

OPEN

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Environment and Communities Committee

27 July 2023

Sustainable Drainage Supplementary Planning Document

Report of: Jane Gowing, Interim Director of Planning

Report Reference No: EC/03/23-24

Ward(s) Affected: All

Purpose of Report

- 1 This report seeks approval to consult on the final draft of the Sustainable Drainage Supplementary Planning Document (SDP).
- 2 The document provides guidance on policies held in the Development Plan and contributes to creating a thriving and sustainable place by ensuring new development is appropriately controlled to protect and support our borough.

Executive Summary

- 3 This report seeks approval to carry out four weeks of public consultation on the final draft Sustainable (urban) Drainage Systems Supplementary Planning Document ("SuDS SPD").
- 4 SuDS are design and engineering solutions to manage surface water. Water management practices can vary significantly from multiple small scale, landscape and design led solutions that work with green space and habitats to delay and manage run off, to 'hard' engineering projects that store excess water to more slowly release into the mains water system over time. This SPD provides guidance on the preferred approach for development in Cheshire East and sets out the ways in which development sites are expected to work with water and manage drainage on site.
- 5 The preparation of a Supplementary Planning Document involves two stages of public consultation. The first consultation stage was carried out

on a draft document between 9th August and 20th September 2021, receiving representations from 32 contributors.

- 6 A report of consultation is included at Appendix B setting out the feedback from stage one, and how the document has been altered in response to that feedback. Comments received from consultation on the final draft of the document will also be considered, ahead of the SPD being considered for adoption by the Council.
- 7 Once adopted, the SPD will provide additional planning policy guidance on the implementation of Local Plan Strategy policies SE13 'Flood Risk and Water Management', and the Site Allocations and Development Policies Document (SADPD) Policy ENV 6' Surface Water Management and Flood Risk'. The SPD, once adopted, will be a material consideration in decision making on planning applications and support the delivery of key policies in the Development Plan.

RECOMMENDATIONS

The Environment and Communities Committee is recommended to:

1. Approve the final draft SuDS Supplementary Planning Document (Appendix A) and to undertake four weeks of public consultation.
2. Publish the associated Report of Consultation (Appendix B)
3. Publish the associated Strategic Environmental Assessment and Habitats Regulations Assessment Screening Report ("SEA") (Appendix C).
4. Publish the associated Equalities Impact Assessment Screening Report ("EQIA") (Appendix D).

Background

- 8 Cheshire East Council's Corporate Plan sets out three aims. These are to be an open and enabling organisation, a Council that empowers and cares about people, and to create thriving and sustainable places. In striving to create thriving and sustainable places, a key objective is to protect residents and improve our environment. As such, this SPD sets out guidance on policies contained in the Local Plan Strategy and SADPD that will support these objectives by setting out clear expectations on how surface water can be managed in new development in a way that benefits the natural environment and works within the landscape.
- 9 One of the key objectives of the LPS is for the Plan to protect and enhance environmental quality through a range of measures including the management of water, and to promote measures that reduce the impact of climate change, including flooding.

- 10 Cheshire East Local Plan Strategy (CELPS) policy SE13 'Flood Risk and Water Management', sets out the preferred approach to managing water and flood risk in new development and requires proposals to integrate measures for sustainable water management.
- 11 Policy ENV 6 'Surface Water Management and Flood Risk', of the Site Allocations and Development Policies Document (SADPD) provides further detail and requires that sites adopt a SUDS approach unless it can be demonstrated this is cannot feasibly be achieved. This SPD provides guidance on how SUDS can be achieved through a range of solutions.
- 12 This SPD provides greater clarity to developers, landowners, communities and decision makers on the approach the Council will take to securing SUDS in new development and provides additional guidance to applicants and developers on how they should respond to the policy requirements in the LPS and SADPD. It also 'signposts' sources of information, including relevant documentation and Council services.
- 13 The final draft SPD has been prepared by a cross disciplinary team involving staff from planning services including the Landscape Team, Design Team, Strategic Planning and the Strategic Infrastructure Team.
- 14 Subject to the approval of the recommendations in this report, the SPD will be consulted on in accordance with the Council's Statement of Community Involvement for a minimum period of four weeks.
- 15 The process for preparing an SPD is similar in many respects to that of a local plan document. However, they are not subject to independent examination by the Planning Inspectorate. There are several stages in their production:
 - (a) Publish the initial draft SPD for four weeks public consultation;
 - (b) Consider feedback received and make any changes necessary;
 - (c) Publish the final draft SPD, along with a consultation statement setting out who has been consulted in its preparation, the main issues raised in feedback and how those issues been addressed in the final draft SPD;
 - (d) Having considered representations, the SPD could then be adopted;
- 16 Following adoption, the SPD must be published and made available along with an adoption statement in line with the 2012 Regulations. The adoption of the SPD may be challenged in the High Court by way of judicial review within three months of its adoption.

- 17 Once adopted, the effectiveness of this SPD will be monitored as part of the Authority Monitoring Report, using information from planning applications and decisions. The outcome of this ongoing monitoring work will help inform future decisions about the SPD.

Consultation and Engagement

- 18 Following initial consultation on the first draft of the document in August 2021 the feedback received has been considered and the document updated. The initial consultation received 32 responses from 32 parties and several key changes have been made to the document including:
- (a) Recognition of the importance of flight paths and the airport exclusion zone in proposing SuDS schemes that may attract birdlife.
 - (b) Simplifying and reducing some sections and strengthening the emphasis on containment of water.
 - (c) Clarifying the council's position in regard to viability and delivery of SUDS.
- 19 A full report of consultation is available at Appendix B.
- 20 Following consultation on this final draft of the SUDS SPD, the feedback received will be reviewed and consideration given to whether further changes should be made to the document. Following any changes, the document will then be published to the Environment and Communities Committee, alongside a report of consultation, for consideration whether to formally adopt the document.

Reasons for Recommendations

- 21 An SPD is not part of the statutory development plan. It is a recognised way of putting in place additional planning guidance and a material consideration in determining planning applications in the borough.
- 22 Providing clear, detailed guidance up front about policy expectations should enable applicants to better understand policy requirements. The SPD should assist applicants when making relevant planning applications, and the Council in determining them.
- 23 Providing improved guidance on SUDS, particularly through the toolkit contained in the SPD allows site promoters to select a range of policy compliant approaches to managing surface water and improves the ability of the Council to secure positive solutions that improve the local environment, leveraging design and biodiversity benefits.

- 24 Providing such guidance should assist the council to support delivery of a thriving and sustainable place and ensure new development is appropriately controlled to protect and support our borough.

Other Options Considered

- 25 The Council could choose not to prepare an SPD on SUDS. Any relevant planning application would continue to be assessed against existing planning policies. However, this would not allow the Council to provide additional practical guidance on this matter or give clarity to the approach that should be employed by all parties in a consistent way that gives certainty to applicants and decision makers.

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Option	Impact	Risk
Do nothing	The SUDS guide could not progress through the stages required by legislation and therefore could not be adopted.	The improved outcomes that could be achieved through additional guidance on how developers are expected to address policies of the local plan, would not be achieved.

Implications and Comments

Monitoring Officer/Legal

- 27 The Planning and Compulsory Purchase Act 2004 (as amended) and the Town and Country Planning (Local Development) (England) Regulations 2012 provide the statutory Framework governing the preparation and adoption of SPDs. These include the requirements in Section 19 of the 2004 Act and various requirements in the 2012 Regulations including in Regulations 11 to 16 that apply exclusively to producing SPDs.
- 28 Amongst other things, the 2012 regulations require that an SPD contain a reasoned justification of the policies within it and for it not to conflict with adopted development plan policies.
- 29 The National Planning Policy Framework and the associated Planning Practice Guidance also set out national policy about the circumstances in which SPDs should be prepared.

- 30 SPDs provide more detailed guidance on how adopted local plan policies should be applied. They can be used to provide further guidance for development on specific sites, or on particular issues, such as design. SPDs are capable of being a material consideration in planning decisions but are not part of the development plan.
- 31 As with the previous round of consultation, any public consultation should comply with the 'Gunning Principles':
1. proposals are still at a formative stage - A final decision has not yet been made, or predetermined, by the decision makers
 2. there is sufficient information to give 'intelligent consideration' - The information provided must relate to the consultation and must be available, accessible, and easily interpretable for consultees to provide an informed response
 3. there is adequate time for consideration and response - There must be sufficient opportunity for consultees to participate in the consultation.
 4. 'conscientious consideration' must be given to the consultation responses before a decision is made. Decision-makers should be able to provide evidence that they took consultation responses into account

Section 151 Officer/Finance

- 32 There are no significant direct financial costs arising from consultation on the SPD. The costs of printing and the staff time in developing the SPD are covered from existing budgets of the planning service.
- 33 The financial burdens associated with following the SuDS guide rest with site promoters/developers, not with the Council. Therefore, there is no anticipated impact on the Council's approved budget/ Medium Term Financial Strategy (MTFS). Through viability testing undertaken as part of the process to adopt the policies of the SADPD, it was found that in most locations in Cheshire East, compliance with the requirements of planning policy was viable. Where policy requirements are considered not to be viable, it is the responsibility of the applicant to demonstrate why policy requirements should not be met.

Policy

34 The SPD will provide guidance on existing development plan policies related to the delivery of water management solutions in development sites. The SPD will give additional advice to applicants on how they can demonstrate they have complied with relevant policies of the development plan related to this matter.

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An open and enabling organisation	A council which empowers and cares about people	A thriving and sustainable place
n/a	n/a	<p>A great place for people to live, work and visit</p> <p>Better guidance on SuDS helps the Local Planning Authority secure delivery of improved design in new development schemes.</p> <p>Welcoming, safe and clean neighbourhoods</p> <p>Improved design of new development, through incorporation of SuDS can have a positive impact on the built environment and communities that use it.</p> <p>Reduce impact on the environment</p> <p>Greater volume of SuDS in development reducing the impact of heavy rainfall events and slows down water movement, reducing flood risk. It also assists in supporting small scale habitats in the built environment.</p> <p>Be a carbon neutral council by 2025</p> <p>Improved ability to secure SuDS can contribute to improved landscaping and a small scale increase in natural habitat within the built environment, contributing to carbon insetting (as per the Councils Carbon neutral Action Plan)</p>

Equality, Diversity and Inclusion

- 36 The Council has a duty under Section 149 of the Equalities Act to have due regard to the need to: eliminate discrimination; advance equality of opportunity between persons who share a “relevant protected characteristic” and persons who do not share it; foster good relations between persons who share a “relevant protected characteristic” and persons who do not share it.
- 37 The final draft SUDS SPD provides further guidance on the approach that is expected from developers on this matter. The SPD is consistent with the LPS and SADPD which were the subject of an Equalities Impact Assessment (EqIA) as part of an integrated Sustainability Appraisal. A draft EQiA on the final SUDS SPD has been prepared (Appendix D) and will be published alongside the final draft SPD for comment.

Human Resources

- 38 There are no direct implications for human resources.

Risk Management

- 39 The subject matter of the report does not give rise for any particular risk management measures because the process for the preparation of an SPD is governed by legislative provisions (as set out in the legal section of the report).

Rural Communities

- 40 The draft SUDS SPD seeks to provide further guidance on implementing surface water management in new development. Whilst most major development is expected to take place in, or adjacent to urban areas the guidance will apply to sites in rural areas too, where relevant, and therefore communities directly or indirectly from improved water management on such sites.

Children and Young People including Cared for Children, care leavers and Children with special educational needs and disabilities (SEND)

- 41 The draft SPD does not have a direct implication for children and young people or cared for children, but will assist in securing development that manages surface water in a more positive way through design which will improve the built environment.

Public Health

- 42 The draft SPD is likely to have an overall positive impact on public health and wellbeing by reducing flooding and damage to the environment and personal property but also through improved design and environmental benefits in the built environment which can improve access to recreation and amenity space,

and encourage pedestrian and cyclist movement, creating a positive impact on a range of health indicators.

Climate Change

- 43 The draft SPD will help the council to manage the impact of climate change and reduce surface water run-off from new development sites, therefore helping to reduce the overall risk of flooding in the borough during more intensive periods of rainfall.

Access to Information	
Contact Officer:	Tom Evans Tom.Evans@cheshireeast.gov.uk
Appendices:	Appendix A: Final Draft SuDS Guide SPD Appendix B: Report of Consultation Appendix C: SEA HRA Screening Appendix D: Equalities Impact Assessment
Background Papers:	n/a

Approvals trail: to be removed before Committee

Name	Title	Comments	Date
Contributors:			
Tom Evans			
Approvers:			
Jane Gowing	Interim Director - Planning		08.06.23