
Foggy Furze Ward



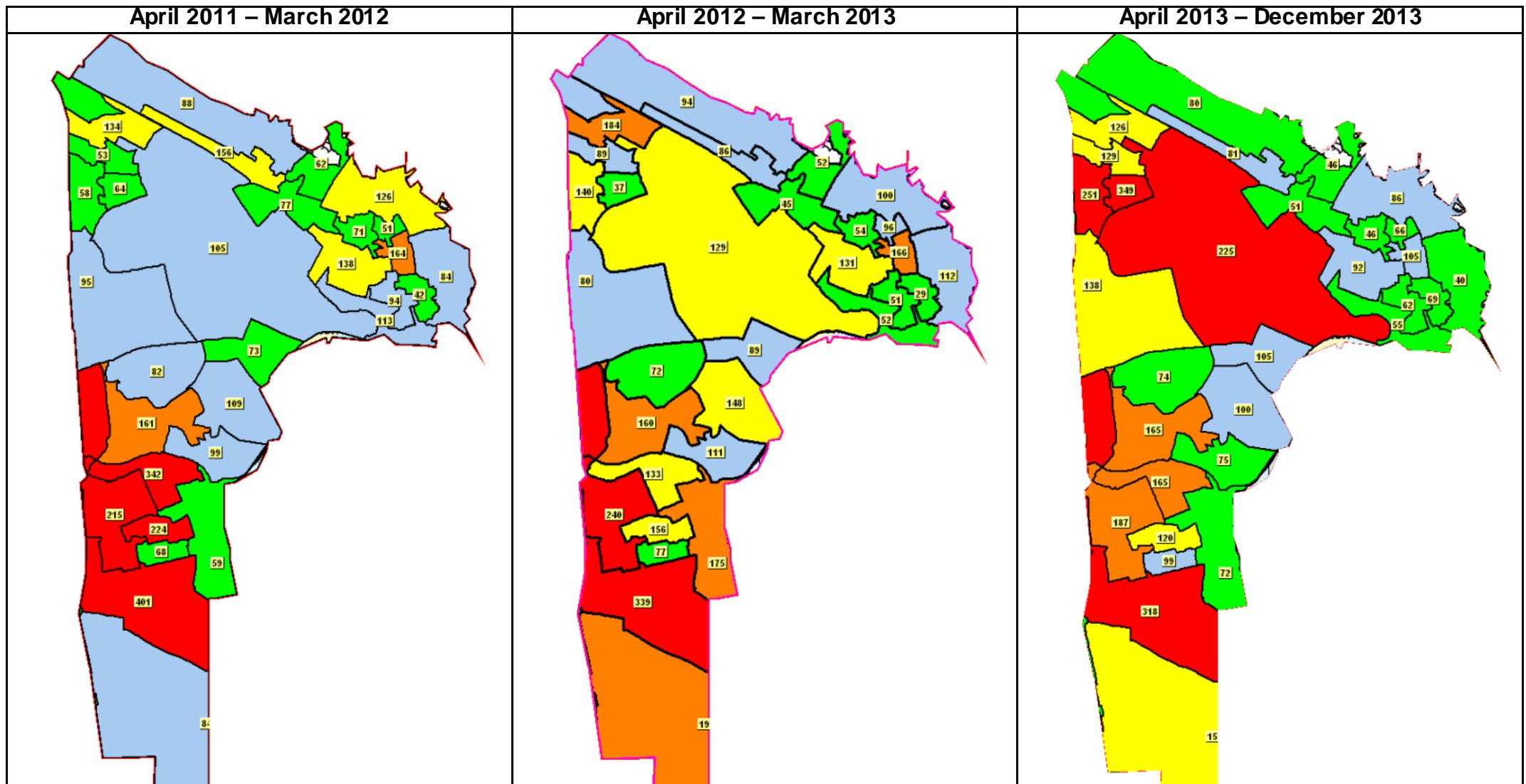
Vulnerable Area 1 – Borrowdale Street



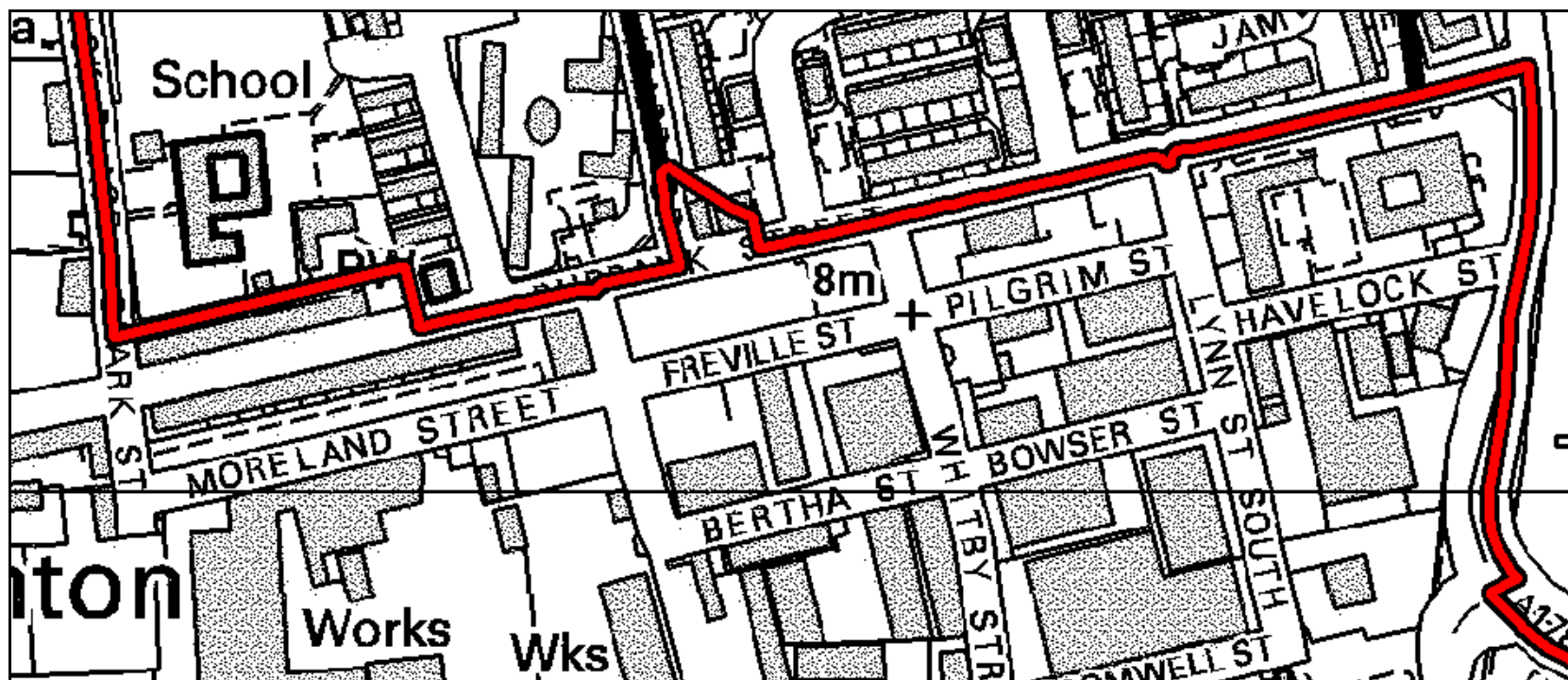
At Risk Area – Kent Avenue Area



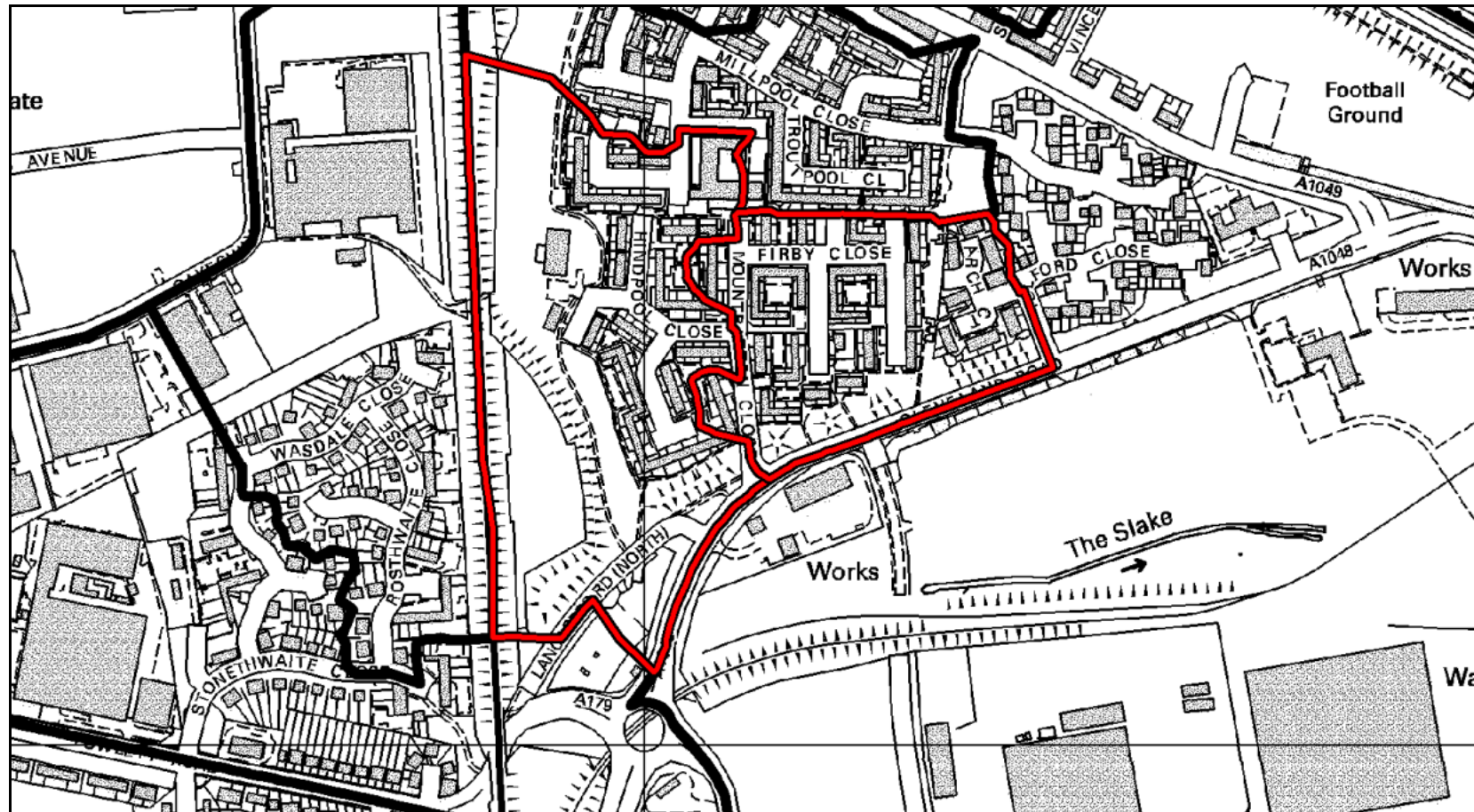
Headland and Harbour Ward



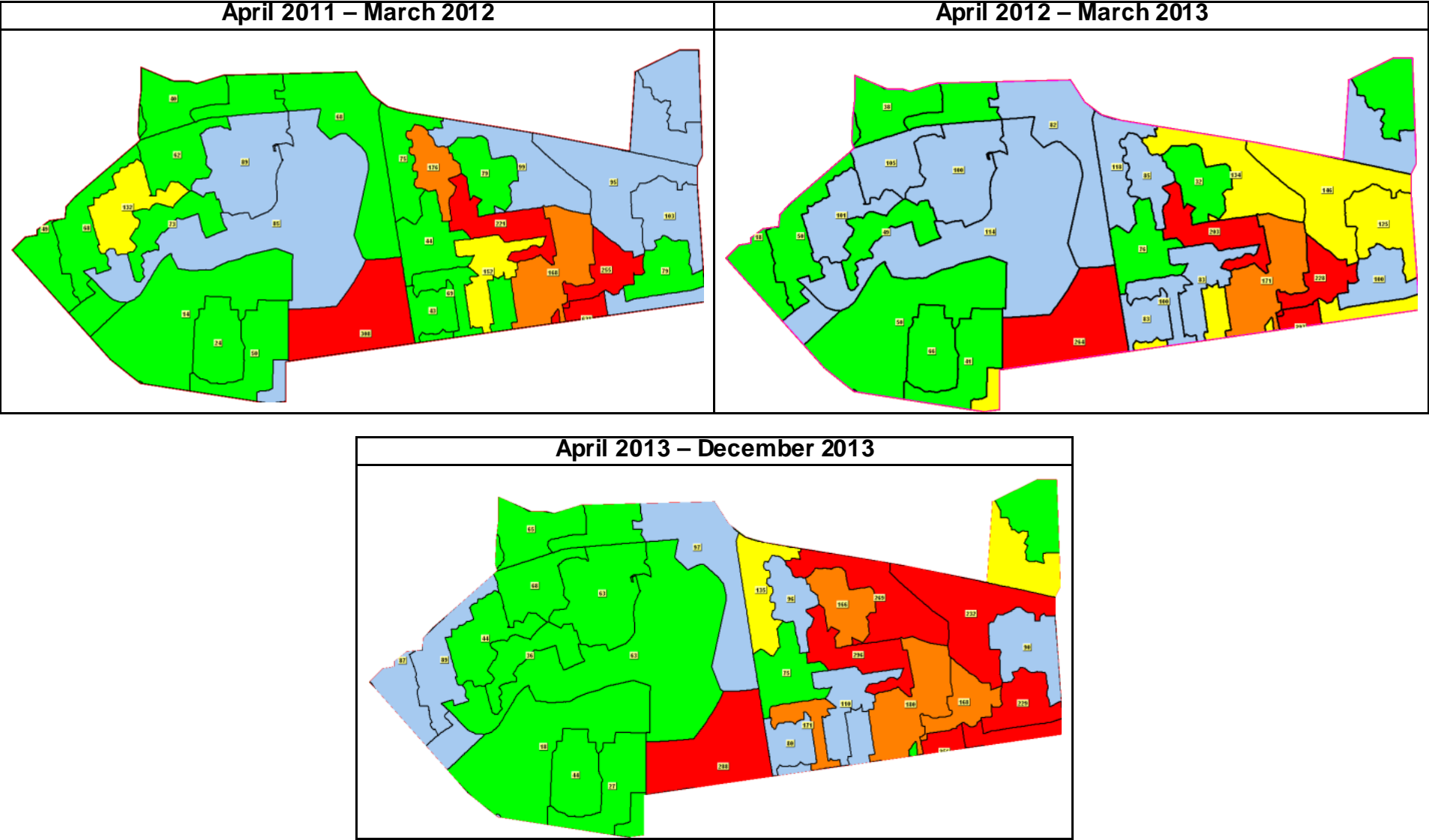
Vulnerable Area 1 – Burbank Street



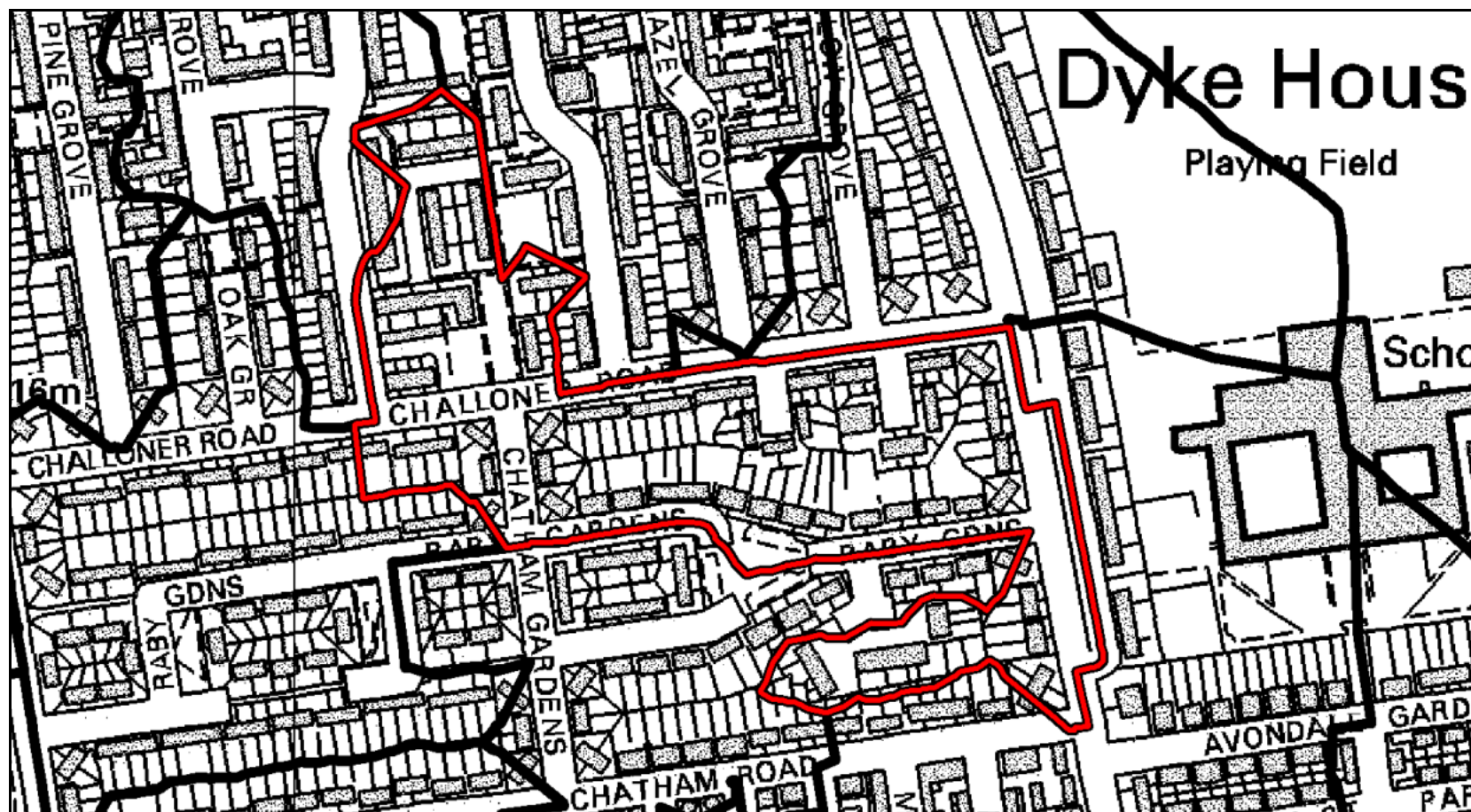
Vulnerable Area 2 – Central Estate



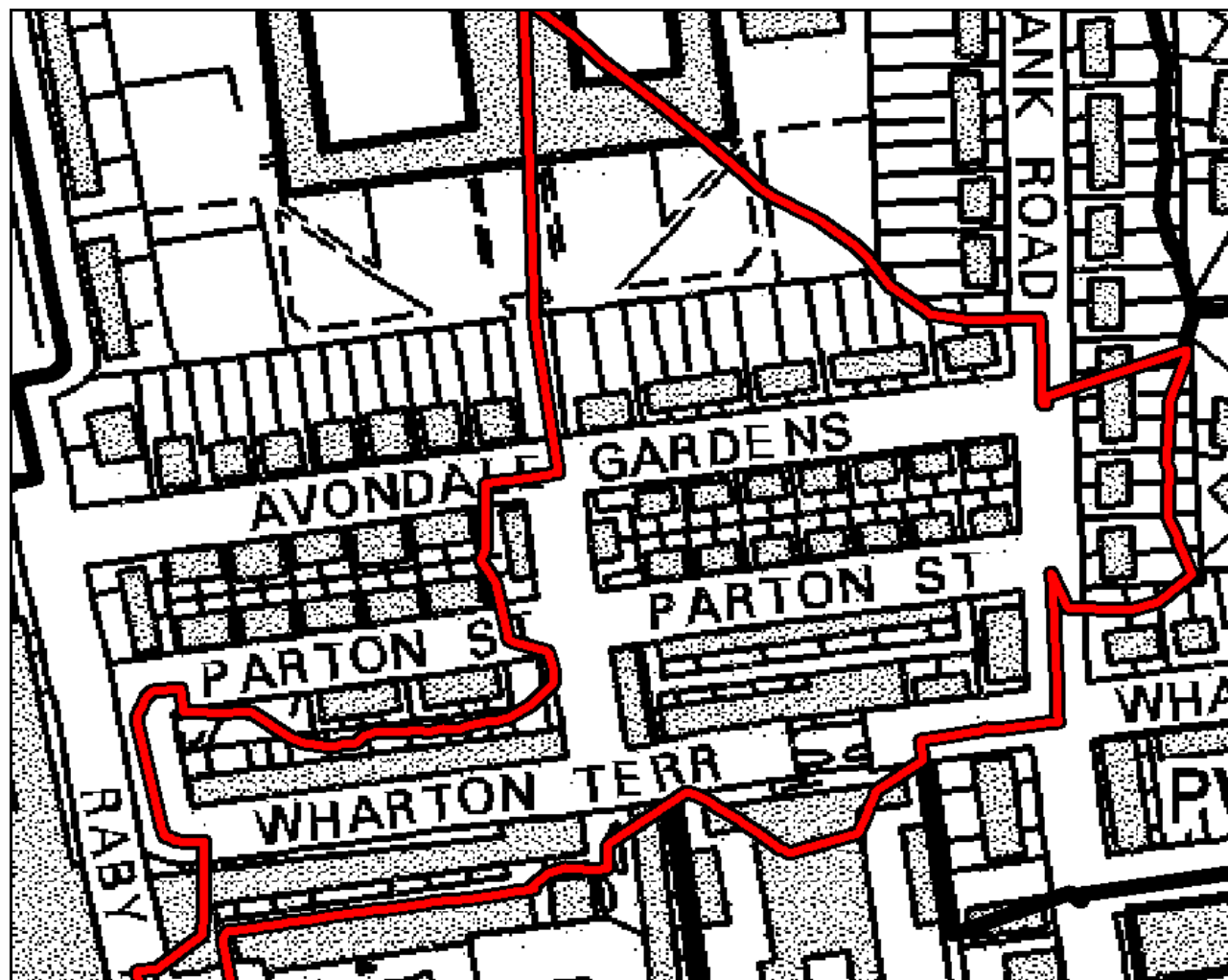
Jesmond Ward



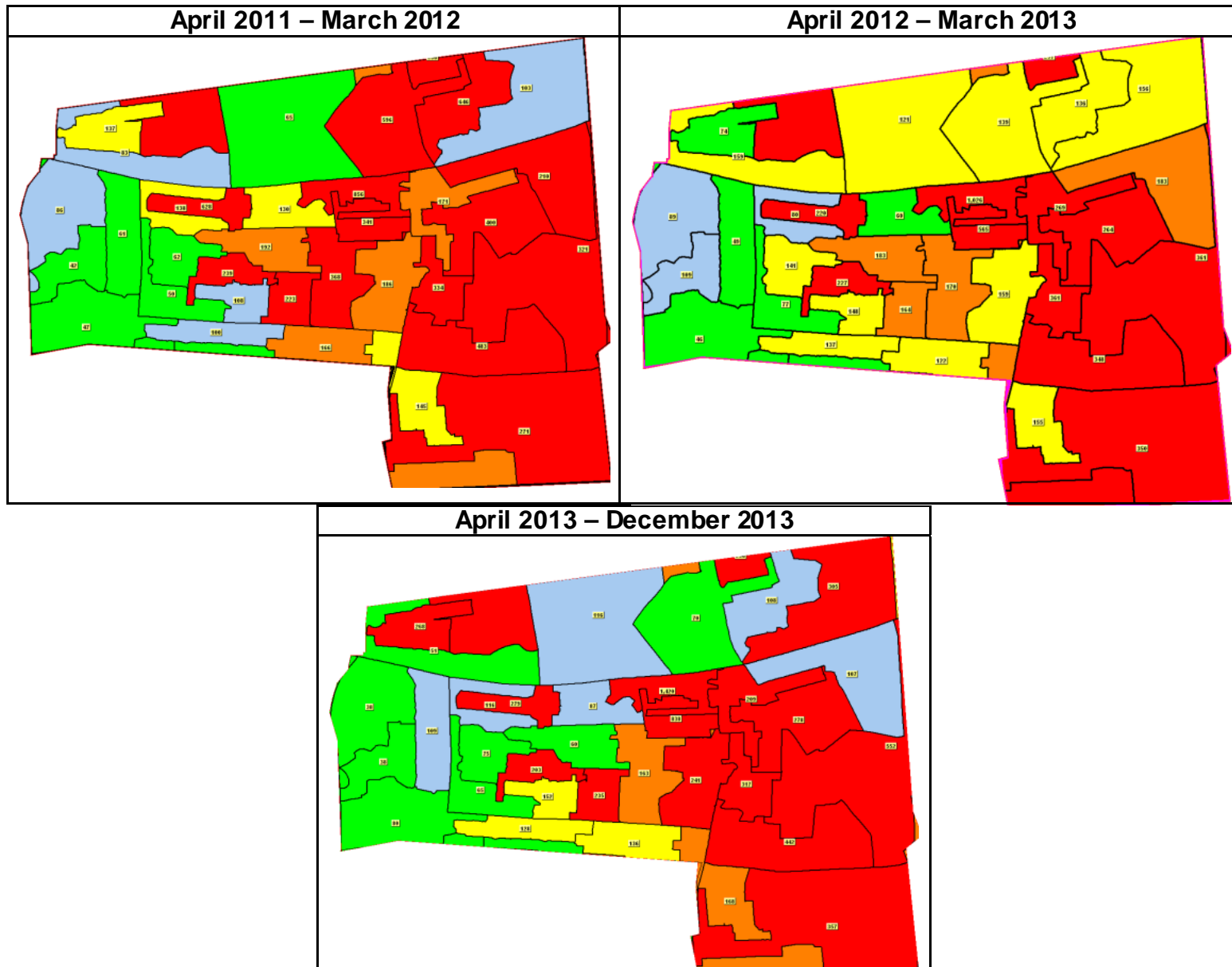
Vulnerable Area 1 – Raby Gardens Area



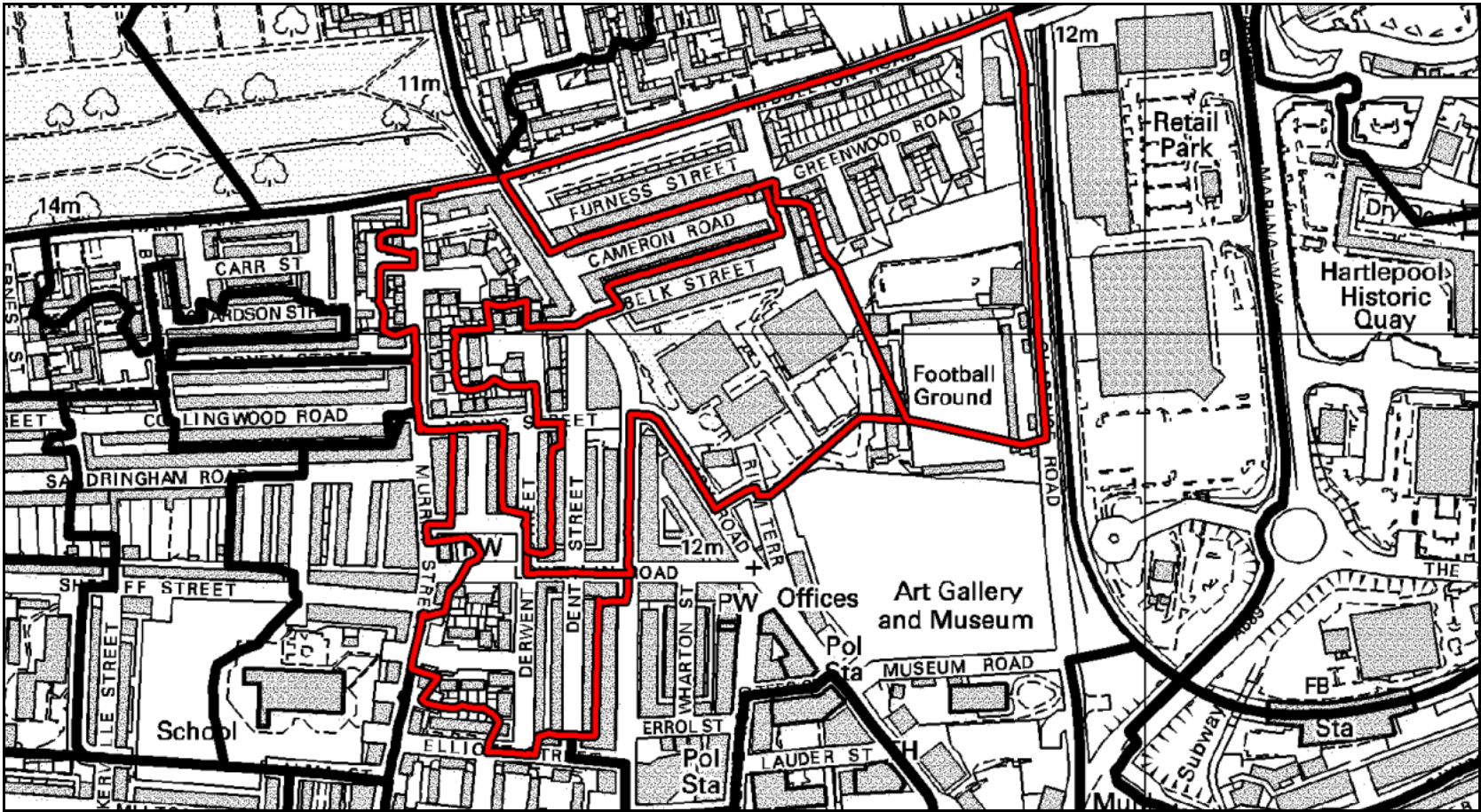
At Risk Area – Avondale Gardens / Parton Street Area



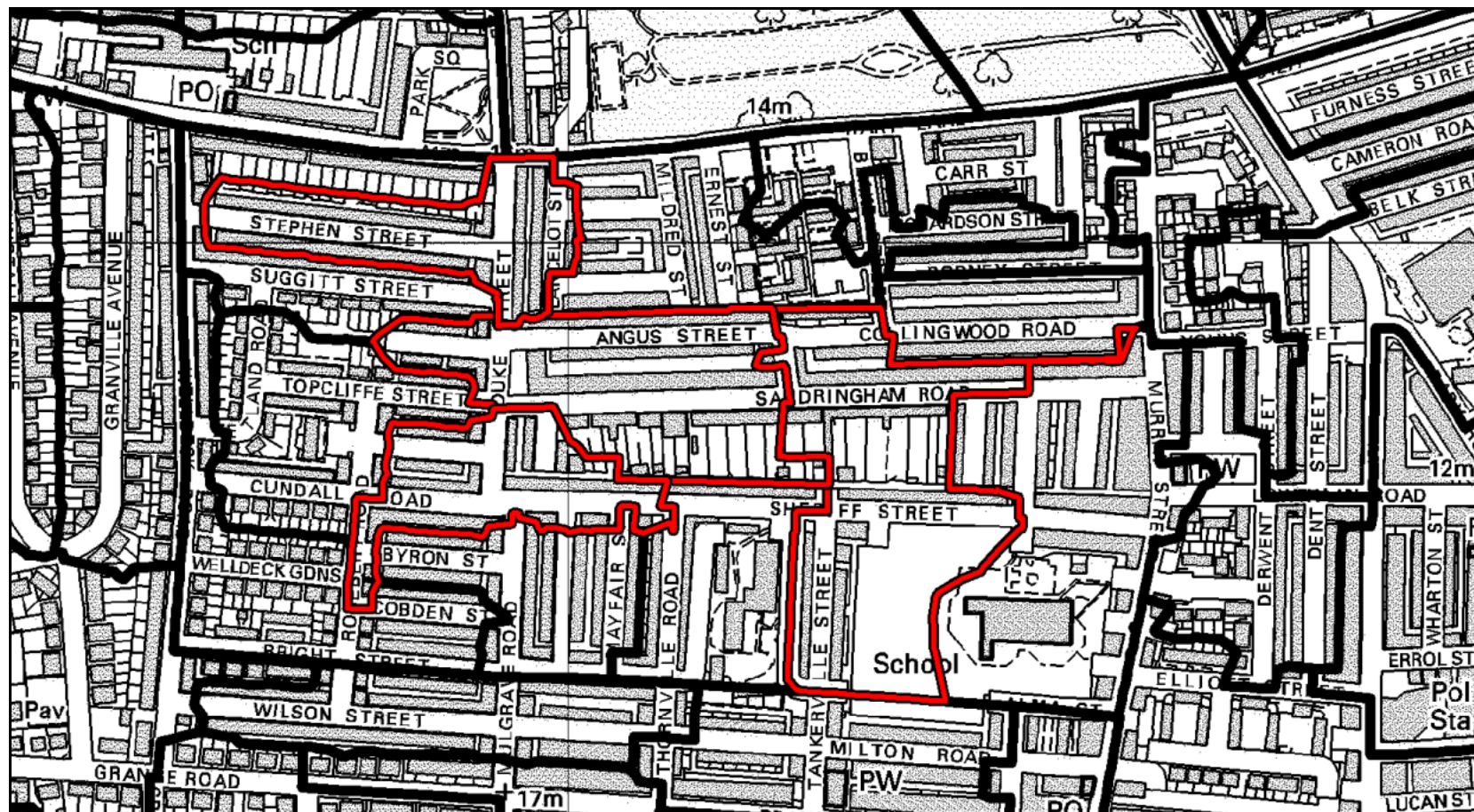
Victoria Ward



Vulnerable Area 1 – Dent / Derwent Street extending to Cameron, Furness and Belk Street



Vulnerable Area 2 – Sheriff Street extending to Stephen Street



Risk Matrix**Option 1 : Licensing in the priority wards**

Strengths	Weaknesses	Risks
Tackling worst wards in the town where there are distinct issues related to private sector housing	Directing resources in to areas where there is minimal or no evidence of low levels of housing demand and / or significant and persistent anti-social behaviour and therefore resources wasted	Significant chance of legal challenge by a Judicial Review, which would incur substantial irrecoverable costs to the Council
Not stigmatising a particular streets / areas within the priority wards with negative connotations	The issuing of licences and monitoring of compliance would be an enormous administrative burden / paper exercise	Legal challenges in recent months, including those from a prominent national landlord organisation currently conducting an active campaign against schemes, where it feels there is a valid case to do so resulting in schemes being withdrawn / delayed
Sustained public confidence in the Council's commitment to addressing issues in the private rented sector	Potentially a level of resource utilised unnecessarily through undertaking associated housing standards inspections (Part 1) of the Housing Act, 2004	Scheme becomes an administrative task only
Potential to change some patterns of behaviour as housing options are reduced	Not targeting worst streets / areas	Some displacement of issues to wards not covered by a Selective Licensing designation
-	Implementation of the scheme is resource intensive therefore a significant level of additional resource would be required in order to deliver scheme of this scale	Increased pressure on Housing Advice service to find suitable accommodation for clients unable to obtain satisfactory references (N.B. the Council has a statutory duty to respond to homelessness and provide housing advice)
-	Does not meet with legal requirements, as there is minimal evidence available to support this option	Loss of proactive development work
-	Additional data analysis to address point would have a significant financial resource implication (identification of individual private sector properties and linking anti social behaviour to private rented	-

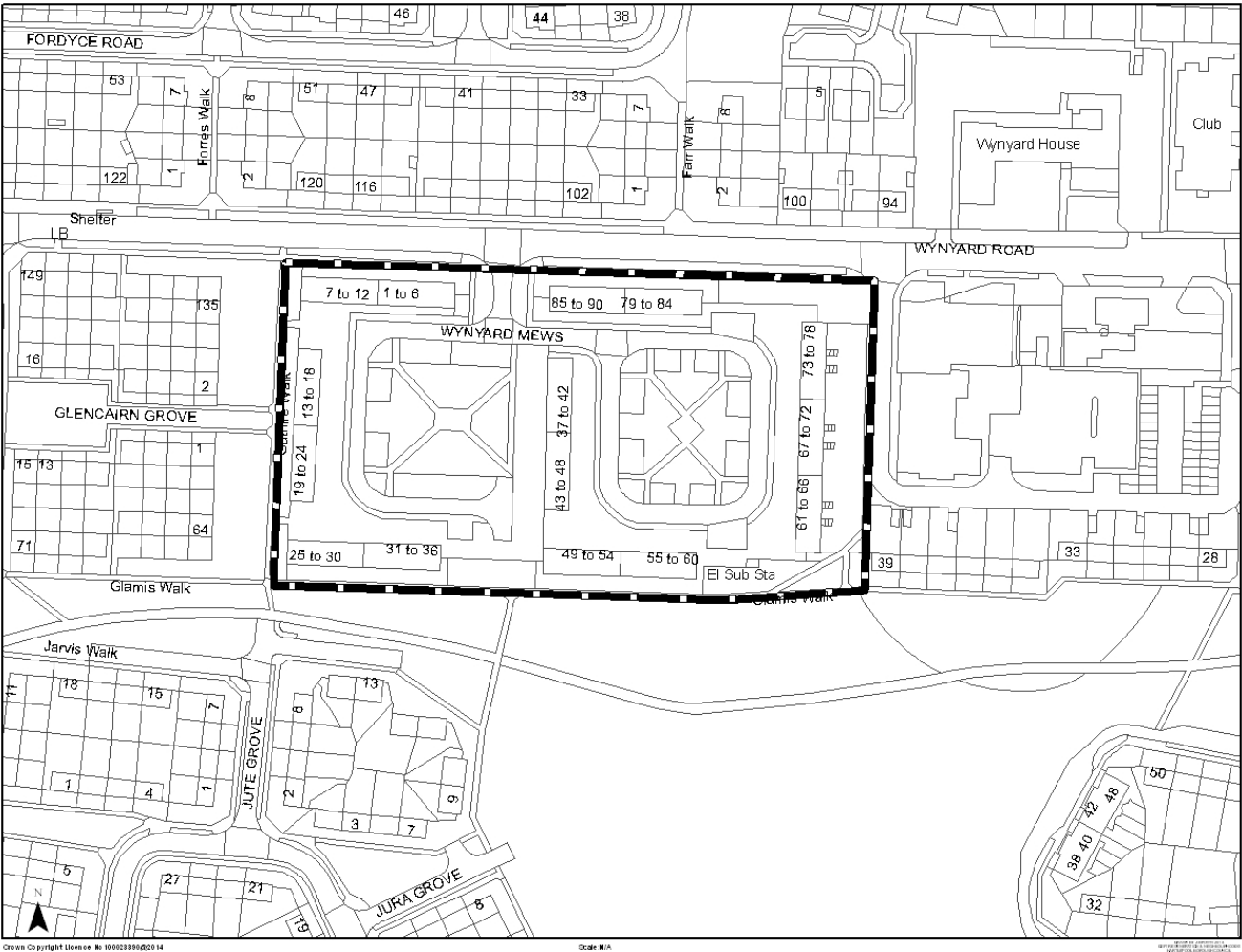
	properties)	
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Option 2: Licensing of distinct streets and / or areas

Strengths	Weaknesses	Risks
Realistic in terms of resources available	Not all areas facing problems of low housing demand and / or significant and persistent anti-social behaviour would be targeted	Displacement of issues to streets / areas not covered by a Selective Licensing designation (in particular to adjacent areas)
Stigmatises designated streets / areas (can however be viewed as both positively and negatively)	Stigmatises designated streets / areas (can however be viewed as both positively and negatively)	Chance of legal challenge by a Judicial Review, which would incur substantial irrecoverable costs to the Council
Targeted approach enabling the Council to focus resources and address streets / areas of most need of intervention	-	-
Potential to be a front-facing service to build confidence in communities	-	-
More potential to work with partners to take a comprehensive approach to tackling issues at the neighbourhood level	-	-
Continue with proactive development work	-	-
Sustained public confidence in the Council's commitment to addressing issues in the private rented sector	-	-
Additional data analysis can be undertaken to address point without significant financial resources required (identification of individual private sector properties and linking anti social behaviour to private rented properties)	-	-

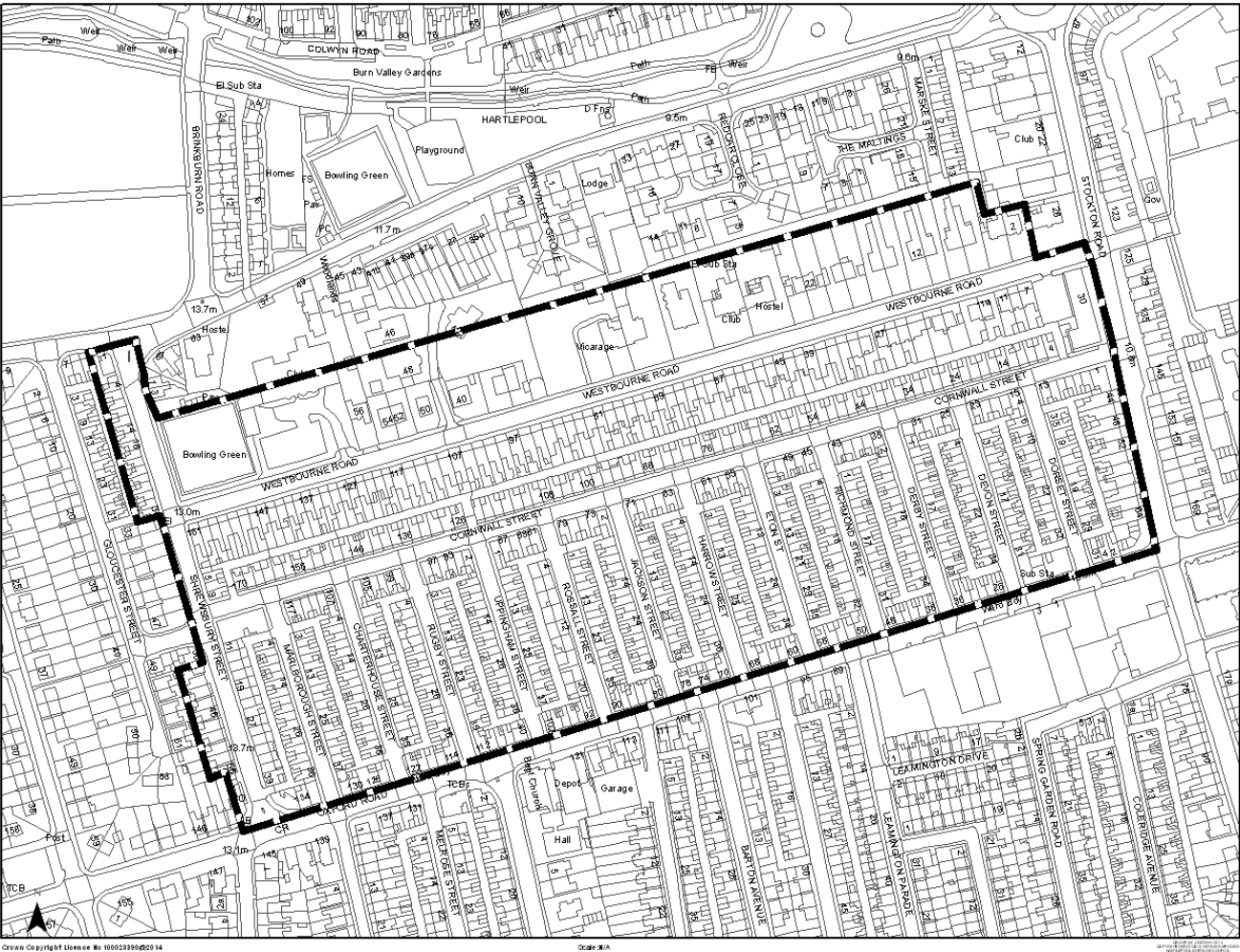
Selective Licensing – Proposed Areas (for consultation)

Proposed Boundary 1 – Manor House Ward



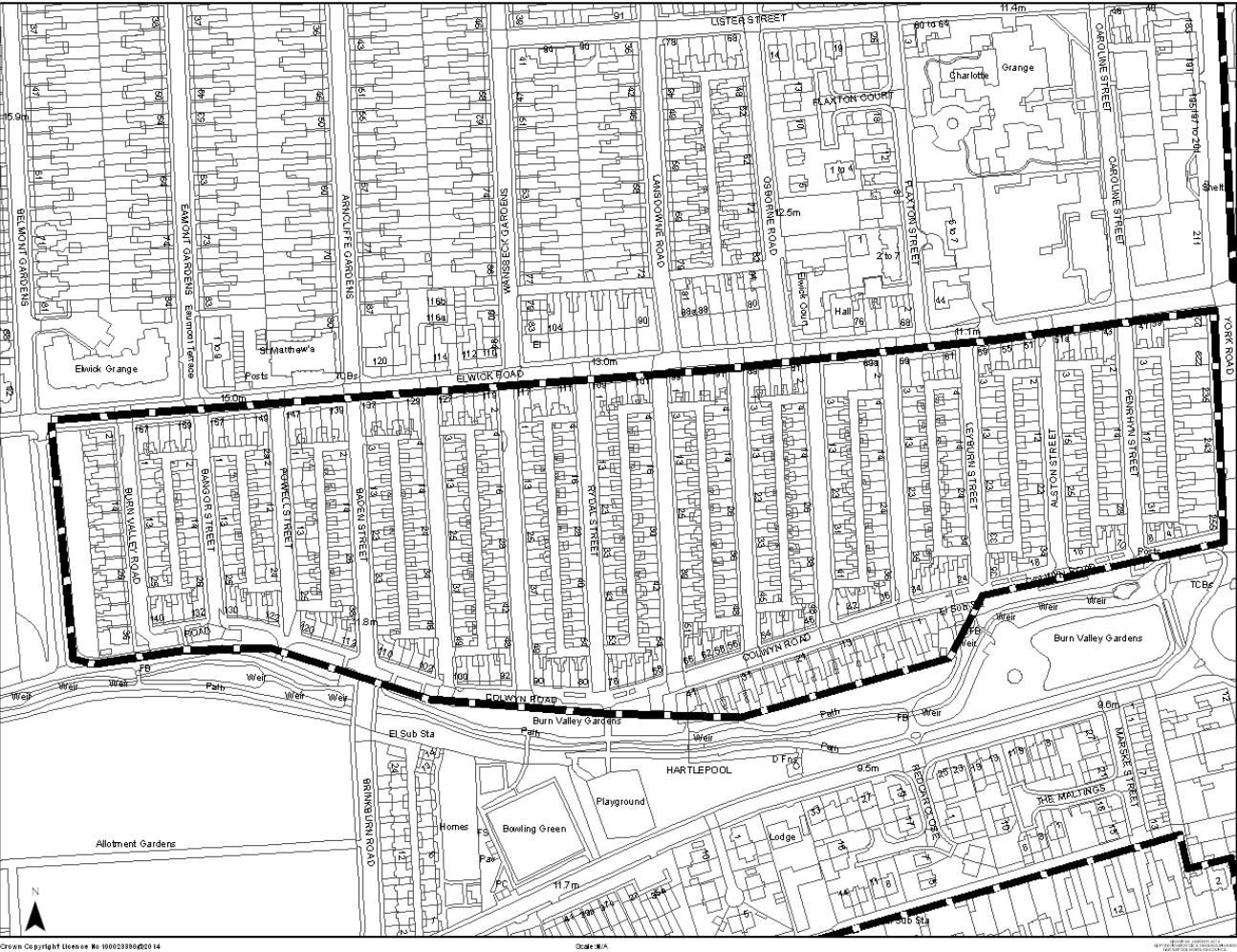
STREETS INSIDE BOUNDARY
WYNYARD MEWS

Proposed Boundary 2 – Burn Valley Ward



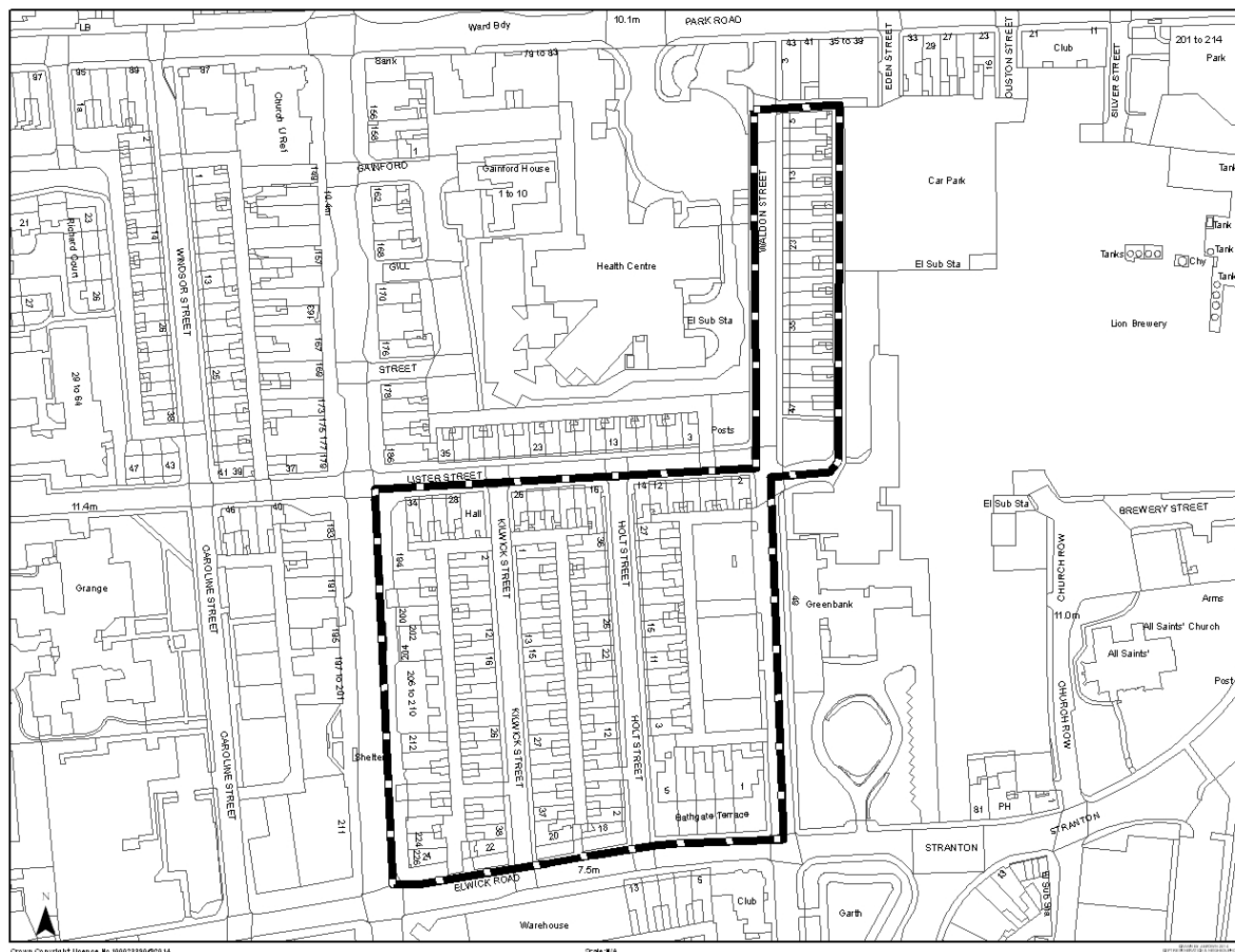
STREETS INSIDE BOUNDARY
CHARTERHOUSE STREET
CORNWALL STREET
DERBY STREET
DEVON STREET
DORSET STREET
ETON STREET
HARROW STREET
JACKSON STREET
MARLBOROUGH STREET
OXFORD ROAD
RICHMOND STREET
ROSSALL STREET
RUGBY STREET
SHREWSBURY STREET
STOCKTON ROAD
UPPINGHAM STREET
WESTBOURNE ROAD

Proposed Boundary 3 – Burn Valley Ward



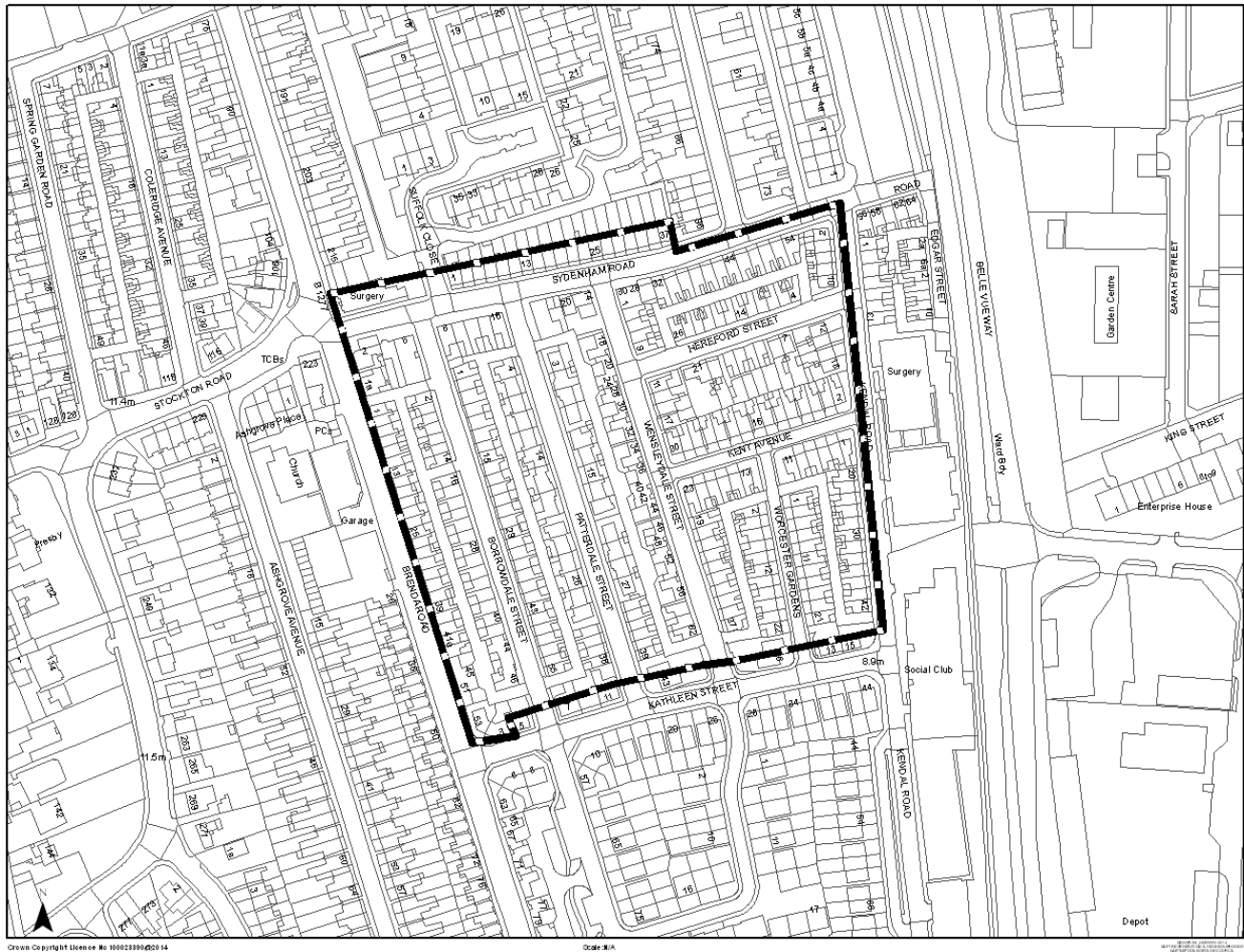
STREETS INSIDE BOUNDARY
ALSTON STREET
BADEN STREET
BANGOR STREET
BURN VALLEY ROAD
COLENSO STREET
COLWYN ROAD
ELLISON STREET
ELWICK ROAD
GRASMERE STREET
KESWICK STREET
KIMBERLEY STREET
LEYBURN STREET
PENRHYN STREET
POWELL STREET
RYDAL STREET
THIRLMERE STREET
YORK ROAD

Proposed Boundary 4 – Burn Valley Ward



STREETS INSIDE BOUNDARY
ELWICK ROAD
HOLT STREET
KILWICK STREET
LISTER STREET
PARK ROAD
WALDON STREET
YORK ROAD

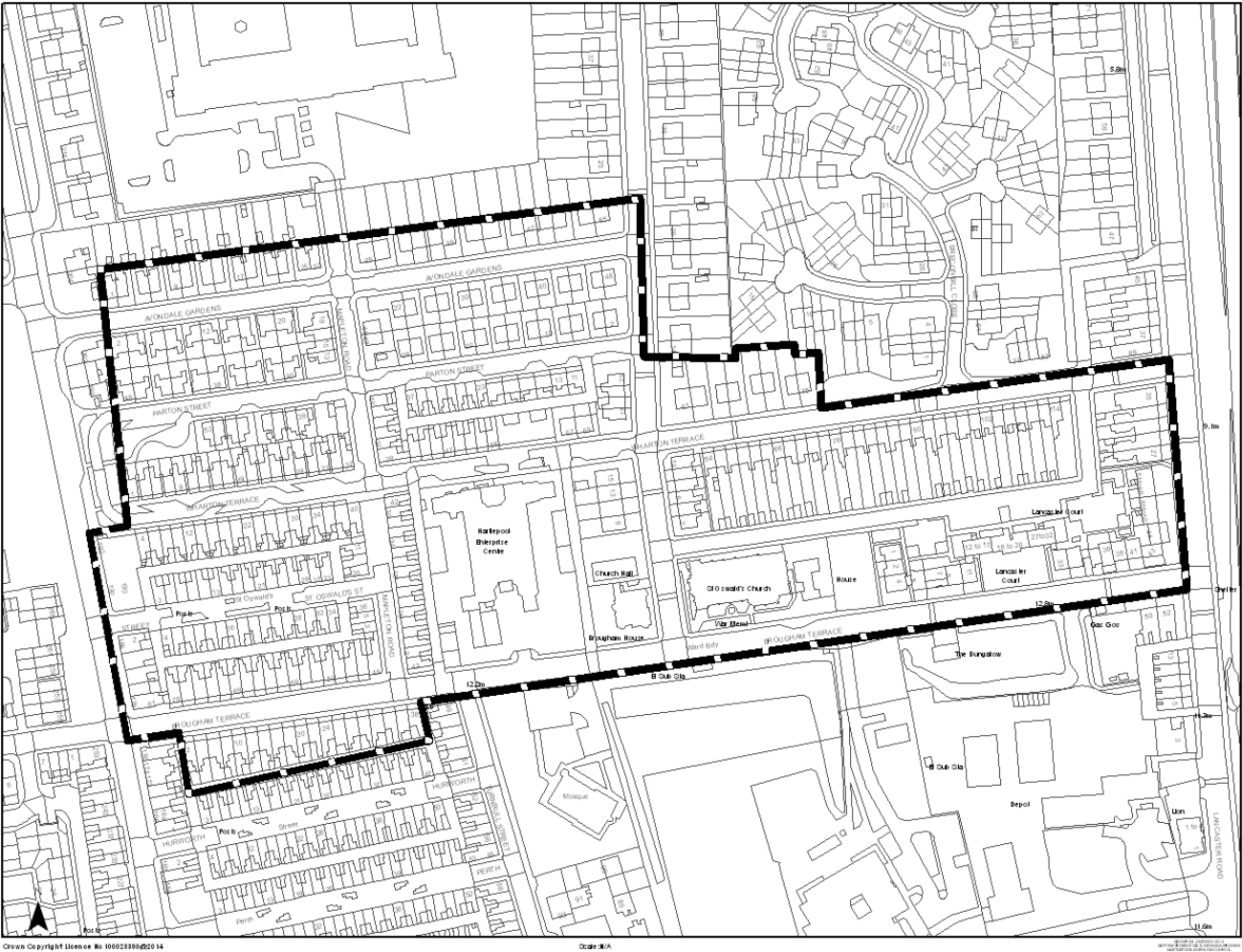
Proposed Boundary 5 – Foggy Furze Ward



STREETS INSIDE BOUNDARY
BORROWDALE STREET
BRENDA ROAD
HEREFORD STREET
KENDAL ROAD
KENT AVENUE
PATTERDALE STREET
STOCKTON ROAD
SYDENHAM ROAD
WENSLEYDALE STREET
WORCESTER GARDENS

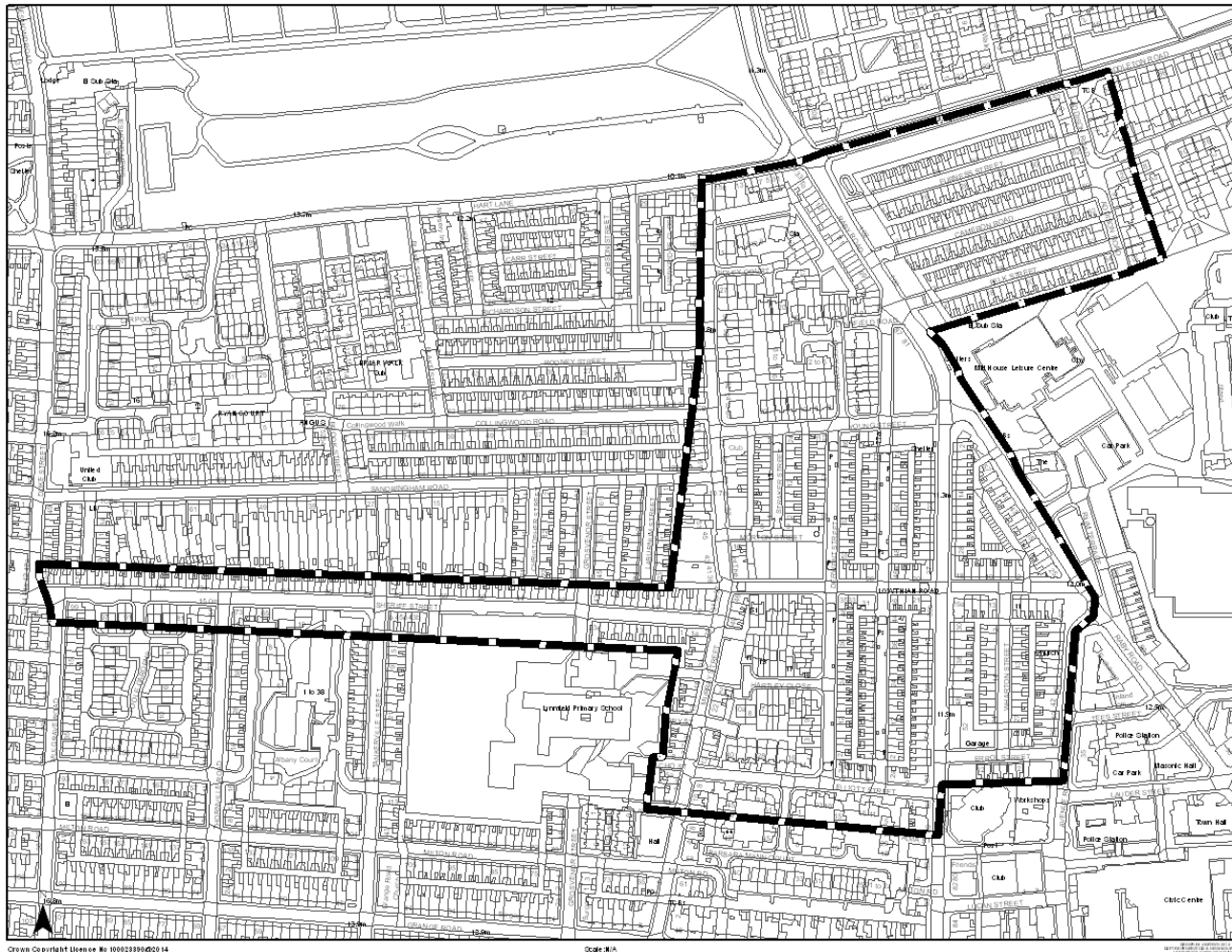
STREETS INSIDE BOUNDARY
BURBANK STREET
JAMES STREET

Proposed Boundary 7 – Jesmond Ward



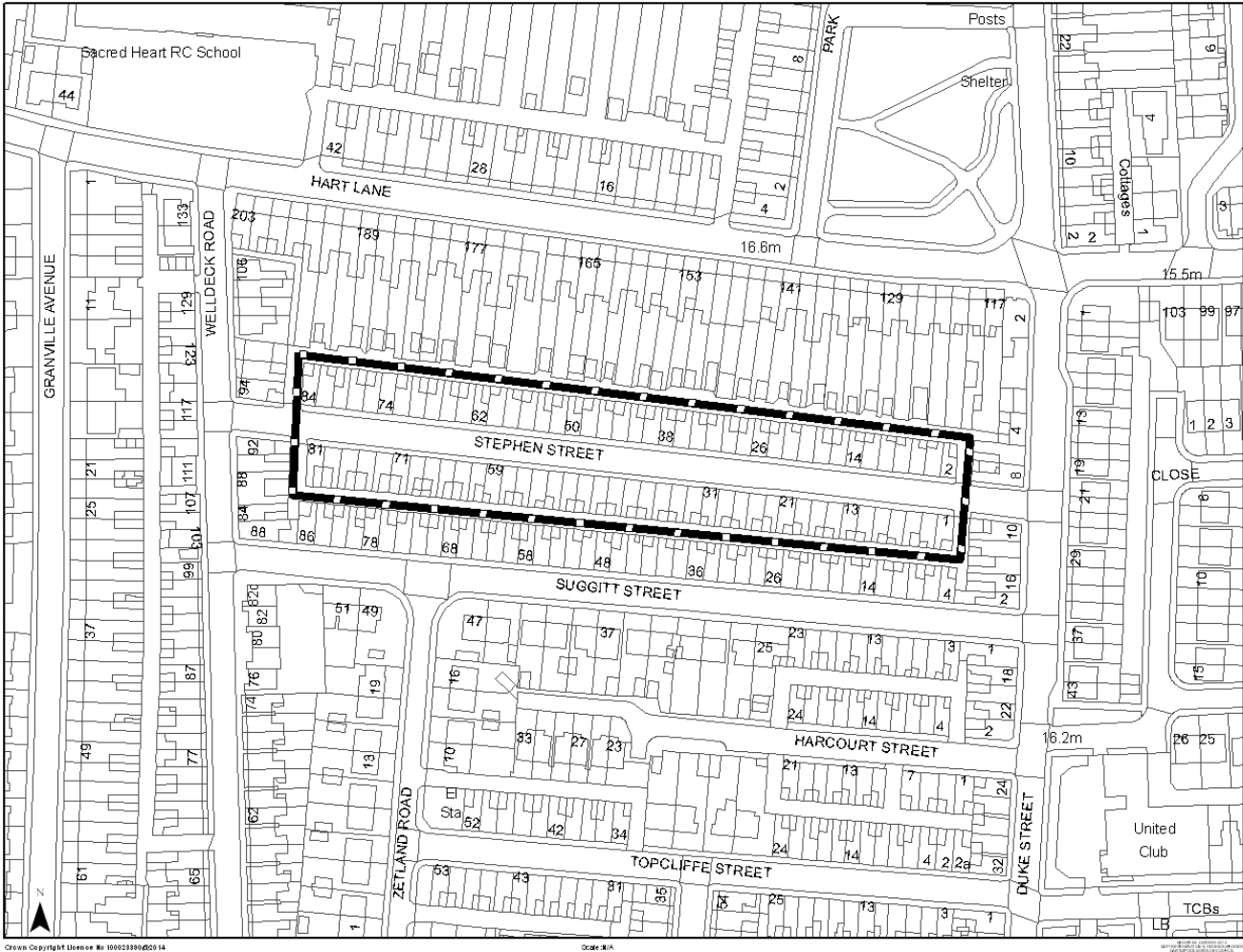
STREETS INSIDE BOUNDARY
AVONDALE GARDENS
BROUGHAM TERRACE
LANCASTER COURT
LANCASTER ROAD
MAPLETON ROAD
MILBANK ROAD
PARTON STREET
RABY ROAD
ST. OSWALDS STREET
WHARTON TERRACE

Proposed Boundary 8 – Victoria Ward

**STREETS INSIDE BOUNDARY**

ADDISON ROAD
ALBANY COURT
ALMA STREET
AVENUE ROAD
BELK STREET
BENTICK STREET
CAMERON ROAD
DENT STREET
DERWENT STREET
ELCHO STREET
ELLIOTT STREET
ERROL STREET
FURNESS STREET
GREENWOOD ROAD
GROSVENOR STREET
HART LANE
HARTLEY CLOSE
HARTLEY STREET
JOICEY COURT
LOWTHIAN ROAD
LYNNFIELD ROAD
MARY STREET
MIDDLETON ROAD
MORTON STREET
MULGRAVE ROAD
MURRAY STREET
RABY ROAD
RIDLEY COURT
SHERIFF STREET
STRAKER STREET
TANKERVILLE STREET
THORNVILLE ROAD
WHARTON STREET
YORK ROAD
YOUNG STREET

Proposed Boundary 9 – Victoria Ward



STREETS INSIDE BOUNDARY
STEPHEN STREET

APPENDIX 5

Proposed Licence Conditions

(Gas Safety)**Proposed condition no. 1:**

Where gas is supplied to the property* the Licence Holder(s) must ensure that a valid gas safety certificate is provided to the authority on an annual basis. This must be received within 14 days of issue.

If the property becomes **unoccupied there is no requirement to provide a valid gas safety certificate so long as it remains vacant however, immediately a tenant is identified the requirement to provide a valid gas safety certificate, as detailed above, will apply.*

Proposed condition no. 2:

Where gas is supplied to the property and it is occupied, the Licence Holder(s) shall provide the authority with evidence, that a copy of a valid gas safety certificate was provided to any new tenant(s) **before** they moved into the property **or** to the existing tenant(s) within 28 days of issue. This evidence shall be provided to the authority within 28 days of the date on any written demand issued by the authority.

Proposed condition no. 3:

Where gas is supplied to the property the Licence Holder(s) shall ensure gas appliances are serviced in accordance with the manufacturer's instructions or if these are not available that they are serviced annually.

The Licence Holder(s) shall provide the authority within 28 days of the date on any written demand issued by the authority, proof that any appliance has been serviced and if the service has not been undertaken on annual basis evidence of the alternative service instructions by the manufacturer.

The Licence Holder(s) shall retain records of each safety check for at least 2 years. The Licence Holder shall provide the authority with copies of the record of any safety check within 28 days of the date on any written demand issued by the authority.

(Electrical Appliances and Furniture Safety)**Proposed condition no. 4:**

The Licence Holder(s) shall ensure that any electrical appliance made available in the property is in a safe condition at the commencement of the tenancy and is maintained in this condition for the duration of the tenancy.

The Licence Holder(s) shall provide the authority with a satisfactory Portable Appliance Test certificate for each item provided in the property, within 28 days of the date on any written demand issued by the authority.

APPENDIX 5

Proposed condition no. 5:

The Licence Holder(s) shall ensure that furniture made available in the property is in a safe condition at the commencement of the tenancy and is maintained in this condition for the duration of the tenancy.

The Licence Holder(s) shall provide the authority with a signed declaration to this effect within 28 days of the date on any written demand issued by the authority.

(Smoke Alarms)**Proposed condition no. 6:**

The Licence Holder(s) must ensure that smoke alarm(s) are installed and appropriately positioned in the property. These alarms must also be maintained to ensure they are fully functional.

Proposed condition no. 7:

The Licence Holder(s) shall provide the authority with a signed declaration to the effect that: smoke alarm(s) are installed and appropriately positioned in the property and are maintained to ensure they are fully functional, within 28 days of the date on any written demand issued by the authority.

(Written Terms)

Proposed condition no. 8: *(To be applied only where there is a tenancy in place at the time the licence application is made/licence is granted and a tenancy agreement has not been entered into).*

The Licence Holder(s) must ensure that, where a tenancy is already in place at the property at the time the licence is granted and a written tenancy agreement was not signed by all parties, the following written information is provided to the tenant(s), within 28 days of the licence being granted:

- the start date of the tenancy
- the amount of rent and when it is due to be paid
- any rent review arrangements
- the duration of any fixed-term, which has been agreed

The Licence Holder shall provide the authority with a copy of these written terms within 28 days of the date on any written demand issued by the authority.

Proposed condition no. 8A: *(To be applied only where there is no tenancy in place at the time the licence is granted).*

The Licence Holder(s) must ensure that, prior to taking up occupation of the property, any new tenant(s) are provided with a written tenancy agreement, which is to be signed by all relevant parties. This agreement must include the following terms:

- the start date of the tenancy

APPENDIX 5

- the amount of rent and when it is due to be paid
- how and when the rent may be changed
- the duration of any agreed term

The tenancy agreement must include express conditions as follows :

- that the tenant(s) and /or visitors to the property must not cause nuisance, annoyance, alarm or distress to neighbours at any time
- that the tenant(s) and /or visitors to the property shall not use the property for any illegal or immoral purpose
- to reserve the right for the Landlord, or any person acting on behalf of the Landlord, to enter the Property on giving at least 24 hours' prior notice in writing to the Tenant:

(a) to inspect the condition and state of repair of the Property;

(b) to carry out the Landlord's obligations under this agreement;

(c) to take gas, electricity or water meter readings;

The Licence Holder(s) shall provide the authority with a copy of this tenancy agreement within 28 days of the date on any written demand issued by the authority.

(Tenancy Referencing)

Proposed condition no. 9:

The licence holder(s) must ensure that, prior to the offer of any new tenancy at the property, information relating to the proposed tenant(s) and **all** members of their household, if appropriate, is obtained in writing. These details must include but not be limited to:

- i) Full name(s) and current address(s), or last fixed abode
- ii) Date(s) of birth
- iii) All previous addresses and tenure details for previous two years
- iv) National Insurance number(s)

These details must be retained on record for the duration of the tenancy and for two years thereafter. These records must be made available for inspection by the authority, within 28 days of the date on any written demand issued by the authority.

Proposed condition no. 10:

The Licence Holder(s) shall, where any prospective tenants have indicated within the information required by them to provide, that they hold a current tenancy and/or have held any previous tenancies, provide a copy of a written request to a previous housing provider for a reference*.

Any such tenancy reference request(s) must require that information is provided in writing as to whether or not the tenancy has been conducted in a satisfactory manner.

The Licence Holder(s) must provide copies of these written references to the authority within 28 days of the date on any written demand issued by the authority.

APPENDIX 5

**Proof that evidence of application to the 'Good Tenant Scheme' the referencing service provided by Hartlepool Borough Council, has been obtained will satisfy this condition.*

Proposed condition no. 11:

The Licence Holder(s) must ensure that where a tenant's previous landlord has failed to provide a reference the Licence Holder(s) shall record in writing the reason for proceeding to make the offer of the tenancy without the reference.

The Licence Holder shall provide the authority with a copy of the written reasons within 28 days of the date on any written demand issued by the authority.

Proposed condition no. 12:

The Licence Holder(s) must ensure that when requested to provide a tenancy reference relating to their current or previous tenant(s), to other housing providers or persons carrying out referencing functions, they do so in writing or by submitting the "Landlord Reference Form" available from Hartlepool Borough Council, within any time frame stipulated within the request.

(Electrical Installation)**Proposed condition no. 13:**

The Licence Holder(s) must ensure that occupants or anyone entering or using the property are not put at risk, by ensuring that the electrical installation remains in a safe and serviceable condition.

The Licence Holder(s) shall provide the authority with a signed declaration to this effect within 28 days of the date on any written demand issued by the authority.

Proposed condition no. 14:

The Licence Holder(s) shall provide the authority with: the appropriate electrical certification to the effect that any new installation, alteration or addition is safe to use, within 28 days of the date on any written demand issued by the authority.

(Carbon Monoxide Alarms)**Proposed condition no. 15:**

The Licence Holder(s) must ensure that carbon monoxide alarm(s) are installed where appropriate and maintained in the property.

The Licence Holder shall provide the authority with a signed declaration to this effect, within 28 days of the date on any written demand issued by the authority.

APPENDIX 5

(Energy Performance Certificate)**Proposed condition no. 16:**

Where an Energy Performance Certificate is required in accordance with the current legislation, The Licence Holder(s) shall provide the authority with a copy of the certificate within 28 days of the date on any written demand issued by the authority.

(Training Requirement)**Proposed condition no. 17:**

Where concerns, relating to tenancy management functions for the property, have been brought to the attention of the authority, the Licence Holder(s) shall attend training,* when requested to do so in writing by the authority.

This training shall ensure that the Licence Holder(s) is provided with the appropriate information to enable compliance with any of the licence conditions, as determined by the authority.

This training may relate to but not be restricted to:

- Possession proceedings for Assured Shorthold tenancies
- Managing Anti Social tenants
- Landlord responsibilities (Overview)
- Housing Health & Safety Rating System (Property condition)

**Every effort will be made by the authority to convene this training at mutually convenient times.*

(Tenancy Deposit)**Proposed condition no. 18:**

Where a tenancy deposit has been taken in connection with an Assured Shorthold Tenancy at the property, the Licence Holder(s) shall provide evidence, to the effect that it has been dealt with in accordance with the legal requirements, within 28 days of the date on any written demand issued by the authority.

(Rent Statement)**Proposed condition no. 19:**

The Licence Holder(s) shall ensure that the tenant(s) are provided with a copy of a rent account statement to date, at six monthly intervals for the duration of the tenancy, from the date the licence is granted.

The Licence Holder(s) shall produce a copy of this statement within 28 days of the date on

APPENDIX 5

any written demand issued by the authority.

(Managing Anti Social Behaviour)

To be applied where the Licence Holder(s) is the Landlord and there is a manager, managing agent or third party employed to carry out the tenancy management functions.

Proposed condition no. 20:

- A) The Licence Holder shall provide the manager, managing agent or third party employed to carry out the tenancy management functions with a written procedure detailing steps to be taken to deal with reports or allegations of anti social behaviour of the tenant, occupiers or visitors
- B) The Licence Holder shall provide the authority with this written procedure within 28 days of the date on any written demand issued by the authority.
- C) The licence holder must respond as required to any written requests made by the authority, (this includes requests for information including requests for personal information made under section 29 of the Data Protection Act 1998) and attendance at meetings relating to the management of their property

Proposed condition no. 21:

To be applied where the landlord(s) manages and is the licence holder; or where the licence holder is the manager, managing agent or any other third party:

The licence holder(s) must ensure that where reports or allegations of anti social behaviour which concern the visitors to or occupiers of the property are received by them, they are dealt with in accordance with a written pre-determined procedure produced for this express purpose.

This procedure must be **available for inspection by the authority upon demand**, to be received within 28 days.

(Inventory)

Proposed condition no. 22:

The Licence Holder(s) shall ensure that an inventory of the condition and contents of the property and any items provided at the commencement of a new tenancy is completed and a copy given to the tenant(s).

The Licence Holder shall retain a copy of this inventory and produce it for inspection by the authority, within 28 days of the date on any written demand issued by the authority.

APPENDIX 5

(Change of ownership/management)**Proposed condition no. 23:**

The Licence holder shall notify the council in writing of any change in ownership and/or management of the property, within seven days of the change taking effect.

(General Management Arrangements)**Proposed condition no. 24:**

The Licence Holder(s) shall provide the authority with a copy of a written agreement between the relevant parties, detailing the tenancy management function(s) and level of responsibility undertaken, within 28 days of the date on any written demand issued by the authority.

(Occupation Status)**Proposed condition no. 25:**

The Licence Holder(s) shall notify the council in writing of any change in the occupation status of the property following the grant of the licence, within seven days of the change taking effect.

(Tenancy Inspections)**Proposed condition no. 26:**

The Licence Holder(s) must ensure that the property is visually inspected at least once every six months, for the purposes of ensuring the following items are in a safe and satisfactory condition:

- Electrical appliances (if supplied)
- Electrical installation
- Furniture (if supplied)

This visual inspection shall also include the general condition and appearance of the property. The findings of these inspections shall be recorded and retained for inspection by the authority, within 28 days of the date on any written demand issued by the authority.

(Cyclical maintenance)**Proposed condition no. 27:**

The Licence Holder(s) shall provide a copy of a property maintenance schedule, detailing

APPENDIX 5

the arrangements for routine repairs and the timetable for carrying out this maintenance, within 28 days of the date on any written demand issued by the authority.

(Environmental)**Proposed condition no. 28:**

The Licence Holder(s) shall ensure that at the date any new tenancy at the property commences the tenant(s) have been provided with suitable refuse disposal/recycling facilities as provided by Hartlepool Borough Council.

The Licence Holder(s) shall provide the authority with a signed declaration to this effect, within 28 days of the date on any written demand issued by the authority.

(Redress Scheme)**Proposed condition no. 29:**

The Licence Holder(s) shall provide evidence of registration with a government approved redress scheme where any managing agent or letting agent is engaged in respect of the property within 28 days of the date on any written demand issued by the authority.